

1                   **STATE OF NEW HAMPSHIRE**

2                   **SITE EVALUATION COMMITTEE**

3                   **September 15, 2015** - 9:10 a.m.  
4                   Public Utilities Commission  
5                   21 South Fruit Street Suite 10  
Concord, New Hampshire

6                   **IN RE: SEC Docket No. 2014-04**  
7                   **SITE EVALUATION COMMITTEE:**  
8                   Site 100 through Site 300  
Rulemaking Proceeding.  
*(Hearing to receive public  
comment on the Draft Final  
Proposal)*

10

11                   **PRESENT:**

12                   Chrmn. Martin P. Honigberg         Public Utilities Commission  
13                   (Presiding as Chairman of SEC)

14                   Cmsr. Thomas S. Burack             Dept. of Env. Services  
15                   (Vice Chairman of the SEC)

16                   Cmsr. Robert R. Scott             Public Utilities Commission  
Cmsr. Kathryn M. Bailey             Public Utilities Commission  
17                   Cmsr. Jeffrey Rose                 Dept. of Resources and  
Economic Development  
Patricia Weathersby                 Public Member  
Roger Hawk                         Public Member

19

20                   Also Present:                     David K. Wiesner, Esq. (NHPUC)  
   Michael J. Iacopino, Esq. (Brennan...)

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

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## PROCEEDING

CHAIRMAN HONIGBERG: All right. We're going to open the public comment hearing on the revised Draft Final Proposal for rules for the Site Evaluation Committee. There are technically two proposals, because of the way the rules process works, but they cover 100s and mostly 300s sections of the SEC rules. We're going to be taking oral comments today. There's a period still open for written comments through this Friday, September 18th. If you brought written comments with you today, and are planning on reading them, I will say two things about that. First, if you could give the written comments to Mr. Patnaude, and read slowly please. So that we can understand you and Mr. Patnaude can get down what you're saying.

Given the number of people who have signed up, we're going to put a soft time limit on each person of four minutes, for the first round of comments. If you need more time, we can circle back to you at the end. But we would encourage you to keep your comments brief and focused. You're not obligated to fill the full four minutes. And, we will let you know when four minutes are up. If the comments you were planning on making have already been said by somebody else, feel free to make

1 reference to the comments that were already made and say  
2 that you agree with them, and there's no need to repeat  
3 them.

4 We have been receiving written comments.  
5 They haven't all yet been posted on the Web, but they will  
6 be, and they will all be circulated. And, if you didn't  
7 send it to everybody, and I suspect most of you didn't and  
8 you're not supposed to, they will get circulated to all  
9 the members, they will be reviewed.

10 Once the written and oral comments have  
11 been submitted, today through this Friday, we have two  
12 meetings next week scheduled to consider the comments that  
13 have been submitted, and make whatever changes the  
14 Committee feels are appropriate. And, then, a final  
15 version of the rules will be filed with the Office of  
16 Legislative Services for consideration by the Joint  
17 Legislative Committee on Administrative Rules at their  
18 meeting in mid-October.

19 Before we start, I'll ask the members of  
20 the SEC to introduce themselves.

21 COMMISSIONER SCOTT: Good morning. I'm  
22 Bob Scott, with the Public Utilities Commission.

23 CHAIRMAN HONIGBERG: My name is Martin  
24 Honigberg. I'm also with the Public Utilities Commission.

1 VICE CHRMN. BURACK: Good morning. I'm  
2 Tom Burack. I serve as Commissioner of the Department of  
3 Environmental Services.

4 COMMISSIONER BAILEY: Kate Bailey, with  
5 the Public Utilities Commission.

6 MS. WEATHERSBY: Patricia Weathersby,  
7 public member.

8 MR. HAWK: Roger Hawk, public member.

9 COMMISSIONER ROSE: Good morning. Jeff  
10 Rose. I serve as the Commissioner of the Department of  
11 Resources & Economic Development.

12 CHAIRMAN HONIGBERG: One more bit of  
13 housekeeping. We have a seat up here in the front row for  
14 people to come up, there's a microphone there. If you  
15 want to stay where you are, it's okay, as long as there's  
16 a microphone in front of you. And, in order to make the  
17 microphone work well, the red light needs to be on, and  
18 your face and mouth need to be uncomfortably close to it.

19 So, we're going to take people in the  
20 order in which I see them here on the list. Senator  
21 Jeanie Forrester, from District 2, you are up first,  
22 followed by Representative Duane Brown, and Mr. Paul  
23 Fraser.

24 SEN. FORRESTER: Uncomfortably close,

1        huh? Good morning. For the record, my name is Jeanie  
2        Forrester. I am the Senator for District 2. And, I  
3        appreciate the opportunity to be here this morning, and  
4        for you, Commissioners, to hear our public comments. As I  
5        said, I represent District 2, and have been the author of  
6        various pieces of legislation to work on the Site  
7        Evaluation Committee process and structure. My comments  
8        are going to be brief and not technical in nature. And,  
9        then, I'm going to have to leave for another meeting.

10                  I want to thank all of you for listening  
11        to my constituents, and those who are not my constituents,  
12        but, really, folks throughout the State of New Hampshire  
13        who are concerned about the Site Evaluation Committee  
14        process, and what's happening with energy projects in the  
15        State of New Hampshire.

16                  I have heard from constituents that you  
17        are listening, and they are appreciative of that. And  
18        that, through this process of coming up with rules, that  
19        you've come quite a long way. And, my request to you is  
20        not to go back, but to go forward. You've made a lot of  
21        good changes. There are some concerns that I have on  
22        particular issues that I will just highlight very quickly,  
23        and then others will speak later on to the technical  
24        issues, if they haven't already in writing.

1                   I would ask that you take a look at  
2 shadow flicker, look at the setbacks, when you're looking  
3 at these rules. And, the one that I'm primarily really  
4 concerned about is the site control. And, that has to do  
5 with the evidence that the applicant has a current right  
6 or an option or other legal right to acquire the right.  
7 That concerns me. I don't think that any project should  
8 be considered by the Site Evaluation Committee until they  
9 have -- until they have complete control over the land  
10 that's required for the facility or the infrastructure  
11 that goes along with that.

12                  And, I think, with that, I'll close my  
13 comments. Thank you.

14                  CHAIRMAN HONIGBERG: Thank you, Senator  
15 Forrester.

16                  Next up we have Representative Duane  
17 Brown, followed by Paul Fraser and Robert Piehler, I  
18 think.

19                  REP. BROWN: Thank you, Mr. Chairman,  
20 members of the Committee. Good morning. My name is Duane  
21 Brown. I'm a State Representative from the Town of  
22 Wentworth, New Hampshire. That's not  
23 Wentworth-by-the-Sea, but the Town of Wentworth, founded  
24 in 1766, up in the White Mountains. I represent Grafton

1 District 16, that is eight towns in Grafton County.

2                   If you'll indulge me just a minute, I  
3 want to read Chapter 162-H:1, the "Declaration of  
4 Purpose". "The legislature recognizes that the selection  
5 of sites for energy facilities may have significant  
6 impacts on and benefits to the following: The welfare of  
7 the population, private property, the location and growth  
8 of industry, the overall economic growth of the state, the  
9 environment of the state, historic sites, aesthetics, air  
10 and water quality, and the use of natural resources,  
11 public health and safety."

12                  I'm here today to give a voice to the  
13 thousands of folks in my district, and the folks around  
14 the state, that are not here today. They're working, to  
15 pay their bills, to pay their taxes. They're home, taking  
16 care of their families, they're shut-ins, the elderly and  
17 the disabled.

18                  In running for this position last year,  
19 and in the many events that I've been to speaking with my  
20 constituents, no one has asked me for anything or asked  
21 for the state to give them anything. What they have asked  
22 for, basically, is to be allowed to live their lives, to  
23 be safe and secure in their home and in their property,  
24 and not have the government intrude on them, or have power

1       lines over their heads or gas lines underground in their  
2       backyards or wind turbines behind their house.

3                   I have one town in my district that  
4       already has industrial wind power, and affects a few of  
5       the other towns. We've seen issues with that. I have  
6       four towns in the district that have a proposed industrial  
7       wind power issue. Those towns have had votes, it's been  
8       overwhelmingly opposed to having those in their towns.

9                   Something to these people, with this  
10      issue, it is very real to them every day. They go home,  
11      to their home, to their property, these wind turbines are  
12      there. This is not just a meeting for some abstract  
13      thought. Today, when you go to go home, think about it  
14      for 30 seconds when you get in the car to go home. What  
15      is it like when you get home? Is that your sanctuary?  
16      Are you safe and secure there? Or, do you have problems  
17      there when you get home?

18                  These wind turbines impact their lives,  
19      their health. They have many safety concerns, property  
20      value issues, noise, shadow flicker, fire, collapse of the  
21      turbines, ice shedding, destruction of the environment to  
22      install these wind turbines.

23                  One constituent in one of my towns I  
24      spoke with yesterday is an abutter to a current wind

1 project in the Town of Groton. This individual was never  
2 notified of the construction there at all, until they  
3 heard bulldozers and equipment up there taking down the  
4 trees to install the wind turbines. That's unacceptable.

5 There's also long-term issues that need  
6 to be considered. When it's time to decommission these  
7 wind turbines, I've heard some talk of "Well, they're big  
8 companies. They will have the money then to take care of  
9 the issues." Well, maybe, maybe not. So, perhaps  
10 something should be, an account or whatever, I'm not sure  
11 of the technical details, set up to make sure that that  
12 funding is there and available. Should that company  
13 disappear, that funding will be there to deal with those  
14 turbines and the destruction that's been done to the  
15 environment.

16 Lastly, in closing, I'd like to say that  
17 I feel it's your responsibility, as well as my  
18 responsibility, to make sure that the residents, the  
19 citizens of New Hampshire, are protected and looked out  
20 for. They don't have a voice at the table, other than  
21 perhaps Senator Forrester, myself, some of the other folks  
22 in the room. I would ask you to consider their views, and  
23 not just foreign companies, with high-paid attorneys, and  
24 with lawyers, etcetera.

1                   And, I'd be glad to answer any questions  
2 at this time, if you have any.

3                   CHAIRMAN HONIGBERG: Thank you,

4                   Representative Brown. I apologize for some of the  
5 activity that was going on behind you.

6                   For those who have come in since we  
7 began, there is a sign-in sheet in the back, on the  
8 lecturn, inside the door. Again, for those who weren't  
9 here, we're asking for -- or, imposing a soft four minute  
10 limit on your first round of comments. And, if you're  
11 going to read, please read slowly.

12                  So, after Representative Brown, we have  
13 Paul Fraser, followed by Robert, I think it's Piehler, and  
14 then Mark Rielly.

15                  MR. FRASER: Thank you. Good morning,  
16 Mr. Chairman and Committee members. My name is Paul  
17 Fraser. I'm from Bristol. And, I wanted to talk to you  
18 briefly about part of your rulemaking process and how it  
19 may potentially affect our area.

20                  For a number of years, I've served on  
21 the selectboard there. And, I can tell you, honestly, the  
22 most frequently asked question is "what we were going to  
23 do about the downtown and the business economy?" So, we  
24 adopted, stealing a line from the movie Field of Dreams,

1       "If you build it, they will come." And, we were able,  
2       fortunately, to secure grant funding and revitalize our  
3       downtown.

4                   We also knew that we needed to do more.  
5       And, a year ago I was appointed as Chairman of something  
6       called the "Bristol Economic Development Task Force", with  
7       a lot of charges, but more simply to do anything and  
8       everything we can to improve the business climate in our  
9       area. We've done a lot. We've got a Web presence. We've  
10      hosted seminars, where people from New Hampshire  
11      Cooperative Extension and Professor Shannon Rogers, from  
12      Plymouth State University, has come to talk on her  
13      speciality of environmental economics.

14                  Throughout the process, it has confirmed  
15      something we knew going in. In that Newfound Lake is the  
16      economic engine of our area. And, if we needed a reminder  
17      of that, and maybe some of you might have seen it  
18      recently, WCVB-TV, out of Boston, in their Chronicle show,  
19      came to our area as part of their Mystery Main Street.  
20      Format being, they don't tell the viewer where they're  
21      shooting from, but they invite you to guess.

22                  And, as the show progressed, people were  
23      calling in saying "Oh, that's Moosehead Lake" or "That's  
24      got to be Squam." And, gratifyingly, somebody said "I

1       don't know where it is. But, wow, it's beautiful. I'd  
2       like to go there." The overriding theme of the show was  
3       Newfound Lake was the hidden gem of the area.

4                     This afternoon, at 4:00, our task force  
5       meets again. And, Agenda Item 1 is to sign off on a final  
6       draft of a brochure we have created. The outside of the  
7       brochure, a bifold, is targeted to people who have already  
8       decided to open a business in our area. It's a primer.  
9       You know, who to see, what to do, some resources that you  
10      may not be available for -- and understand that are  
11      available to you. The inside essentially is a marketing  
12      piece. Targeting people who aren't familiar with the  
13      area, or who vacation there or own property there, but  
14      never consider starting a business. We particularly would  
15      like to reach out to the Plymouth State University  
16      community, where, year in and year out, thousands of kids  
17      go there, because they like the area, they like Newfound  
18      Lake. They never consider, though, opening a business  
19      there. And, in today's world of e-commerce, and working  
20      remotely from home, it's now more possible than ever.

21                     When you consider issues of possibly, in  
22      our area, siting another wind farm, to go along with  
23      Groton Wind, which is to the north of us, we have grave  
24      concerns, over density and possibly overpopulating a

1                   particular area with an energy source.

2                   Moving forward, we very much would like  
3                   to continue to be known as "Newfound Lake, the hidden  
4                   gem", as opposed to "Newfound Lake, the wind farm capital  
5                   of New Hampshire".

6                   Thank you for your time. And, I'm  
7                   certainly available to answer any questions you might  
8                   have.

9                   CHAIRMAN HONIGBERG: Thank you,  
10                  Mr. Fraser.

11                  Next up we have Robert Piehler, followed  
12                  by Mark Rielly and Susan Arnold.

13                  MR. PIEHLER: Good morning. Robert  
14                  Piehler, from Alexandria. I'd like to touch lightly on  
15                  what Mr. Brown had said about the impact on an area, and  
16                  specifically I'd like to talk about "setbacks".

17                  I have been in Alexandria for most of my  
18                  adult life, and have developed a piece of property. It's  
19                  over 100 acres, which was going to be an abutter for a  
20                  wind company. So, we -- obviously, we're upset. But the  
21                  thing that bothers me the most is the setback rules, where  
22                  it's "property line proximity to a wind turbine of one and  
23                  a half times the height of the property".

24                  Now, my land is open to the public.

1 I've used a grant through the Fish & Game Department to  
2 expand trails, open areas for hunters. The proximity, by  
3 industry standards, says ice throw can be 16 to  
4 1,800 feet, if -- under, you know, worst-case scenarios.  
5 And, I would read a warning sign that's up at Granite  
6 Reliable that says "Warning: Do not pass this point for  
7 your safety. Ice and other heavy objects can be thrown  
8 long distances from wind turbine towers at high velocity  
9 and can kill." That's industry.

10 So, here, we have potential siting that  
11 says you can go "750 feet" from my property, when ice  
12 throw can be 1,800 feet. And, my land is open to the  
13 public. The idea that I have to control people on my  
14 property or myself to conform to an industrial project,  
15 taller than any building in the New England states, Maine,  
16 Vermont, New Hampshire, you're talking 500-foot towers  
17 next to my property, or other people like me, who have  
18 opened their land to the public.

19 New Hampshire Constitution is pretty  
20 explicit in taking of people's life and property. Now  
21 "taking" has a wide verbiage. But lifestyle is a taking.  
22 And, if I pay taxes on my property, I should have total  
23 control of my property 24/7.

24 Now, if a property owner wants to enter

1 into an agreement with the company that says "I'll accept  
2 you being close to my property, and I'll make sure that  
3 the risk won't be incurred", that's between a company and  
4 a person. But, if I choose not to be a participating  
5 member, that's my choice. And, I should not be forced to  
6 have to dodge stuff on my property, that may only be  
7 three, four, five days, ten days. I remember this ice  
8 storm of '99, I think everybody remember that. We were  
9 eight to nine days that you couldn't even walk out back.  
10 I can't imagine with 500-foot towers that may come down.  
11 Eight days without power.

12                   And, as far as, you know, the other  
13 impacts, a friend of mine is into real estate, so, I'll  
14 use the term "friend". Since the proposed EDP projects in  
15 those other towns in Dorchester and Orange, sales of  
16 property that are in potential sight of those things have  
17 stopped. That's how it impacts people. The idea that --  
18 just the idea that I'm going to have something in my  
19 backyard that massive, people say "I'm not investing any  
20 money." Which also means people can't sell their  
21 property.

22                   So, I would really like you to consider  
23 the setback rules. At least use industry standards. I've  
24 been in the painting business for years. And, we have

1 guidelines and we have laws that says I can only do  
2 certain things. If I had a potential problem, because I  
3 ignored standards, I would be in serious trouble with EPA,  
4 or, from a legal standpoint, they'd say "Well, what do you  
5 mean you just said "eh, close enough, good enough"?" That  
6 don't work.

7                   I always use an adage, I teach hunter  
8 safety, safety, muzzle control. "Prevent, prevent,  
9 prevent. Never put yourself in a situation in which you  
10 don't have an opportunity to prevent something from  
11 happening."

12                  And, at that, I'd like to make that a  
13 closing, and say thank you very much.

14                  CHAIRMAN HONIGBERG: Thank you,  
15 Mr. Piehler. Next, we have Mark Rielly, followed by Susan  
16 Arnold, and Dolly McPhaul.

17                  MR. RIELLY: Thank you, Mr. Chairman and  
18 members of the Committee. My name is Mark Rielly. I am  
19 Senior Counsel at National Grid in the Permitting/Siting  
20 Group. I learned my lesson last time. So, I'll get right  
21 to the point.

22                  First, Section 301.01(c)(5)  
23 [301.03(c)(5)?] would require an applicant to identify  
24 resources, natural, historic and cultural resources, not

1       only on the site, but on abutting properties and  
2       properties within 100 feet. For a transmission project,  
3       for instance, the MVRP Project that's currently before  
4       you, our site is really our right-of-way. We do not own  
5       any property rights beyond that site. So, this is sort of  
6       a practical impossibility for us, to identify, to do  
7       archeological investigations or wetland delineations  
8       beyond our right-of-way.

9                   And, the notion that we could obtain  
10      those -- that permission from landowners, again, using  
11      MVRP as an example, would require us to individually  
12      negotiate those for 18 miles. It just would be a massive  
13      undertaking, and would be a massive undertaking that, I  
14      would argue, would have little value in your assessment of  
15      a project.

16                  The project impacts, for -- at least for  
17      transmission projects, are limited to the right-of-way,  
18      where the structures are located, and perhaps in the  
19      access ways. Those impacts are thoroughly identified, and  
20      mitigated through the permitting processes of DES,  
21      consultations with DHR, Army Corps permitting and the  
22      like. So, arbitrarily increasing the geographic scope,  
23      just to identify resources in areas that aren't going to  
24      be impacted, is unnecessary and would just add a burden.

1       On top of the fact that we just don't have the property  
2       rights to go beyond our right-of-way.

3                     Second issue, 301.08(c)(2), regarding  
4       the decommissioning plans. I would renew our request from  
5       the last time, that a company like National Grid, for  
6       transmission projects, and other similarly situated  
7       companies, not be required to create a decommissioning  
8       plan for transmission lines. Transmission lines are built  
9       and, over time, they are reconducted or refurbished, so  
10      that they have useful lives well in excess of 50 years,  
11      often up to 100 years.

12                   So, having a -- this is not a 20 or 30  
13      year time horizon. This is far longer. Having a  
14      decommissioning plan for that time horizon, I would argue,  
15      doesn't really make sense.

16                   If the Committee does nevertheless  
17      choose to adopt that and impose that on all energy  
18      facilities, I would ask for a little flexibility in two  
19      areas. First, there's a requirement that an "independent  
20      qualified person" create this plan, whoever that may be.  
21      National Grid, Eversource, and the like, are -- have  
22      professionals in-house who are amply qualified to be able  
23      to produce this plan. There's no reason for us to go  
24      through an RFP process to hire an external consultant to

1 do that.

Second, and I think more importantly, is the financial assurance requirement. Again, I previously had asked for some flexibility on this. I would ask again that companies like National Grid be allowed to satisfy that requirement perhaps through a showing of financial strength and reliability, rather than exclusively through establishing some sort of performance bond or surety, because that would, again, tie up monies for several decades, and require us to administer compliance with that for several decades, which is just a burden that's really unnecessary.

I assume that the intent of this was to address the concern where perhaps a developer goes belly-up and leaves structures on the landscape abandoned. We're a heavily regulated public utility, that's not going to happen. I would argue that that problem doesn't exist, when you talk about National Grid and similarly situated companies.

With any remaining time, I would just touch on the participating landowner provisions, I find a bit ambiguous, which gives me a bit of agita, because it raises a concern that, unless a landowner provides a written consent, that they may have some sort of veto

1 power over a project. I don't fully understand the scope  
2 of that provision yet, or it's intent. So, in the absence  
3 of some clarity there, I worry that, even for a  
4 reliability project, a landowner, or several, who doesn't  
5 give his or her written consent, would be able to stop the  
6 project. Sorry.

7 CHAIRMAN HONIGBERG: You're out of time.

8 MR. RIELLY: Okay.

9 CHAIRMAN HONIGBERG: Commissioner  
10 Bailey.

11 COMMISSIONER BAILEY: Thank you. Could  
12 you just give me the reference to the first rule that you  
13 were discussing?

14 MR. RIELLY: Identify resources --

15 COMMISSIONER BAILEY: Yes.

16 MR. RIELLY: -- outside of the  
17 right-of-way? It's 301.03(c)(5). Elsewhere, in  
18 301.06, --

19 COMMISSIONER BAILEY: No, that's okay.

20 MR. RIELLY: -- there's a discussion of  
21 "area of potential effect", and that should be the  
22 governing concept, not "abutting properties" or anything  
23 like that.

24 COMMISSIONER BAILEY: Okay. Thank you.

1 CHAIRMAN HONIGBERG: Thank you,  
2 Mr. Rielly. Next up we have Susan Arnold, followed by  
3 Dolly McPhaul, and don't think I have a first name on  
4 someone whose last name is "McLaren".

5 MS. ARNOLD: Good morning. My name is  
6 Susan Arnold. I'm the Vice President for the  
7 Appalachian -- Vice President for Conservation of the  
8 Appalachia Mountain Club. As many on the Committee know,  
9 AMC has been advocating for more specific criteria to  
10 guide the SEC decision-making process for many years,  
11 since 2006, actually. So, we are very appreciative of the  
12 time and energy that the Committee has committed to this  
13 rulemaking, and the consideration you've already given to  
14 many of our suggestions in various filings over the past  
15 months. But today is my opportunity to push you a little  
16 further. So, I'm going to do that. Thank you.

23 A major concern of ours continues to be  
24 in Site 301.05, "effects on aesthetics". We are, you

1 know, we have some improvements to (3) (a) [(b) (4)a?]  
2 concerning the kind of data that's now available. LIDAR  
3 data is now much more available to make for a better  
4 understanding of visual impacts. But, really, most  
5 important to us are the distance provisions that you have  
6 included, and we have commented on these in the past. We  
7 really feel strongly that these conditions are much too  
8 restrictive. You should be able to consider projects  
9 beyond ten miles, if conditions warrant. With the size of  
10 wind turbines growing and other structures, they're  
11 clearly visible. And, then, within the urban areas, we're  
12 very concerned that there's just -- we don't understand  
13 what the fact-based studies are that these distances are  
14 based on. And, an example would be, in an urban district  
15 area, like Strawberry Banke, in Portsmouth, it -- 0.6  
16 miles away could be highly impacted by a 160-foot tower.  
17 But, as written, an analysis of that impact would not be  
18 required. So, we just really urge you to go back and  
19 reconsider those different distances for the visual impact  
20 assessment and what those distances should be.

21 In a related area, number (7), in that  
22 same site, Mr. Getz submitted a letter recently about the  
23 photosimulations. We would have some additional specifics  
24 that we'd like to offer to really ensure the quality of

1       the photosimulations. An interesting quote, I think, is  
2       "The human eye is much sharper than any camera lens. So,  
3       photographs should be taken at high resolution, whether a  
4       film or a digital camera is used. Clear weather provides  
5       the best clarity for the scene, as well as worst-case  
6       conditions, which should be represented in all simulations  
7       to allow for a complete evaluation." That's from the  
8       National Academy of Science, 2007.

9                          Finally, when it comes to nighttime  
10      lighting, we would have some additions to the language  
11      there. That's number (8). Nighttime lighting can be very  
12      visible from long instances. And, certainly, night light  
13      pollution is a growing problem in our state. We're one of  
14      the few states that actually have places where it's still  
15      very dark at night, and we would like to preserve those.

16                          Finally, another area I'd like to just  
17      touch on, Site 301.14, relating to "Findings of  
18      Unreasonable Adverse Effects", (a)(6). We would rewrite  
19      (a)(6). And, again, I'll provide that language in written  
20      comments. But, generally, we're concerned that the  
21      criteria as written makes no reference to the scenic  
22      quality of the landscape or the importance of viewpoints  
23      from which the project could be seen.

24                          Some of the following sections, (e)(1)

1 and (e) (3), we would like to add the concept of "migratory  
2 wildlife". Things don't stay in one place, they move.  
3 And, that needs to be part of the assessment as well.

4 And, we would then need to add a term in  
5 102.24, "migration corridors", which we also will provide  
6 language for.

7 We have a few other comments, I won't go  
8 into them today. But thank you very much for the work  
9 you've done. And, we hope you will continue to consider  
10 our comments. Thanks.

11 CHAIRMAN HONIGBERG: Thank you,  
12 Ms. Arnold. Next up we have Dolly McPhaul, followed by  
13 Mr. or Ms. McLaren and Kris Pastoriza.

14 MS. MCPHAUL: Thank you. My name is  
15 Dolly McPhaul. I'm from Sugar Hill. And, I have some  
16 concerns with the current rules that you have come up  
17 with. I want to reiterate Senator Forrester's and Susan  
18 Arnold's comments about "route control". Currently, as an  
19 example, is Northern Pass, that I know wants to file for  
20 an application, but they clearly do not have control of  
21 their route. Even though they say they do, it will end up  
22 in a lawsuit. I have to -- I have changed my talk a  
23 little bit because of something Mr. Rielly said. So, I'm  
24 cutting things short.

1 I'm very concerned with your Committee's  
2 assumption that you have the right to be the master  
3 planners and zoning boards for the State of New Hampshire,  
4 as quoted by Mr. Burack. And, I have his statement, but I  
5 won't read it in the interest of time. There is no way  
6 that I feel the Legislature would infer that kind of power  
7 to any nine people in this state. The power to grant to  
8 an energy company the right to overrule town zoning laws  
9 and destroy their town is something that should be but in  
10 specific language in a legislative action, and it is still  
11 an infringement on our constitutional rights. So, that  
12 troubles me greatly. The word "consider" used throughout  
13 is, I feel, too vague and should be replaced. Just  
14 "considering" a town's plan or anything, as a matter of  
15 fact, is not worth anything. It's too vague. It's giving  
16 the energy companies the right to say "we considered  
17 this", and then go on as they planned.

18 If additional lines or voltage are to be  
19 added to another transmission line already in existence,  
20 they should have to file another application with the Site  
21 Evaluation Committee, and they should be required to  
22 submit to the town municipal offices, in writing, of that  
23 addition.

24 Transmission lines definitely need

1 setback requirements. Despite your acceptance of the  
2 National Grid's recommendation that there is no need for  
3 setbacks, and despite Attorney Wiesner's "Theoretically,  
4 there is a risk of fall, but the risk is so minimum,  
5 versus the other benefits of the development, that it  
6 should be permitted." There needs to be setback rules.

In the ice storm of 1998, in Quebec alone, 35,000 wooden poles and 1,000 steel poles went over. So, that is your idea of "not needing setback requirements"?

Decline in property values is another concern. I listened to a lady in Whitefield last week say her entire funds, her husband had died, were in her home and property. Which she asked the Northern Pass "how much her property would decline in value?" They said "only ten percent." She was horrified. Ten percent of everything she had, because of a for-profit company that was not needed. She should not, nor should any other landowner, have to accept that kind of treatment.

1 And, finally, funds for decommissioning.  
2 They should be available up front, proven, and through the  
3 entire life of the project. A parent company, with a good  
4 credit rating, is not sufficient. No company is too big  
5 to fail, as we have witnessed over and over. You are  
6 taking the advice from National Grid, and not considering  
7 the potential damage to the people of this state. And, I  
8 highly object to Mr. Rielly's testimony. There is a need  
9 for an up-front decommissioning fund, written by someone  
10 other than connected with his company.

11 There is a utility that was supposedly  
12 "too big to fail" in northwest United States back in the  
13 '70s. It was to have five nuclear power plants. It  
14 turned out to be the second biggest bond default in  
15 history. Now, you cannot tell me that his company is  
16 responsible enough to not have to set up a up-front  
17 decommissioning plan. The people do not deserve to be  
18 left with towers rotting, rusting on the countrysid. A  
19 blight, when they are in their best of shape, and  
20 unbelievably unacceptable when they have gone by. And,  
21 they will go by. They're already antiquated.

22 Thank you very much.

23 CHAIRMAN HONIGBERG: Thank you,  
24 Ms. McPhaul.

1                   Next up we have Mr. or Ms. McLaren,  
2                   although it may be that Kris Pastoriza is going to be  
3                   speaking, there's a note here that I don't quite  
4                   understand, and then followed by Susan Geiger. So, tell  
5                   me who's up, and we'll go from there.

6                   DR. McLAREN: Excuse me, Mr. Chairman.  
7                   Can another speaker cede minutes?

8                   CHAIRMAN HONIGBERG: Within reason. I  
9                   mean, I don't -- we're not going to make this a situation  
10                  where 15 people say "I want that person to speak for 45  
11                  minutes." That's not happening.

12                  But, if someone doesn't feel comfortable  
13                  speaking, someone else is going to make their statement,  
14                  that's fine. You can go ahead.

15                  DR. McLAREN: I need about eight minutes  
16                  here, just to cover --

17                  CHAIRMAN HONIGBERG: Well, what you're  
18                  going to do then is you're going to do it in two bites.  
19                  You're going to do four minutes now, and we're going to  
20                  stop you. And, then, at the end, you can come back and do  
21                  your other four minutes.

22                  DR. McLAREN: Thank you, Mr. Chairman.  
23                  My name is Campbell McLaren. I'm a physician, Board  
24                  certified in Emergency Medicine. And, I'd like to submit

1 the following comments and recommendations to the SEC to  
2 be included as rules to safeguard the people of New  
3 Hampshire from the dangers of ELF/EMF fields.

4                   The recommendations of the SB-99 Health  
5 & Safety work group referencing transmission lines were  
6 ignored. They do not make it into any of the documents.  
7 This is contrary to the intent of SB-99. We know who's  
8 responsible for this, but we don't seek public disclosure  
9 at this time. However, from hereon forward we do not  
10 request, but we demand that we be heard. And, that our  
11 recommendations are seriously considered and incorporated,  
12 and that the Committee's final rules reflect New Hampshire  
13 RSA 162.11:16, IV(e) [sic].

14                   We are at a very crucial time in New  
15 Hampshire's history. We don't have any federal or state  
16 transmission line standards; they don't exist. We have a  
17 *laissez faire* attitude on the part of the Committee. And,  
18 we may face, in the future, a significant increase, and  
19 probably will face in the future, an increase in  
20 transmission line development.

21                   And, very briefly, I just wanted to  
22 mention the physics here. ELF/EMF, to understand the  
23 principles behind my rule additions here, "ELF" is  
24 "extremely low frequency", but we must not be reassured.

1       "Extremely low" is not reassuring. It means that the  
2       amplitude of the line, the fact that the field can be  
3       absorbed by our skin, like blotting paper and water. We  
4       just absorb it.

5                   It's AC lines that cause this. It's an  
6       oscillation. The alternating current creates the magnetic  
7       field. And, we're not going to be talking about  
8       "electric" fields. It's measured in milligauss. And, if  
9       you look at foreign literature, it's measured in  
10      microtesla.

11                  Referencing a comment from the  
12       Committee, deliberative Committee, at one of the meetings  
13       the voltage of the line is not the most relevant factor,  
14       but load, amperage, is, and even township, and this is  
15       important, transmission lines of 67 kilovolt can generate  
16       large magnetic fields when there's a high demand, when the  
17       flow is significant, particularly, A/C units in summer.  
18       Angles in lines particularly increase the magnetic field.

19                  A very important principle, and around  
20       which a lot is based in the health field, is that the EMF  
21       drops, the magnetic field drops off as it distances itself  
22       from the transmission line. At 300 feet from the center  
23       of the transmission line, the magnetic field is usually  
24       below 2 to 4 milligauss. Usually.

1                         Now, to health risks, to pull it  
2 together, many, since '79, and, more importantly, in '92,  
3 a massive federal study, the RAPID Study, strongest  
4 evidence for health risks was leukemia in children, this  
5 is magnetic fields, leukemia in children, living in an  
6 environment of over 2 to 4 milligauss.

7                         The IARC, International Agency  
8 Researching Cancer, pooled studies, and they called it or  
9 cast it as a "2-B carcinogen", and recognized a two-fold  
10 increase in leukemia living in that environment of 3 to 4  
11 milligauss.

12                         So, we need to know the magnetic field.  
13 We can't just leave it to the applicant to present  
14 something. There needs to be criteria.

15                         The World Health Organization also did  
16 an intensive study, and, believably, gave it to the  
17 Industry for editing. And, you can see, if you follow and  
18 read the document, that the Industry, in the areas of  
19 economy and finance, did alter the document.

20                         There is a corporate lawyer in this room  
21 who states that the World Health Organization feels that  
22 there's "no health risk with EMF". He's referencing  
23 "electric fields", not magnetic fields. Because, if you  
24 read the World Health Organization paper, as you go

1 through, it's magnetic fields. And, the World Health  
2 Organization urged that we adopt a "Precautionary  
3 Principle", and that we look for low-cost solutions. We  
4 need to have, in this state, as in many other states,  
5 countries worldwide, and even some municipalities, we need  
6 criteria for the applicant to meet.

7 CHAIRMAN HONIGBERG: Dr. McLaren, where  
8 are you in your presentation?

9 DR. MCLAREN: Three and a half minutes,  
10 and -- well, not really --

11 CHAIRMAN HONIGBERG: Four and a half,  
12 actually, but --

13 DR. MCLAREN: Okay.

14 CHAIRMAN HONIGBERG: So, how much more  
15 do you have?

16 DR. MCLAREN: I could -- I'm going to  
17 have to double that.

18 CHAIRMAN HONIGBERG: All right. So,  
19 we're going to come back to you.

20 DR. MCLAREN: Okay.

21 CHAIRMAN HONIGBERG: Do you have -- are  
22 you going to be able to submit that to us?

23 DR. MCLAREN: What I will be submitting,  
24 Chairman, is rules, referencing chapter Site 300, where I

1 have rules in from the Connecticut studies, which will --  
2 which require this background to understand. But --

3 CHAIRMAN HONIGBERG: So, will you be  
4 submitting both the background and the rules proposal?

5 DR. MCLAREN: I can do. I have not  
6 planned to, believing it would be on the transcript.

7 CHAIRMAN HONIGBERG: Okay. That's fine.  
8 So, we will circle back to you.

9 Am I correct then that Kris Pastoriza  
10 does not wish to speak today?

11 MS. PASTORIZA: I was going to cede my  
12 minutes to Campbell, so he could go on in a smooth  
13 fashion.

14 CHAIRMAN HONIGBERG: I'm sorry?

15 MS. PASTORIZA: I was going to cede my  
16 minutes to Campbell, so he could speak his piece in one  
17 piece.

18 CHAIRMAN HONIGBERG: Well, as we've  
19 already established, we're going to be circling back to  
20 him at the end, as anybody else who needs to go beyond, in  
21 fact, as it's worked out, close to five minutes. But do  
22 you want to say anything at this time?

23 (No verbal response.)

24 CHAIRMAN HONIGBERG: Thank you. Next up

1                   is Susan Geiger, followed by Fred Ward and Parker Griffin.

2                   MS. GEIGER: Yes. Thank you, Mr.

3                   Chairman and members of the Committee. I'm Susan Geiger,

4                   from the law firm of Orr & Reno. And, I represent EDP

5                   Renewables. EDP is the third largest wind energy

6                   developer, owner and operator in the United States with 31

7                   operating wind projects here in the U.S. EDPR appreciates

8                   very much the hard work that this Committee has undertaken

9                   on these draft rules. However, we continue to have

10                  several areas of concern. I won't be able to address all

11                  of my comments in four minutes. So, I will be submitting

12                  more detailed written comments later on.

13                  At the outset, I'd like to note that New

14                  Hampshire currently has three operating commercial-scale

15                  wind facilities that are operating under conditions that

16                  have been imposed by this Committee. In developing rules

17                  for wind projects, we respectfully ask that the Committee

18                  carefully examine what, if anything, about the existing

19                  wind certificate conditions must be changed or be made

20                  more restrictive for new facilities.

21                  For example, has the Committee received

22                  sound or noise complaints from any of the residents who

23                  live in proximity to the existing operating certificated

24                  facilities? Have you received complaints about setbacks,

1 dealing with issues, actual issues in the field? Have you  
2 received complaints about shadow flicker or issues of the  
3 like?

4 So, with those issues in mind, I would  
5 respectfully ask that you consider whether you are trying  
6 to fix something that is broken, in order to address  
7 actual problems? Or, are you imposing standards that are  
8 being suggested by some who simply wish to prevent further  
9 wind development in their own backyards, in New Hampshire,  
10 or anywhere else?

11 New Hampshire has an RPS standard,  
12 Renewable Portfolio Standard, and has always enjoyed the  
13 reputation of being a good place to do business. We  
14 believe that the Committee must take care not to adopt  
15 rules that would make it more difficult for clean,  
16 renewable, and other energy developers from doing business  
17 here in this state.

18 EDPR's concerns fall briefly into three  
19 categories: Legal issues, practical or fairness issues,  
20 and areas that need clarification. At the outset, I'd  
21 like to say that we agree with National Grid's comments  
22 about decommissioning and about the practical problems  
23 with trying to conduct wetlands and historic resources  
24 studies on properties to which an applicant may not have

1 access, like those that are within 100 feet of the  
2 applicant's property lines.

3 In addition, with respect to legal  
4 issues, one area of concern is that the applicant should  
5 not be required to file, and the SEC should not consider  
6 as dispositive, local master plans or zoning ordinances.  
7 It is black letter law in this state that the SEC process  
8 preempts local planning and zoning. The New Hampshire  
9 Supreme Court has indicated, in the *Town of Hampton*, at  
10 120 New Hampshire 68, 1980, a case that is still good law,  
11 that this body, not local zoning and planning ordinances,  
12 govern the siting of energy resources in this state.

13 The other legal issues that we have  
14 difficulty with are a due process issue in the "Revocation  
15 of Certificate" rule, 302.03(c). We believe that the  
16 Committee should reinsert the requirement that there is a  
17 hearing before taking action to revoke a certificate. We  
18 think that that comports with basic principles of due  
19 process of law.

20 In terms of -- in terms of practical or  
21 fairness issues, we, again, continue to reiterate our  
22 concern expressed earlier, that an applicant should not be  
23 required to assess its cumulative impacts, along with  
24 those of facilities that just have been -- for which

1 applications have been accepted by the SEC. We think that  
2 the cumulative impacts should be assessed with respect to  
3 existing facilities.

4 I don't know where I am in my time,  
5 but --

6 CHAIRMAN HONIGBERG: You are at 3  
7 minutes and 58 seconds.

8 MS. GEIGER: Okay. Well, I thank you  
9 very much for allowing me to go -- to go just to four  
10 minutes. And, as I said, I'd be happy to answer any  
11 questions, and I'll be submitting more complete written  
12 comments by the deadline. Thank you.

13 CHAIRMAN HONIGBERG: Thank you,  
14 Ms. Geiger.

15 Next up we have Dr. Fred Ward, followed  
16 by Parker Griffin and Mark Watson.

17 DR. WARD: I don't think I've ever been  
18 accused of not speaking up. And, yet, when I went through  
19 the draft arrangement, there was almost nothing out of all  
20 the comments that I've made over the last weeks and months  
21 that appears to be in there. I've submitted some written  
22 comments yesterday. But I don't need to go over all of  
23 those. You will have those to see.

24 I want to say just a couple of things.

1 Meteorology affects everything that we're discussing here,  
2 with very few exceptions, even including the financing,  
3 which people don't seem to worry about. I've also  
4 stressed that elevation and isolation, which is where  
5 every wind facility in the State of New Hampshire is going  
6 to be, it makes a big difference. They don't pick  
7 elevation -- elevated areas and isolated areas because  
8 they're handy. They pick them because that's where the  
9 wind is. But you have to accept the fact that the areas  
10 that we're talking about are not just "any old places in  
11 New Hampshire". They are very special. And, they have  
12 other interesting characteristics, of which the  
13 meteorology and the topography are very important.

14                   The elevated structures,  
15 elevated/isolated structures, are perceived not as the  
16 height of the structure, not as the height of the  
17 structure, it's perceived as the height of the structure  
18 above the surrounding land. When we talk about a 500-foot  
19 windmill, on a thousand foot hill, it's the same as  
20 talking about a 1,500-foot tower. And, everywhere through  
21 here we keep talking about the "height of the base of the  
22 pole to the top"; that's not the relevant height. I can  
23 only keep saying that.

24                   As far as visual impact, I have three

1 things to say. First of all, there's no visual impact  
2 that's ever there a second time. It's a constantly  
3 changing panorama. To talk about still pictures, versus  
4 video tape, is like talking about, you know, color  
5 television versus a camera, the Browning camera.

6                   The visibility, the visual impact,  
7 depends on the elevation distance. And, if you talk about  
8 the visual impact, the fact that there's flashing lights  
9 on there, and it's making noise, adds to the visual  
10 impact. We're not talking about what we see, when you  
11 talk about "visual impact", if that thing is moving, and  
12 has flashing lights on it, it's a lot stronger visual  
13 impact than not having those. And, they need to be taken  
14 into account.

15                   As far as noise, in the rules it talks  
16 about ISO, International Standards Organization, 9613-2.  
17 Has anybody here read it?

18                   I was aghast when I read it. It  
19 basically said "It does not apply to towers making noise  
20 on a hill." It does not. Period. Now, there are two  
21 ways around that. You can say that it doesn't apply, so  
22 you can go out and make measurements, which is really the  
23 only alternative, or maybe a 10 or 15 decibel additional  
24 to the calculated noise. We're talking about "5", but 10

1 or 15 is in the right range. But the point is, ISO 9613-2  
2 does not, underline "not apply", to any of the things that  
3 you're dealing with here.

4 On icing, we had some comments over  
5 here. Icing comes only with preferential wind directions.  
6 It doesn't come with "any old wind direction". So, the  
7 people who are going to be affected by icing and ice  
8 throw-off are going to be a very special group. I'm not  
9 sure that I would want to name the group right off. But  
10 it would seem to me a wind developer ought to be able and  
11 required to find that out.

12 Then, there's this question which I  
13 wrote, I have a nice letter in the Wall Street Journal a  
14 week or two ago, analysis of the wind data available,  
15 Weather Bureau wind data, shows that, when it's windy in  
16 one place in New England, it's windy in all of them. And,  
17 when it's not windy in some places, it's not windy at very  
18 many of them. Now, this means that a 3-megawatt rated  
19 wind turbine is going to generate between zero and 3  
20 megawatts. If the average that the Legislature is  
21 shooting for is like "10 percent", that means the grid has  
22 to be able to take zero to 30 percent. The grid can't  
23 take that. You can't just think of any wind farm or wind  
24 facility and think that it's unrelated to anything else.

1       Because the wind is synchronized, and I call it  
2       "synchronized inefficiency", once you have a facility  
3       that's not working at 100 percent, then you're going to  
4       put in a figure, which is three times whatever the number  
5       is, to make up for that one-third efficiency.

6                     CHAIRMAN HONIGBERG: Dr. Ward, how much  
7       more do you have, do you think?

8                     DR. WARD: I have about 45 seconds.

9                     CHAIRMAN HONIGBERG: Go for it.

10                  DR. WARD: Okay. Shadow flicker. The  
11       timing and intensity are dependent on the elevation  
12       distance and the blade width. To talk about "blade  
13       length" and all of that is missing the point. As far as  
14       where the radar is concerned, there are places around  
15       which have been affected by wind farms. Whether this is  
16       going to be one, or any of them are going to be, you need  
17       to put in something that says "The applicant has to show  
18       that they are not going to denigrate the effects of the  
19       weather radars."

20                  Again, on the question of closeness,  
21       Stoddard center is closer to Tuttle Hill than Antrim  
22       center is, but we're in a different county. And, that has  
23       got to go.

24                  No models can be accepted without a

1 complete description ahead of time and the data that went  
2 into it.

3 And, I'll just end with a question: How  
4 many meteorologists do I have to bring in here from New  
5 Hampshire, so they will -- the Committee will be forced to  
6 include meteorology as an important factor? Thank you.

7 CHAIRMAN HONIGBERG: Thank you,  
8 Dr. Ward. Before I call the next person, would someone be  
9 so kind as to grab the sign-up list off the lecturn and  
10 bring it up here?

11 The next speaker is Parker Griffin,  
12 followed by Mark Watson and Nancy Watson.

13 (*Mr. Griffin distributing documents.*)

14 MR. GRIFFIN: A few for you. Here are  
15 some for you guys. Unfortunately, I'm going to read from  
16 this. So, I want to make it easier for everybody.

17 Thank you much, Mr. Chairman and members  
18 of the Committee. I'm Parker Griffin. And, I live in  
19 Hebron, New Hampshire. My comments today will focus on  
20 issues relating to Site 301.09, "Effects on Orderly  
21 Development of Region. You know, as currently drafted,  
22 the regulations could benefit by a clear and explicit  
23 definition of the term "Region" and "regional", which are  
24 variously and ambiguously used throughout the document,

1 but with particular significance in 301.09.

2 And, really, to eliminate such ambiguity  
3 and consistently incorporate the idea of "host" and  
4 "abutting municipalities", which appears to be the intent  
5 of the current draft, I propose adding "Region" and  
6 "regional" in the list -- to the list of defined terms in  
7 Site 301. And, I give you a proposed definition, which  
8 would read, and this uses your language from 301.09:  
9     ""Region" and "regional" are defined as the proposed  
10 energy facility's host municipalities and unincorporated  
11 places, abutting municipalities and unincorporated places,  
12 and other municipalities and unincorporated places that  
13 are subject of or covered by studies including with or  
14 reference to [in?] the application."

15                 That's wording from your own site. The  
16 point is to just make it a defined term. Now, that would  
17 make your Site 301.09 shorter, clearer, and you would  
18 consistently apply that concept. And, it would also  
19 ensure that local perspectives at the municipal level are  
20 adequately considered when evaluating the effect of the  
21 proposed energy facility on land use, the economy,  
22 tourism, recreation, real estate values, and so on.

23                 I have to note that, in the case of wind  
24 projects, I have to note the industry's practice of

1 submitting data measuring the effect on real estate values  
2 of a proposed facility at a broad regional level, which  
3 frequently consists of several counties, states, you know,  
4 really large geographic areas. And, what that does, that  
5 dilutes the measured aggregate effect of real estate  
6 values to nothing, to nil. When, in fact, properties  
7 close to or abutting a facility can -- can and do register  
8 significant falls in value.

9 So, therefore, you know, we believe it's  
10 necessary to evaluate the effect on real estate values at  
11 the level of the proposed facility's host and abutting  
12 municipalities, this idea of regional, as host and  
13 abutting municipalities.

14 In addition, as currently drafted, Site  
15 301.09(b)(4) could also benefit from more specific  
16 language concerning the effect of the proposed energy  
17 facility on regional real estate values, in light of the  
18 Committee's responsibility to determine whether the  
19 proposed energy facility serves the public interest, as  
20 outlined in 301.16(b). And, just to remind you, Site  
21 301.16(b) requires the Committee, you guys, to decide  
22 "whether the beneficial and adverse economic effects of  
23 the energy facility, including the costs and benefits  
24 to...property owners", whether they "serve the public

1           interest." So, you have a responsibility to determine  
2           whether the costs and benefits to property owners serves  
3           the public interest, in 301.16. Therefore, it makes sense  
4           to require the applicant specifically to address effects  
5           on regional personal property and real estate, to allow  
6           you to fulfill your responsibility under 301.16(b), if you  
7           follow me?

8                         So, then, I've given you -- I would just  
9           add a couple words: "Site 301.09(b)(4) The effect of the  
10          proposed energy facility on regional personal property and  
11          real estate values." You have it right there in front of  
12          you.

13                         So, finally, in sum, incorporating the  
14          proposed definition of "Region" and "regional" will ensure  
15          the current draft's intent of addressing issues at the  
16          municipal level is consistently fulfilled, while requiring  
17          an assessment of the proposed facility's effect on  
18          personal property at the newly defined regional level will  
19          help the Committee fulfill its responsibility to assess  
20          whether the public interest is served or not.

21                         Thank you for your time.

22                         CHAIRMAN HONIGBERG: Mr. Griffin, I have  
23          a question for you.

24                         MR. GRIFFIN: Yes.

1 CHAIRMAN HONIGBERG: The phrase  
2 "personal property", real estate lawyers would tell you  
3 that has a meaning, and it means things that are not real  
4 property, not real estate. Are you meaning to cover  
5 things like automobiles and --

6 MR. GRIFFIN: No, no. No, I -- that's a  
7 good question.

8 CHAIRMAN HONIGBERG: You mean "real  
9 property --

10 MR. GRIFFIN: Absolutely.

11 CHAIRMAN HONIGBERG: -- owned by  
12 individuals", right?

13 MR. GRIFFIN: Correct.

14 CHAIRMAN HONIGBERG: Okay. That's what  
15 I thought you meant. Just the term, if we put it in that  
16 way, it won't mean what you think it means.

17 MR. GRIFFIN: I understand.

18 CHAIRMAN HONIGBERG: Okay.

19 MR. GRIFFIN: But you understand my  
20 logic?

21 CHAIRMAN HONIGBERG: Yes.

22 MR. GRIFFIN: Which is, that you're  
23 already required to, so, you might as well actually make  
24 it explicit, that the guy tells you about it, the

1 applicant. You understand?

2 CHAIRMAN HONIGBERG: Yes, I do.

3 MR. GRIFFIN: Trying to make your life  
4 easier.

5 CHAIRMAN HONIGBERG: Believe me, I  
6 appreciate that.

7 MR. GRIFFIN: Thank you very much.

8 CHAIRMAN HONIGBERG: Thank you, Mr.  
9 Griffin.

10 Next up we have Mark Watson, followed by  
11 Nancy Watson and Ivan Quinchia, I think.

12 (*Mr. Watson distributing documents.*)

13 MR. WATSON: For the record, my name is  
14 Mark Watson. And, I'm from Groton, New Hampshire. Mr.  
15 Chairman and Committee members, on behalf of New Hampshire  
16 Wind Watch, I would like to thank you for the opportunity  
17 to speak today. New Hampshire Wind Watch submitted a  
18 letter to your Committee yesterday containing several  
19 comments, along with two videos I hope everyone has had  
20 the opportunity to watch. The videos demonstrate the  
21 strobing effect of a wind turbine both inside and outside  
22 of a home. If you haven't watched the videos, I certainly  
23 encourage you to do so.

24 Much of what I have to say today was

1 provided to you in a letter from New Hampshire Wind Watch  
2 and Windaction Group on August 26. However, it bears  
3 repeating.

4                   In reading the April 15th, 2015  
5 transcript, it is evident the Committee did not fully  
6 grasp the industry jargon cited in the SB-99 stakeholder  
7 document for shadow flicker. These terms, including  
8 "astronomic worst case scenario", are essential for  
9 understanding how shadow flicker modeling is conducted and  
10 the parameters for fully assessing the duration of impact  
11 prior to a project being constructed. This term seems to  
12 -- this term seems to have been misconstrued by the  
13 Committee to suggest that it represents "the most  
14 conservative scenario", while it is anything but  
15 conservative. It was stated that it reached "stakeholder  
16 consensus", which is absolutely not the case.

17                   The Committee then appropriately  
18 acknowledged its limited experience with the topic and  
19 asked that shadow flicker be discussed at the June 29  
20 technical session, which it was, in great detail,  
21 including a comprehensive explanation of how Mason County,  
22 Michigan dealt with significant shadow flicker issues at  
23 residences located more than a mile from turbines. You  
24 will hear more about this when a letter from the Mason

1 County Zoning Administrator is read by a later speaker  
2 today.

3 Our recommendations submitted back in  
4 March contained the following information, I would like to  
5 reiterate: First, Mason County, Michigan: Substantial  
6 shadow flicker impacts at distances up to 6,000 feet.  
7 County ordinances limit shadow flicker to 10 hours per  
8 year, and it was recently amended to zero hours. Second  
9 standard: Germany has a maximum of 8 hours per year  
10 annual amounts of shadow flicker, which is nationwide.  
11 And, the third example is the Danish standard: Not to  
12 exceed 10 hours per year on neighboring houses. If the  
13 limit is exceeded, the wind turbine owner may  
14 alternative be -- alternatively be required to shut down  
15 the wind turbine in critical periods.

16 As previously submitted, we recommend a  
17 shadow flicker standard not to exceed 8 hours per year,  
18 although it would be reasonable to set a standard, such as  
19 Mason County, and allow -- and not allow shadow flicker at  
20 all, given that technology exists to eliminate it.

21 It is our sincere hope that the  
22 Committee will revisit the health and safety issues for a  
23 more informed discussion. If that is not possible, we  
24 recommend you forego any standards for shadow flicker

1 until such a time that the Committee is better equipped to  
2 explore these topics. If you do move forward with the  
3 draft rule standard, we urge you to include the following  
4 statement in the rules: "Reduced number of hours of  
5 shadow flicker may be imposed by a Committee if supported  
6 by the evidence presented." Having no standards would be  
7 preferred over adopting standards that are not fully  
8 considered.

11 CHAIRMAN HONIGBERG: Thank you,  
12 Mr. Watson.

13 Next up we have Nancy Watson, followed  
14 by Ivan Quinchia and Lori Lerner.

15 (Ms. Watson distributing documents.)

16 MS. WATSON: Good morning. My name is  
17 Nancy Watson. And, I'm from Groton. And, I'm speaking on  
18 behalf of Dennis Cashman, presenting testimony today.  
19 Dennis Cashman could not be here due to a family  
20 obligation.

21 My name is Dennis Cashman. I live in  
22 Bridgewater, New Hampshire. I want to express my  
23 gratitude for incorporating the public's input into the  
24 siting criteria. I presented testimony to the SEC earlier

1       in March in regard to siting criteria for areas of Scenic  
2       Resources of State or National Significance. The impetus  
3       behind this is to protect our precious scenic resources,  
4       the main driver of our robust tourist -- tourism industry  
5       and private home sales in these areas.

6                  I am a Ph.D, degreed, management  
7       consultant and college professor, teaching doctoral and  
8       Masters level leadership and management programs. My  
9       interest in science [scenic?] resources in the State of  
10      New Hampshire began 35 years ago, when my wife and I first  
11      discovered Newfound Lake.

12                 Today, I would like to make a simple  
13       recommendation that would improve the validity of visual  
14       aesthetics data supplied by the wind developer. I urge  
15       the Committee to require that all photosimulations of wind  
16       turbines are depicted with face-on turbine blades with  
17       blue sky background, especially when ridgeline  
18       installations are being proposed. In photosimulations  
19       within areas of scenic resources, unobstructive views  
20       should be submitted whenever possible. After all,  
21       tourists seek the best weather days and unobstructive  
22       viewpoints that reinforce their willingness to return year  
23       after year to enjoy these scenic vistas.

24                  Owners of private land with [within?]

1       scenic areas design and develop homes that maximum these  
2       unobstructive natural scenic vistas. Both tourists and  
3       owners of scenic homes make significant contributions to  
4       the State of New Hampshire's economy with vacation dollars  
5       and local and state taxes.

6                  I have included a comparison of two  
7       pictures, where the relative heights of the turbines are  
8       approximately the same. In the top picture, the Antrim  
9       visual assessment shows the turbine blades face-on,  
10      depicting a full height of the towers relative to the  
11      height of the ridgeline. It would be useful data for the  
12      SEC to know that the wind turbines take up half the height  
13      of the visible ridgeline. Depicting simulated turbine  
14      blade motion in the visual assessment would be an even  
15      more helpful requirement in the SEC criteria. Now, in  
16      favor of the applicant, the SEC must imagine the blades  
17      spinning, robbing the attention of the viewer over the  
18      beauty of the natural scenic vista.

19                  Below picture is the Wild Meadows visual  
20       assessment, which removes the blades from view, with the  
21       stated rationale that "the prevailing wind always blows  
22       from the north." This data is misleading and inaccurate.

23                  The third picture, which is on the  
24       second page, is a magnification of the turbines, showing

1       that the blades have been removed from the view. In some  
2       other submitted pictures by the applicants, well known  
3       scenic and tourist vistas around Newfound Lake  
4       inexplicably used large trees and buildings to block the  
5       view, when a few steps to the left or to the right would  
6       have shown the scenic views that tourists and homeowners  
7       pay a premium to enjoy. The paid testimony of Big Wind  
8       has historically depicted these inaccurate and understated  
9       visual assessment in favor of an SEC-approved application.

10                  I simply ask that the requirement of  
11       face-on turbine blades, against a blue sky background,  
12       that is unobstructed within scenic areas be a stated  
13       requirement with the SEC criteria. Thank you.

14                  CHAIRMAN HONIGBERG: Thank you,  
15       Ms. Watson. And, thank Dr. Cashman for his submission.

16                  MS. WATSON: I will. Thank you.

17                  CHAIRMAN HONIGBERG: Ivan Quinchia,  
18       followed by Lori Lerner and Tom Getz.

19                  *(Mr. Quinchia distributing documents.)*

20                  MR. QUINCHIA: Good morning. For the  
21       record, my name is Ivan Quinchia. And, I reside in  
22       Hebron, New Hampshire. Chairman Honigberg and Committee  
23       members, first, I would like to commend the Committee for  
24       all the hard work and dedication in the drafting of power

1 infrastructure and energy facility siting [siting?] rules, taking into account the industry needs, as well as  
2 the needs of the citizens of New Hampshire, proving that  
3 democracy truly works.

5 The following is a consensus from many  
6 concerned citizens about the decommissioning of industrial  
7 wind projects, and specifically proposed language that we  
8 would like to see stricken and replaced with submitted  
9 language below:

10 Site 301.08(a)(7). A decommissioning  
11 plan prepared by an independent, qualified person with  
12 demonstrated knowledge and experience in wind generation  
13 projects and cost estimates, which plan shall provide for  
14 removal of all structures and restoration of the facility  
15 site with a description of sufficient and secure funding  
16 to implement the plan, which shall not account for the  
17 anticipated salvage value of facility components or  
18 materials, including the provision of financial assurance  
19 in the form of an irrevocable standby letter of credit,  
20 performance bond, surety bond, or unconditional payment  
21 guarantee.

22 In the following paragraph, here's what  
23 we would like to see stricken: "Executed by a parent  
24 company of the facility owner maintaining at all times an

1 investment grade credit rating." Striking the bracketed  
2 and replacing it with: "Which should for the life of the  
3 project have a constant credit worthiness test and the  
4 financial assurance is to be unconditional and immediately  
5 payable and a backstop provision if the bank, insurance  
6 company or parent company loses its investment grade  
7 rating as in standard project finance and marketing  
8 conventions, i.e., four rating categories by a nationally  
9 recognized structured rating organization."

10 As a statement of fact, which is on the  
11 second page, the wind industry's profitability lies in a  
12 very delicate balance, because the profits generated by  
13 the industry are based on tax subsidies, production tax  
14 credits, and artificially priced long range power purchase  
15 agreements.

16 Changes in the tax code, which are  
17 inevitable, or changes in political leadership and/or  
18 political agendas will tip the balance between  
19 profitability and loss.

20 The wind industry introduction of  
21 YIELDCOS to shore up its financing should be questioned as  
22 these financial instruments are not any different than  
23 what was known as "toxic assets", and packaged in a  
24 similar way in order to attract investors. After all,

1 what could be safer than a YIELDCO based on green energy  
2 investments.

3                   Twenty years is a long time without  
4 having a secure way of fully funding decommissioning, and  
5 nothing other than what we have suggested will protect our  
6 New Hampshire communities from getting stuck with these  
7 decommissioning costs.

8                   In addition, SEC statute governing wind  
9 energy systems, RSA 162-H:10-a, includes this requirement:  
10                 "(7) Site decommissioning, including sufficient and secure  
11 funding, removal of structures, and site restoration."

12                 Thank you for your time.

13                 CHAIRMAN HONIGBERG: Thank you,  
14 Mr. Quinchia.

15                 Next up we have Lori Lerner, followed by  
16 Tom Getz and Lisa Linowes, the first name on Page 2.

17                 *(Ms. Lerner distributing documents.)*

18                 MS. LERNER: Good morning. Thank you  
19 for the opportunity to speak this morning. My name is  
20 Lori Lerner. I'm a resident of Bridgewater, New  
21 Hampshire. And, I'm also the President of New Hampshire  
22 Wind Watch.

23                 I did participate on the SB-99 OEP  
24 sessions on Health and Safety, which were facilitated by

1 Lisa Linowes. A letter was submitted to the Committee on  
2 August 26 outlining relative -- information relative to  
3 the need for appropriate safety setbacks. I would like to  
4 reinforce some of the information contained in that  
5 letter.

6 At the April 15th public hearing, one of  
7 the Committee members stated "I think I'm pretty  
8 comfortable with the physical catastrophic setback,  
9 whether it's one or two, doesn't matter. But I think,  
10 number one, the likelihood of that happening is very low."

11 With all due respect to the Committee  
12 member who made that claim, there is no data on which that  
13 statement was based. There's no central location where we  
14 can go to find the list of turbine failures. There is no  
15 government agency, including OSHA, that tracks turbine  
16 failures.

17 What we do know is that, since 2009,  
18 there have been at least seven reported catastrophic  
19 turbine failures in the Northeast alone, including  
20 collapse. And, the details for that were provided in that  
21 letter on August 26th.

22 What we do know is that, by the end of  
23 2014, there were 50 to 60 lightning strikes logged at the  
24 Granite Reliable wind facility in the two to four years

1 the project had been operational.

2                                  The wind industry is well aware of the  
3 safety concerns pertaining to siting. Vesta, a turbine  
4 manufacturer, recommends a 400-meter, which a 1,300 plus  
5 foot safety radius around its turbines. Nordex recommends  
6 a 1,640-foot safety distance from turbines. Volkswind  
7 recommends a 3,280-foot distance from occupied houses. GE  
8 has a recommended metric for determining safety distances  
9 to protect against ice and other parts being tossed from  
10 the machine. And, finally, Will Staats, of New  
11 Hampshire's Fish & Game, reported that one operator of a  
12 wind installation informed him "the machines will throw a  
13 400 pound chunk of ice 1,000 feet."

14                                  The Committee can mandate operational  
15 requirements to protect the public from ice throw. But  
16 these same activities will not protect the public from  
17 turbine failures.

18                                  The safety distances now in the draft  
19 rules are insufficient. New Hampshire Wind Watch and  
20 Windaction Group have made a recommendation to the  
21 Committee on what the safety zones around turbines should  
22 be.

23                                  We also recommend that a turbine safety  
24 zone be limited to land under the control of the wind

1 developer only, and not to extend onto private property.  
2 Wind turbine safety distances that extend onto private  
3 properties may risk rendering those properties unsafe for  
4 further development. Local building departments could  
5 refuse to grant building permits in the setback zone and  
6 homeowner insurance companies may refuse to insure  
7 structures. The SB-99 Health and Safety Setback  
8 Stakeholder group agreed that safety zones around the  
9 turbines should not encompass portions of nonparticipating  
10 properties, public roads or public gathering areas, but  
11 the current rules -- the current draft rules permit just  
12 that.

13                   The latest draft rules, Site  
14 308.08(a)(4) [301.08(a)(4)?] requires "an assessment of  
15 the risks of ice throw, blade shear, and tower collapse on  
16 public safety," with new wording stating "including a  
17 description of the probability of occurrence of such  
18 events under varying conditions". The underlined language  
19 should be removed.

20                   In the utility business, they must first  
21 do a deterministic risk assessment to see if there's a  
22 chance of a safety impact by siting the project. If a  
23 risk is found, they can perform a probabilistic assessment  
24 to examine the causes and decide if the chance of

1 occurring is high or low.

Risk assessments are usually done to determine cost of a failure in terms of a power plant losing power or transmission coming down. In this case, we are discussing public safety. The loss could be countless dollars, especially if someone is killed.

7 And, just referencing that Granite  
8 Reliable picture that I have passed around, you can see  
9 that there are warning signs up around the project site,  
10 indicating that ice throw, as well as other problems,  
11 could cause death.

In the event of a probabilistic risk assessment, it would be inadequate in this instance since there is no data to show the likelihood of failure. Relying on a hunch or a vague belief that turbine failures are real [rare?] makes no sense. Given the lack of data, it is appropriate for the Committee to assume a deterministic risk assessment. What we do know is there has been at least 60 lightning strikes on New Hampshire's wind turbines, where there are 69 turbines, or 207 turbine blades, which equates to nearly 30 percent of the blades in New Hampshire have been struck, any of which could have resulted in a catastrophic failure.

Clearly, there is evidence in this

1 docket that shows the public safety will be at risk if  
2 safety setbacks are adopted as written. It is our sincere  
3 hope that the Committee will revisit the health and safety  
4 issues for a more informed discussion and give  
5 consideration to the recommendation we put forth back in  
6 March.

7                   If that is not possible, we recommend  
8 you forego any standards for setbacks until such time that  
9 the Committee is better equipped to explore these topics.  
10 If you do move forward with the draft rule standard, we  
11 urge you to include the following language: "Greater  
12 safety setbacks may be imposed by the Committee if  
13 supported by evidence." Having no standards would be  
14 preferred over adopting standards that are not fully  
15 considered.

16                   Thank you again for the opportunity to  
17 comment.

18                   CHAIRMAN HONIGBERG: Thank you,  
19 Ms. Lerner. Next up we have Tom Getz, followed by Lisa  
20 Linowes and Rich Block.

21                   MR. GETZ: Good morning. Thank you, Mr.  
22 Chairman. My name is Tom Getz. I'm an attorney with  
23 Devine, Millimet & Branch. And, I'm here on behalf of  
24 Eversource Energy this morning. And, I'm going to try

1       your patience right off the bat. I have well more than  
2       four minutes. So, just let me know when to stop, and  
3       whatever time you would have available at the end, I would  
4       like to avail myself of that opportunity.

5                     CHAIRMAN HONIGBERG: We will stop you,  
6       and then circle back to you after everyone else is done.

7                     MR. GETZ: There are basically three  
8       types of issues that I'd like to address with respect to  
9       the rules. There's some legal issues, there's some  
10      practical issues, and there are some drafting issues. I'm  
11      going to start with the legal issues that pertain to Site  
12      301.16, with respect to the "Criteria for Public  
13      Interest". And, the parts (a) and (b) represent the "net  
14      benefits" test that was considered and rejected at the  
15      Legislature as part of the undertaking to pass Senate  
16      Bill 245, which instituted the "public interest" standard.  
17      I addressed that issue in the letter that was filed on  
18      March 23 of this year.

19                     Also, in Section (c), with respect to  
20      the consistency with federal policies, especially those  
21      specified in RSA 378:37, I would note that, in 2009, the  
22      Legislature expressly repealed 162-H:16, IV-d, which  
23      required consistency with energy policy and reviewing its  
24      findings under 162-H.

1 I'd also note, with Section (d), and I  
2 think this was a point raised already by Ms. Geiger, but  
3 consistency with land use regulation, there is a New  
4 Hampshire Supreme Court case, that's the *PSNH versus the*  
5 *Town of Hampton* case, which makes it clear that this body  
6 does indeed preempt local regulation.

7 And, finally, with Section (e),  
8 "additional public interest criteria developed through the  
9 proceeding", and I note that that effectively violates  
10 basic due process. That a criteria would be developed  
11 after-the-fact, the applicants would have no notice of  
12 that. And, I would suspect that JLCAR staff would  
13 conclude that such a standard would not pass muster.

14 So, I guess you also said "don't talk to  
15 fast". So, I'm going to try to respect that.

16 I'd like to note also that it's really  
17 hard to write rules. You've got over 50 pages of rules.  
18 There are lots of things in here, lots of moving parts.  
19 Personally, I don't think the Legislature gave you enough  
20 time to do what they have required you to do.

21 But let me go back to 301.03(c). And,  
22 Mr. Rielly addressed this in part. But I think what you  
23 need to look at, with respect to that provision, is the  
24 introductory language talks about "the site of the

1 proposed energy facility". So, the application shall  
2 contain all the information. And, really look at Sections  
3 (1) through (5), that's talking -- it's talking about  
4 location, a map, what should be on the map. And, I think  
5 some of the corrections with this provision started with  
6 the simple concern about what was meant by "adjacent".  
7 And, then, I think things ran amuck from there.

8 So, the original, in (c) -- well, (2)  
9 talks about "site acreage on a map", (c) [(3)?] talks  
10 about "locations shown on a map, of residences, industrial  
11 buildings," etcetera, "within the site, or adjacent", was  
12 what was the original rule. And, I think it was not clear  
13 what "adjacent" meant. Did that mean immediately  
14 adjacent, touching the property line? Or, did it mean  
15 something abutting? I think there was a proposal to try,  
16 at least, with the first instance, to make it "within  
17 100 feet".

18 CHAIRMAN HONIGBERG: Mr. Getz, bring  
19 this point to a close, and then we'll go back to other  
20 points on your second round.

21 MR. GETZ: So, what I would suggest here  
22 is going back to making the applicant show what's in the  
23 site for residences, industrial buildings, surface waters,  
24 natural other resources, which certainly it has the legal

1 authority to do. Some things that are readily available  
2 through mapping, through Google Earth, but some things are  
3 not.

4 And, I think, as Mr. Rielly pointed out,  
5 now there are a number of other sections that weren't  
6 previously in the rules that require the applicants to  
7 give the information that might previously have been done  
8 in this provision. So, this is just a very practical  
9 issue about what's available, what can you do, and what's  
10 the real purpose of this particular rule?

11 CHAIRMAN HONIGBERG: Okay. We're going  
12 to stop you there, and circle back.

13 Next up we have Lisa Linowes, followed  
14 by Rich Block and Pamela Martin.

15 (Ms. Linowes distributing documents.)

16 MS. LINOWES: Thank you, Mr. Chairman.  
17 I'm going to be e-mailing this full document, but there's  
18 just a couple of copies there. Just quick reference.

19 Thank you, Mr. Chairman, members of the  
20 Committee. I sincerely appreciate the work that you've  
21 put in through all this time. It's a difficult task to  
22 engage in wind energy siting.

23 I wanted to talk to you today regarding  
24 Attorney Getz's letter from last year. And, thank

1 Attorney Getz for raising the question or concern that he  
2 did regarding the visual assessments. He raises a good  
3 point. This is specific to Site 301.05(b)(7), concerning  
4 the representation of the images that are taken. What I  
5 wanted to do today is just explain what is going on there,  
6 and how I think the Committee should respond.

7 As you know from the Antrim case, the  
8 methodology used to construct a realistic photograph of  
9 something that does not yet exist can be controversial.  
10 It is not unusual to see turbines photographed -- or,  
11 photoshopped in against white clouds, where they blend in.  
12 We often see large objects in the foreground, with the  
13 turbines in the background, making the turbines look like  
14 it's insignificant on the scene.

15 What happened in the documentation that  
16 we relied on, when we presented that language, was we took  
17 that from work that was being done in Scotland, because  
18 Scotland is ahead of the United States, in terms of  
19 visualization. And, at the time that that document was --  
20 since then, the government of Scotland has produced a new  
21 report, which is a subset of what you have there. That  
22 report is the result of a multiyear stakeholder process to  
23 understand how people perceive photosimulations of the  
24 turbines. What they found in Scotland, and what we are

1 finding here in the United States, is that, once the  
2 project is built, you go back and look at the project, you  
3 compare it to the rendition and the photosimulation, and  
4 there's no comparison. And, that's what they were trying  
5 to get at.

6 So, I'm going to just state quickly  
7 that, on the basis of the new document that's put out,  
8 they have specific recommendations, some of what you heard  
9 today. For instance, the fact that it is essential that  
10 the baseline photographs are taken in good visibility,  
11 blue sky. It's essential. The document discusses whether  
12 the turbine blades should be pointed up or in a V-shape.  
13 It discusses whether or not the foreground should be free  
14 of objects. And, also talks about the lighting model used  
15 when you place the turbines into the photograph setting.

16 So, I agree with Attorney Getz. I think  
17 that the statement that we had recommended initially was  
18 confusing, and it didn't have the proper context. And, we  
19 would recommend that that actually be taken out.

20 I also would like to take the time this  
21 week to work with Attorney Getz, AMC, and others that have  
22 raised concerns regarding the visualization, and come back  
23 with a set of rules that makes sense, that would get us  
24 closer to actual -- closer to what the visualization would

1 be like when the project is constructed.

2 So, just wanted to give you that  
3 background. Apologize for the confusion. And, we will be  
4 putting forward recommendations to add to the rules to  
5 improve the visualization section. Thank you.

6 CHAIRMAN HONIGBERG: Thank you, Ms.  
7 Linowes.

8 Next up we have Rich Block, followed by  
9 Pamela Martin and Joe Wilkas.

10 (Mr. Block distributing documents.)

11 MR. BLOCK: My name is Richard Block. I  
12 live in Antrim, New Hampshire. And, I very much  
13 appreciate the opportunity to address this Committee. I  
14 work as a professor of graphic communications, visual  
15 studies, and information technology at Franklin Pierce  
16 University. I've been teaching for 35 years. Courses I  
17 teach include computer graphics, courses in photoshop, and  
18 digital photo manipulation. I also have been studying  
19 industrial wind turbine visualization for over six years  
20 at this point. So, my prime concerns here are in your  
21 section on Site 301.05, "Effects on Aesthetics",  
22 particularly (b)(7), "Photosimulations".

23 I have two specific suggestions for  
24 editing, which I think might help clarify. The first is a

1 simple deletion. I propose you delete the phrase "and  
2 represent the equivalent of what would be taken with a 75  
3 millimeter focal length lens". The rationale behind this  
4 is that the addition of the 75 millimeter focal length  
5 equivalent calculation is confusing and unnecessary. A 50  
6 millimeter focal length is sufficient for most  
7 applications, and any minor adjustment in the final image  
8 that this would result in is far outweighed by the  
9 imprecise nature of viewing standards and conditions for  
10 the final image.

11                   And, then, secondly, I suggest the  
12 addition of a sentence like this, which I think actually  
13 addresses a number of the issues that I've heard mentioned  
14 today. And, I quote here: "Baseline photographs for  
15 photosimulations should be taken in optimal conditions  
16 with good, clear visibility, no distracting foreground  
17 elements, and highest possible resolution, and when  
18 turbines or towers are imposed onto these baseline  
19 photographs, full frontal views with no haze or fog effect  
20 shall be utilized in order to maintain strong contrast and  
21 simulate visibility in the clearest situations."

22                   The rationale behind this is that the  
23 movement of industrial wind turbines really is there  
24 strongest visual element when they are placed in a

1       landscape. But, since this movement can never be  
2       replicated or represented in a still image, in order to  
3       attempt the simulation of a realistic visualization it is  
4       necessary in a visual assessment to avoid minimizing the  
5       remaining visual characteristics. It is an inherent  
6       limitation in photography that its ability to reproduce  
7       contrast ratios, which is the difference between brightest  
8       and darkest tonalities, and gradient discernment, which is  
9       the quantity of steps between those brightest and darkest  
10      tonalities, falls far short of the human eye's  
11      capabilities. Given this handicap in photographic  
12      simulations and assuming that an assessment of visual  
13      impact should take into account the most extreme  
14      conditions one may encounter, rather than those that  
15      minimize aesthetic impact, photosimulations should be  
16      created in such a way as to maximum the contrast and  
17      clarity of a potential installation in order to more  
18      closely approximate the clearest viewing and thus the most  
19      dominant situations. Anything short of this will minimize  
20      visual impact simulation and result in an inaccurate and  
21      diluted assessment.

22                   If you wanted to research this a little  
23                   further, look at a little more information, you can refer  
24                   to that *Scottish Natural Heritage: Visual Representation*

1       of Wind Farms. And, I list here particularly paragraphs  
2       101 to 103, 112 to 113, and 127 to 130.

3                   Again, I thank you all very much.

4                   CHAIRMAN HONIGBERG: Thank you,  
5       Mr. Block. And, I know I said who was going to follow,  
6       but we're actually going to take a quick break. We're  
7       going to take ten minutes to let Mr. Patnaude's fingers  
8       cool off a little bit before we continue.

9                   (Recess taken at 10:43 a.m. and the  
10          hearing resumed at 10:58 a.m.)

11                  CHAIRMAN HONIGBERG: All right. Our  
12          next speaker is Pamela Martin. And, she will be followed  
13          by Joe Wilkas and Carol Foss.

14                  MS. FOSS: I said "no".

15                  CHAIRMAN HONIGBERG: Oh, you said "no".  
16          Sorry. Yes, indeed you did. And, there are a few other  
17          people who did. I didn't pay attention to that.

18                  So, after Mr. Wilkas, it looks like  
19          we'll go to Jennifer Goodman.

20                  MS. MARTIN: My name is Pamela Martin.  
21          I am from Plymouth. I'd like to refer back to the subject  
22          of setbacks for high-voltage power lines. This is in  
23          reference to 301.14(f)(2)c. A few months ago, Attorney  
24          Wiesner was asked if he knew of any other states that had

1       setback regulations for high-voltage power lines, and he  
2       said he didn't know of any. I'm afraid this Commission  
3       might have taken his "I don't know" as a negative, as in  
4       "no, there are none." Well, the answer actually is "yes,  
5       there are states with power line setbacks."

6                   A number of states, local jurisdictions,  
7       and countries have statutory limitations on the distance  
8       transmission lines can be built from various structures or  
9       the distance buildings can be sited near transmission  
10      lines. Some other states have implemented maximum levels  
11      of electric fields or magnetic fields, or both, either on  
12      or at the edges of transmission line right-of-ways.

13                  For instance, California has specific  
14      guidelines of how close residences and schools can be  
15      built near power lines: 100 feet from the edge of an  
16      easement for a 50 to 133 kilovolt line; 150 feet from the  
17      edge of an easement for a 220 to 230 kilovolt line; 350  
18      feet from the edge of an easement for a 500 to 550  
19      kilovolt line.

20                  California's guidance was developed in  
21      consultation with international experts on the health  
22      effects of electromagnetic fields, the state's Department  
23      of Public Health, the Division of the State Architect, the  
24      California Public Utilities Commission, electric

1       utilities, school districts, consultants, and private  
2       citizens.

3                     In 2004, the Connecticut General  
4       Assembly enacted Public Act 04-246, which restricted the  
5       siting of overhead transmission lines 345 kilovolt or  
6       greater adjacent to "residential areas, private or public  
7       schools, licensed childcare facilities, licensed youth  
8       camps or public playgrounds", unless the applicant can  
9       demonstrate that "burying the facility will be  
10      technologically infeasible", or may result in an  
11      unreasonable economic burden on the ratepayers of the  
12      state.

13                   Iowa's Code Chapter 478 places  
14      restrictions on the distance of new transmission lines  
15      from any new home -- any home or business. In Washington  
16      state, there are prudent avoidance municipal regulations  
17      for electrical transmission and distribution facilities  
18      which include a preference for undergrounding transmission  
19      and distribution facilities. In Colorado, no public  
20      utility may construct facilities within the territorial  
21      boundaries of a city or country unless the utility  
22      complies with the applicable zoning requirements.

23                   Other countries, as well, have setback  
24      requirements for high-voltage power lines, including Great

1           Britain, Finland, Switzerland, Bulgaria, and Israel.

2           Austria requires underground burial of all new  
3           transmission lines.

4                         There are setbacks for houses from each  
5                         other, houses from the street, building near or in flood  
6                         plains, lakes, streams, creeks and rivers, setbacks for  
7                         septic systems and fences, setbacks for cell towers and  
8                         wind turbines. There is absolutely no excuse not to have  
9                         setbacks for high-voltage power lines.

10                  In Northern Pass's original alternate  
11                  route, their plan was to go directly through two  
12                  children's camps, right through them. They took that  
13                  proposal off the table because they were denied the right  
14                  of eminent domain, but not because they were worried about  
15                  the children's health or safety.

16                  The reason utility companies balk at  
17                  setbacks is not because they are unnecessary, as National  
18                  Grid argued in their testimony, but because they don't  
19                  want to be forced to bury their power lines. They want  
20                  maximum profits from their investments. But testimony at  
21                  New Hampshire legislative hearings by companies that bury  
22                  power lines has proven that burial of power lines is not  
23                  only technologically feasible, it is affordable and much  
24                  safer for humans and the environment. Burial of power

1       lines along pre-softened transportation rights-of-way is  
2       21st century, state-of-the-art technology, avoiding  
3       property damage, environmental impacts and EMF fears.  
4       Stringing overhead power lines from giant steel towers is  
5       a relic of the past.

6                          One Committee member mentioned  
7       unintended consequences of requiring setbacks. But what  
8       about the unintended consequences of not requiring  
9       setbacks. A 125-foot tower could someday be replaced by a  
10      much taller tower. Hydro-Quebec's own website states that  
11      they have towers up to 175 meters. That's 574 feet. What  
12      happens to the residence, school, children's camps or  
13      playgrounds, which are now within the fall zones? Without  
14      a reasonable setback requirement, the welfare and safety  
15      of residents of New Hampshire and our property are put at  
16      risk.

17                         So, Commission members, for the sake of  
18      the health, welfare and safety of the public, please  
19      rethink your position on setbacks for transmission lines  
20      following HUD requirements. Study what the other states I  
21      have mentioned have done. We have an opportunity to be  
22      part of the future like the other New England states, not  
23      the past.

24                         And, I have signed this, as well as 13

1 other people who were not -- many of them were not able to  
2 attend today. I have also included the HUD Fall Zone  
3 Setbacks, which I included previously.

4 And, this is a picture [indicating] of a  
5 tower that has fallen over. It proves that they do fall  
6 over.

7 And, could I reserve maybe two minutes  
8 at the end of the hearing for something else to say?

9 CHAIRMAN HONIGBERG: Sure. We'll circle  
10 back to you. Ms. Martin, did you file the letter that was  
11 signed by the multiple people? Has that been submitted?

12 MS. MARTIN: No. I'll do it when I get  
13 home.

14 CHAIRMAN HONIGBERG: Okay. So, right  
15 now we have Mr. Wilkas handing something out.

16 MR. WILKAS: Trying to.

17 (Mr. Wilkas distributing documents.)

18 CHAIRMAN HONIGBERG: He will be followed  
19 by Jennifer Goodman and Tripp Blair.

20 MR. MULLEN: I would like to speak. I  
21 am not on your list.

22 CHAIRMAN HONIGBERG: Okay. We will get  
23 you on the list.

24 MR. MULLEN: Thank you.

1 MR. WILKAS: Hi. My name is Joe Wilkas,  
2 from Bridgewater, New Hampshire. And, thank you for the  
3 opportunity to speak today.

The topic is "Site Control Rulemaking Language Improvements". The current Section 301.03(c)(6) says -- it's fairly lengthy and complex. I'm going to read it, just to see if everybody can stay awake through this: "Evidence that the applicant has a current right, or an option or other legal right to acquire the right, to construct the facility on, over, or under the site, in the form of ownership, ground lease, easement, other contractual rights or interests, written license, or other permission from a federal, state, or local government agency, or through the simultaneous taking of other action that would provide the applicant with a right of eminent domain to acquire control of the site for the purpose of constructing the facility thereon."

The above current statement seems unnecessarily complex for something that could simply say: "Evidence that the applicant has a current legal right for all land needed to construct, operate, and transmit power to the grid from the proposed energy facility, including all structures, wiring, and buildings."

We have a few concerns that should be

1       considered given the current draft rules language. The  
2       site control issue is ambiguous as drafted. It should  
3       straightforward and require undisputed ownership or an  
4       undisputed right, an option should be okay, to own or  
5       lease the site or right-of-way.

6                 If the SEC is going to treat options and  
7       rights as giving site control, this should be limited to  
8       real, practical, current situations. Not something that  
9       can happen, you know, ten years hence.

10               The SEC has no condemnation power and  
11       should never be allowed to approve a project until all  
12       eminent domain proceedings have been concluded.

13               If there is any dispute between a  
14       landowner and the applicant, that dispute cannot be  
15       adjudicated by the SEC, since a landowner has a  
16       constitutional right to a jury trial on any such dispute.

17               The need for adequate site control is  
18       evident from issues with the previous Wild Meadows  
19       project, whose application was deemed incomplete for  
20       several reasons. One of which was: "The application  
21       fails to clearly describe the legal relationship between  
22       the Applicant and the site or facility."

23               Thank you very much.

24               CHAIRMAN HONIGBERG: Thank you, Mr.

1 Wilkas.

2 Next up we have Jennifer Goodman,  
3 followed by Tripp Blair, and another new addition, Thomas  
4 Mullen.

5 MS. GOODMAN: Good morning. I'm  
6 Jennifer Goodman.

7 CHAIRMAN HONIGBERG: Whose microphone is  
8 not on.

9 MS. GOODMAN: Okay. Now?

10 CHAIRMAN HONIGBERG: Yes.

11 MS. GOODMAN: Yes. Jennifer Goodman,  
12 Executive Director of the New Hampshire Preservation  
13 Alliance. And, my comments relate to historic resources  
14 connected to the mission of the Preservation Alliance, and  
15 historic resources considered in this SEC process could be  
16 archaeologically sensitive areas, specific buildings,  
17 large landscapes, eligible or aren't for the National  
18 Register, could be local, state, or nationally  
19 significant.

20 Really appreciate your attention to our  
21 suggestions over the last several months, those of other  
22 stakeholders as well. We believe the path for the SEC and  
23 for the applicants is clear in our area, in this historic  
24 resources area than it was, around definitions, process,

1 and better coordinated -- coordination with the New  
2 Hampshire Division of Historical Resources, whether there  
3 is or whether there isn't a federal historic preservation  
4 process that might be running in parallel to the SEC  
5 process.

6                   This week we'll be getting you some  
7 specific written comments, a couple comments and  
8 recommendations, responding to some of the written and  
9 oral comments we've heard about this last set of -- kind  
10 of this last round about the current set of rules. I  
11 think we want to comment some on the intersection between  
12 scenic and historic, and just make sure that section is as  
13 clear and strong as it can be. And, on the sections,  
14 historic sections, 301.06 and 301.14, I think our issue,  
15 the leftover issue, a lot has been cleared up, as I said,  
16 but our leftover issue is around timing. Just making sure  
17 that it's clear for the applicants, and it's -- we have as  
18 good of applications as possible, good process as is  
19 possible for you. And, around this issue of timing, that  
20 you have the information when you need it to run the best  
21 process forward.

22                   So, thank you for that. And, hope  
23 you'll take our recommendations and look at them closely,  
24 and incorporate them into the rules going forward. Thank

1 you.

2 CHAIRMAN HONIGBERG: Next up we have  
3 Tripp Blair, followed by Thomas Mullen. And, those are  
4 the last two names I have for Round 1. Is there anyone  
5 here who wishes to speak who has not yet already spoken?

6 (No indication given.)

7 CHAIRMAN HONIGBERG: Oh, good. So,  
8 after Mr. Mullen, we'll begin Round 2, and that will be  
9 Dr. McLaren.

10 So, Mr. Blair.

11 MR. BLAIR: Thank you. My name is Tripp  
12 Blair. I'm a resident of Bridgewater, New Hampshire. I  
13 was on the SB-99 Health and Safety Committee. And, I want  
14 to read a letter from a -- let me get her title right.  
15 Mary Reilly, Zoning and Building Director, Mason County,  
16 Michigan. Glasses.

17 Dear Chairman Honigberg: Thank you for  
18 the opportunity to provide comments pertaining to New  
19 Hampshire's rulemaking for wind energy siting. I serve as  
20 the Zoning and Building Director for Mason County,  
21 Michigan. In this capacity, I am responsible for the  
22 administration and enforcement of the Mason County Zoning  
23 Ordinance, which includes all regulations governing  
24 utility-grid wind energy systems.

1 Mason County currently hosts the Lake  
2 Winds Energy Park, a 100.8 megawatt project. The project  
3 was constructed by Consumers Energy and placed in service  
4 in November 2012.

5 The purpose of this letter is to inform  
6 your Committee of our experience addressing shadow flicker  
7 from this operating project. At the time of the project  
8 was granted -- at the time the project was granted  
9 approval by the County, our zoning regulations limited  
10 shadow flicker on non-participating residences to 100 --  
11 excuse me -- to 10 hours per year. According to shadow  
12 flicker modeling conducted by Consumers Energy, the  
13 project would operate within this limit. Consumers Energy  
14 voluntarily employed a policy where properties that were  
15 predicted to receive more than 8 hours of flicker would be  
16 mitigated to zero hours with the use of Vestas' Shadow  
17 Detection System. This -- when operations started, 47 out  
18 of the 56 turbines had this system installed. Please note  
19 that the 10 hour is a cumulative flicker from all turbines  
20 impacting a non-participating parcel. So, they could be  
21 two -- two turbines affecting one household at the same  
22 time.

23 Shortly after the turbines started to  
24 spin, complaints came into our office. It was then we

1 realized that the turbines more than a mile away could  
2 cast shadows on properties. When we reported this to  
3 Consumers Energy, the modeling was recalculated from the  
4 original 1,000 meter distance (10 X rotor diameter) to  
5 1,646 meters to be inclusive of flicker actually observed.

6 As the project operated through the  
7 winter, we came to learn that there were more hours of  
8 impact on some homes than originally expected. After  
9 field visits to verify the distance shadow flicker was  
10 being experienced, as well as documenting the number of  
11 hours of impact, it became apparent that at least one  
12 property -- on at least one property there was a  
13 compliance problem and additional mitigation was required.

14 To its credit, Consumers Energy was  
15 engaged and willing to work with us to correct the  
16 problem. The final solution involved retrofitting an  
17 additional turbine with a VSD, that's the Visual Shadow  
18 Detection system, technology that could sense light  
19 conditions where shadow flicker may occur and shut down  
20 the turbine until the sun moved out of the predicted  
21 shadow flicker period. We field-tested the mitigation and  
22 found it worked very well. Shadow flicker at the site in  
23 question has virtually been eliminated.

24 With the success of this mitigation

1 tool, the County recently adopted an amendment to the  
2 Mason County Zoning Ordinance that limits shadow flicker  
3 to zero hours of impact for future wind farm  
4 installations. The practical difficulties related to  
5 enforcing a time limit on flicker (whether it's 5, 10 or  
6 30 hours) was also a motivation to adopt a zero-hour  
7 flicker rule.

8 I had the opportunity to describe our  
9 experience at the June 29th technical session moderated by  
10 your staff. And, I wanted to share to the Committee  
11 the -- I wanted to be sure that the Committee had the  
12 benefit of hearing our story.

13 The lessens we learned in this process  
14 are (1) shadow flicker routinely occurs at distances  
15 beyond 1 kilometer (1,000 meters) and may exceed 1 mile,  
16 depending on terrain, obstructions, and locations of the  
17 wind turbine in relation to the receptor; and (2) shadow  
18 flicker can occur more hours per year than predicted if  
19 the modeling is based on the industry standard of 10 rotor  
20 diameters (again, terrain/obstructions can have a bearing  
21 on actual amounts); using a one mile limit will produce a  
22 more realistic modeling results.

23 The County was pleased with the VSD  
24 technology that was available to mitigate the shadow

1 flicker at unique receptors throughout the wind project.  
2 At the time, Vestas was the only turbine manufacturer with  
3 this solution. However, it is my understanding that the  
4 other companies -- that other companies now offer a  
5 similar feature. I do not recall the exact incremental  
6 amount to add the VSD system to an additional turbine, but  
7 do not sense that it was cost-prohibitive based on  
8 Consumers Energy's willingness to employ the mitigation  
9 when necessary.

10 Thank you again for the opportunity to  
11 share our experience. If I can be of [answer?] any  
12 further questions, please do not hesitate to contact me.  
13 Respectfully submitted, Mary Reilly, Zoning and Building  
14 Director, Mason County, Michigan.

15 CHAIRMAN HONIGBERG: Thank you,  
16 Mr. Blair.

17 Thomas Mullen, followed by Dr. McLaren,  
18 and then Tom Getz.

19 (*Mr. Mullen distributing documents.*)

20 MR. MULLEN: There's several copies  
21 there. May I proceed?

22 CHAIRMAN HONIGBERG: You may.

23 MR. MULLEN: Thank you. My name is  
24 Thomas Mullen. I haven't seen it yet, but I understand I

1 hit the front page of the Manchester Union Leader, because  
2 I was the developer of the Owl's Nest Golf Club, in  
3 Campton. And, for five years, after the Northern Pass  
4 project was announced coming through our property, we were  
5 unable to sell one single piece of property. So, the  
6 notion isn't that the Northern Pass diminishes property  
7 values, it actually makes it impossible to sell your  
8 property.

9                   But that's not what I'm here about  
10 today. The upcoming rulemaking -- or, the rulemaking  
11 process that's underway now is what I want to speak to.

12                  I attended four of the recent five  
13 hearings that were sponsored by Public Service -- excuse  
14 me, Eversource. And, there was a -- there were comments  
15 that permeated the entire process about the rights that  
16 Northern Pass felt they automatically had to use  
17 state-owned highways and rights-of-way. There's a  
18 presumption by Eversource and the Northern Pass Project  
19 that they are entitled to use these state rights-of-way  
20 right out of the box for burial of transmission lines.  
21 And, that's bizarre. To believe that, because permission  
22 of the burial of utility lines in those rights-of-way has  
23 occasionally been granted in the past, that Northern Pass  
24 now automatically has a green light to put the lines in

1 State of New Hampshire right-of-ways, just defies  
2 comprehension, from my perspective.

3 As recently as last Tuesday, on the 8th  
4 of September at the Northern Pass informational hearing up  
5 at Loon Mountain, Bill Quinlan, who heads up the Northern  
6 Pass operation, actually told me and others in the room  
7 that Northern Pass doesn't even have to seek permission to  
8 own state-owned right-of-ways for transmission line  
9 burial, because the right to do so has already been well  
10 established over the years. I think that presumption is  
11 absurd, but that's Mr. Quinlan's stated belief.

12 I recently drove that proposed Northern  
13 Pass underground section of the transmission line, down  
14 from Bethlehem down to Bridgewater. It's obvious to me  
15 that the Northern Pass engineers have not driven that  
16 route, or I don't think they would have put it up for  
17 consideration. In many places along that route, it would  
18 be just physically impossible to bury those DC lines in  
19 the very narrow shoulders of those roadways. And, if they  
20 try to come down the middle of those roadways, they're  
21 going to shut down traffic for a very long time and create  
22 a lot of chaos in the process.

23 Then, there's the places like downtown  
24 Plymouth, where the installing of the DC lines under

1       streets would cause weeks of disruption, and that town's  
2       citizens and businesses would never tolerate that. When  
3       places like Plymouth fully grasp the level of chaos that  
4       Northern Pass plans will cause, they will descend upon the  
5       PUC and the SEC like locusts. I promise you they will be  
6       here.

7                   I don't think they're serious about this  
8       proposal of undergrounding, where they have -- I think it  
9       was created in a panic that was caused by the very late  
10      realization that bringing unsightly towers and wires down  
11      through the White Mountain National Forest was dead on  
12      arrival when it first arrived on Forest Supervisor Tom  
13      Wagner's desk. And, then, rather than face the red tape  
14      that surrounds the use of the shoulders of I-93, and  
15      because Northern Pass knew it had to act very, very  
16      quickly to set up the first regional -- first of the five  
17      regional meetings held over the last couple of weeks to  
18      move the Site Evaluation Committee process forward, it  
19      knew it had to identify a route. And, it grabbed the  
20      closest one it could, Route 3 and some of the other main  
21      routings that come down through the White Mountain  
22      National Forest.

23                   CHAIRMAN HONIGBERG: Mr. Mullen?

24                   MR. MULLEN: Yes.

1 CHAIRMAN HONIGBERG: You're at four  
2 minutes now, and we do have your letter.

3 MR. MULLEN: Yes.

4 CHAIRMAN HONIGBERG: Are there specific  
5 rules provisions or aspects of the rules that you focused  
6 on that you'd like us to pay attention to here?

7 MR. MULLEN: Yes. I think the primary  
8 aspect is this presumption that they have a route  
9 automatically in their pocket. When the process of  
10 establishing the route or approving the route belongs to  
11 the aegis of the Site Evaluation Committee, and they're  
12 saying this all over the State of New Hampshire, and  
13 they're expecting that everybody is going to rely upon it.  
14 And, I think -- I don't know where they get the power to  
15 do that. It's certainly not coming from the wires, either  
16 overhead or underground.

17 So, that's my main concern, is how they  
18 can speak about something that is the aegis of your  
19 Committee is beyond me, and that's what worries me the  
20 most, because it's affecting people's lives in the  
21 process.

22 CHAIRMAN HONIGBERG: Okay. Thank you  
23 very much.

24 MR. MULLEN: Thank you for the time. I

1 appreciate it.

2 CHAIRMAN HONIGBERG: All right.

3 Dr. McLaren, we're back to you, and thank you for your  
4 patience.

5 DR. MCLAREN: Thank you, Chairman. I  
6 was at the point talking about children and leukemia, and  
7 the association with electromagnetic fields, more than 3  
8 to 4 milligauss. I wanted to emphasize that this  
9 causation is not proven, we've only got very strong, but  
10 consistent association over the years. And, would like to  
11 remind everyone that it took many years to prove causation  
12 with carcinogens in cigarettes, DDT, asbestos, Agent  
13 Orange, and you can just go on and on.

14 And, I believe that the development of  
15 rules and standards should be based on taking  
16 precautionary measures to reduce exposure to  
17 electromagnetic fields that might cause leukemia in  
18 children. They should be low cost as far as possible,  
19 and, at the very least, should not allow for children  
20 living, learning or playing in an environment of over 2 to  
21 4 milligauss.

22 But we need measurement. The applicant  
23 has to provide measurements. And, in the rules I will be  
24 submitting, I've taken some of those rules from

1 Connecticut, Wisconsin, and other -- other states where  
2 they have outlined the requirements, they have criteria.

3 But I believe we, in New Hampshire, also need criteria.

4 I echo Pamela Martin's presentation, and  
5 also would reference the Connecticut Best Practices  
6 document as being very, very comprehensive, echoed also by  
7 Wisconsin and Illinois. And, again, going back to the  
8 300 feet from the center of the midline, we need to know,  
9 you need to know where the childcare facilities are, the  
10 youth camps, public playgrounds, daycare, public schools,  
11 private schools, also perhaps residential areas where  
12 there might be children, but that perhaps needs  
13 discussion. But we need to know that from the applicant.  
14 We don't need them to -- we cannot rely on them to supply  
15 it. And, of course, burying the lines would be the  
16 ultimate protective strategy.

17 There appears to be some haste here  
18 developing these rules. And, at times, as we've attended,  
19 I've attended these sessions, there's a certain  
20 shallowness in perhaps looking to the ways to rectify or  
21 to formulate the rules. And, what I would like to request  
22 that the SEC do is invite individuals, I think we have  
23 three universities in the state with Electrical  
24 Engineerings Departments, invite them to help you evaluate

1       these risks. And, let's get it right. It's going to be  
2       many years. We're going to have many new transmission  
3       lines. We need to get it right. I say the universities,  
4       because, hopefully, and probably they will be unbiased.

5                     Now, talk about a "Precautionary  
6       Principle", which is generally accepted worldwide.  
7       Avoidance of unnecessary exposure to power lines, as long  
8       as there is scientific suspicion about the harmful side  
9       effects. Many states, municipalities, and also mentioned  
10      by Pamela Martin. Prudent avoidance may be followed by  
11      countries where without -- whereby even without any  
12      demonstrable risk, the most achievable low-cost measures  
13      will be taken to reduce EMF exposure.

14                   These are important times. It can't be  
15      business as usual. And, where uncertainty exists when  
16      developing rules and standards, the default position must  
17      not be the wishes of the corporations/utilities or their  
18      lawyers. I believe that the Committee, in conjunction  
19      with advice from the universities, will be able to develop  
20      rules that will protect the health and safety of New  
21      Hampshire residents, and that will not be excessively  
22      restrictive for the industry, but you'll need time.

23                   I'd like to thank you. And, also, I  
24      have two submissions on the SEC rulemaking site, which

1 further amplify my comments and statements today. I would  
2 also, ending, strongly advise that FERC and HUD  
3 requirements are followed. Thank you.

4 CHAIRMAN HONIGBERG: Thank you,  
5 Dr. McLaren.

6 Mr. Getz, Round 2.

7 MR. GETZ: Thank you, Mr. Chairman. I'd  
8 like to pick up back -- I'd like to resume at  
9 301.03(c)(8), and that's the issue of the identification  
10 of all participating landowners, which I believe  
11 Mr. Rielly spoke to as well. But my understanding of this  
12 issue is that it effectively migrated here from a  
13 consideration of public health and safety effects of wind  
14 projects. So, I'm not sure what the -- you know, the  
15 potential implications of this, this provision is, but I  
16 think it represents one of a number of provisions  
17 throughout the rules where the Committee is looking to  
18 address an issue with respect to a generation project,  
19 that may not apply to a transmission line or a gas  
20 pipeline --

21 CHAIRMAN HONIGBERG: Mr. Getz, I'm  
22 sorry. What was the section? You said it fast and --

23 MR. GETZ: It's 301.03(c)(8). And, it  
24 speaks of "identification of all participating

1 landowners".

2 CHAIRMAN HONIGBERG: Got it. Thank you.

3 MR. GETZ: So, and, again, really, it  
4 seems overbroad, and that's applying to all types of  
5 facilities, when I think the discussions throughout your  
6 consideration of this, it really had something to do  
7 primarily with abutting landowners to wind projects, who  
8 may have agreements with respect to setbacks. So, I  
9 think, if there is a real underlying issue that's trying  
10 to be addressed, that having some general language like  
11 this may miss the mark and may have unintended  
12 consequences. And, I'm not sure what an applicant would  
13 actually be required to do, and then what you would do  
14 with this information. So, that was my point with respect  
15 to that.

16 I would turn then to 301.03(h)(6), which  
17 speaks to the issue of "cumulative impacts". And, the  
18 notion of "cumulative impacts" and "best practical  
19 measures" comes out of House Bill 1602, which was codified  
20 at RSA 162-H:10-a. And, II of that statute directs the  
21 Committee to address a number of things. And, it's  
22 directed to address "Cumulative impacts to natural,  
23 scenic, recreation, and cultural resources from multiple  
24 towers or projects, or both." And, it's directed to

1 address "Best practical measures to avoid, minimize or  
2 mitigate adverse effects." There are some interesting  
3 issues about how this -- how you address it, whether you  
4 address it in the types of information you require to --  
5 just for wind facilities to submit, or whether you would  
6 seek to apply that to all facilities. The statute is --  
7 directly authorizes, directs you to deal with these issues  
8 with respect to wind projects. Then, there's the issue  
9 of, not only the information that you require to be filed,  
10 but then should you do or say something with that  
11 information with respect to the criteria for your  
12 findings? And, I think that I spoke to this issue back in  
13 March, especially with respect to "best practical  
14 measures". How do you reconcile the findings that you  
15 have to make under the statute for the impacts or the  
16 effects of the project, and you've now included in here,  
17 in Sections (g) and (h), under the Findings section for  
18 adverse effects, reference to "best practical measures"  
19 and "cumulative impacts". How do you make these two  
20 notions reconcile? Are you creating a new finding that's  
21 beyond the authority of what you're authorized to under  
22 162-H:16?

23 I think the better course may be to  
24 eliminate references to "cumulative impacts" and "best

1 practical measures" in the Finding criteria, and focus on  
2 it with respect to the types of information that an  
3 applicant is required to do. Now, --

4 CHAIRMAN HONIGBERG: Okay. Now, we've  
5 gone another five minutes.

6 MR. GETZ: Okay.

7 CHAIRMAN HONIGBERG: What's your sense  
8 of how much more you have?

9 MR. GETZ: I could easily go half an  
10 hour, if I were permitted.

11 CHAIRMAN HONIGBERG: I think there would  
12 be a lot people who were very unhappy with you if you did  
13 that. But we're going to --

14 MR. GETZ: I have specific references to  
15 specific rules, specific issues to raise. And, I'll hold  
16 off on the proposed remedies until the filing on Friday.

17 CHAIRMAN HONIGBERG: All right. We're  
18 going to continue with somebody else in Round 2. I think  
19 Ms. Martin has some time she'd like to use in Round 2, and  
20 we'll circle back to you in Round 3.

21 Ms. Martin.

22 MS. MARTIN: Yes. I just wanted to add  
23 something. The words I've heard, because I've attended  
24 many of these meetings, that I keep hearing often are

1       "avoid, minimize and mitigate". And, if you look it up in  
2       the dictionary, there's a very subtle difference between  
3       "minimize" and "mitigate". "Minimize" means to make  
4       smaller and "mitigate" means to lessen the impact.

5                     But I just want to give you an example.

6       In Rumney, which is a town that was severely visually  
7       affected by the Groton Wind project. Their mitigation was  
8       a handicapped ramp for their library. That was it; a ramp  
9       for the library.

10                  So, it seems to me that the word  
11       "mitigate" should be changed to "compensate", because a  
12       ramp to the library certainly did not lessen the impact of  
13       the Groton Wind project. So, I believe the word  
14       "mitigation" should be changed to "compensation". But  
15       whatever word that's used, "avoid", "minimize", "mitigate"  
16       or "compensate", it appears that the words are compromise  
17       words that get us to "yes". Where is the word that gets  
18       us to "no"?

19                  I find it concerning that a government  
20       agency that uses words to get us to "yes", these are  
21       compromise words, and I don't feel like the wishes of the  
22       people, who may be the majority of the people in the  
23       community which are opposed to a project, there are words  
24       to help them.

1 So, whether a project can actually avoid  
2 a historic house or minimize -- a project could minimize  
3 by reducing a wind turbine by five feet, or compensate  
4 everybody in town by paying them off, those are still  
5 compromise words getting to "yes". So, I recommend the  
6 words be changed to "avoid, minimize, compensate, and  
7 reject".

8 CHAIRMAN HONIGBERG: Thank you. Is  
9 there anyone else who would like to do something in Round  
10 2? I see two hands. Well, okay. I see five hands.  
11 Let's take them in the order in which they were on the  
12 list. Do you remember what order you went? I think, Ms.  
13 Geiger, you probably first of the people who did Round 1.  
14 So, why don't you take Round 2.

15 MS. GEIGER: Thank you very much. I'd  
16 just like to continue going through the list of issues  
17 that I didn't have time in the first round to address.  
18 One them is 301.03(c)(8). I think Mr. Getz touched on  
19 this a little bit. This would require the applicant to  
20 disclose information about competitively sensitive  
21 agreements with participating landowners. I'll address  
22 this in my written comments, but this information is  
23 typically maintained confidential, not necessarily to  
24 protect the applicant, but also to protect the property

1 owner with whom the applicant has negotiated in good faith  
2 to reach commercial terms.

3                   In addition to that, 301.14 (a)(7) would  
4 require the Committee to consider "whether the visibility  
5 of the proposed facility would offend the sensibilities of  
6 a reasonable person during daytime or nighttime periods."  
7 We believe that this standard should be removed, as I  
8 don't have any idea how an applicant can demonstrate this  
9 or how the Committee could even go about assessing this.  
10 I think it's extremely vague and subjective, and is  
11 something that is going to create a lot of problems for  
12 the SEC process. 301.14(a)(7).

13                   In addition, 301.14(f)(2) is the sound  
14 restrictions that the Committee would have to impose. I  
15 indicated in my earlier comments that the I Committee  
16 should not make sound restrictions more restrictive than  
17 those that have been imposed on certificated facilities in  
18 New Hampshire. Again, in the absence of any complaints to  
19 this Committee about those facilities' operations, I see  
20 no reason for the Committee to go any further than the  
21 conditions that were imposed on the three operating wind  
22 projects in New Hampshire.

23                   In addition, the 301.18 contains a very  
24 detailed and prescriptive sound study -- set of sound

1 study criteria. Again, if technology changes, those  
2 details may be irrelevant. And, so, we think that that  
3 just goes a bit too far.

4 In addition, on the legal issues, I  
5 think I've indicated that assessing cumulative impacts of  
6 projects that don't even exist yet would be very  
7 difficult.

8 The other area of tremendous concern is  
9 that, in several rules, and I believe most of them are in  
10 201.01, 02, 03, the applicant is required to provide  
11 information about the public information sessions to  
12 "other municipalities and unincorporated places that are  
13 the subject of or covered by studies included with or  
14 referenced in the application". We think that this is  
15 just unworkable. For example, many wind applications  
16 reference other wind facilities, in Lempster, for example,  
17 in other states. If those facilities are simply  
18 "referenced in the application", then a literal  
19 interpretation of this rule would require an applicant to  
20 give those towns, who have absolutely no connection with  
21 New Hampshire or with a particular project, notice of  
22 public hearings. We just think that doesn't make sense.

23 CHAIRMAN HONIGBERG: Ms. Geiger, we had  
24 a discussion about that at the last meeting, I know we

1 did. And, if you think that the language as we settled on  
2 it doesn't work, you know what the intention of that is.  
3 It's to deal with those that are referenced in the  
4 studies. So, if there's language that you have that would  
5 fix it, I would encourage you to submit it.

6 MS. GEIGER: I will, Mr. Chairman. And,  
7 the reason that I'm mentioning it, is that I think that  
8 sometimes institutional memory gets lost as time goes by.  
9 And, so, I think people in this room understand what was  
10 meant. I just think that the rule needs to be clarified,  
11 so that, in future proceedings, there isn't a lot of  
12 litigation around this issue.

13 CHAIRMAN HONIGBERG: You're absolutely  
14 right. So, if there's ambiguities, don't tell me "there's  
15 an ambiguity", tell me what you're going to do to fix the  
16 ambiguity.

17 MS. GEIGER: I will. I will do that.

18 CHAIRMAN HONIGBERG: Thank you.

19 MS. GEIGER: And, the last issue that  
20 I'd like to mention is in 301.03(c) and 301.03(h), the  
21 application is supposed to contain or is required to  
22 contain information about not just the proposed site for  
23 an energy facility, but alternative locations that the  
24 applicant considers "available" for the proposed facility.

1       And, I think that there may be cases where an applicant  
2       can consider an alternate location available physically,  
3       but it's just not feasible. So, for example, we don't  
4       think it would make sense for an applicant to have to  
5       delineate wetlands on an alternative site, that may be  
6       available, but it's just not feasible for development. We  
7       think that the word "alternative" -- "available" should be  
8       replaced with the word "feasible".

9                   And, with that, I'll conclude my  
10      comments, and we'll submit the rest of them in writing.  
11      Thank you very much for the opportunity to give them to  
12      you.

13                   CHAIRMAN HONIGBERG: Thank you.

14                   Ms. McPhaul.

15                   MS. MCPHAUL: My statement is more a  
16      closing statement. I will be happy to wait till the end  
17      or I will give it to you --

18                   CHAIRMAN HONIGBERG: No, you're going to  
19      do it now.

20                   MS. MCPHAUL: Okay. Well, I want you  
21      and your panel to know, first of all, I appreciate what  
22      you're doing. But -- sorry. But times have changed.  
23      There used to be very few energy projects coming before  
24      you, and now there are more and more. And, I just want to

1 point out that the people here who are fighting for  
2 ourselves and our neighbors and friends treasure this  
3 state. We treasure the beauty. We treasure our life  
4 styles. We are out to protect this wonderful state. The  
5 energy companies are here to abuse, and forgive me, rape  
6 the state. Their purpose is to make money.

7 CHAIRMAN HONIGBERG: Ms. McPhaul. Ms.  
8 McPhaul. No. No, no, no, no. No. You're not going  
9 to do that, really. Seriously.

10 MS. MCPHAUL: Why?

11 CHAIRMAN HONIGBERG: You're not going to  
12 do that. If you have a closing statement regarding the  
13 rules, please make it. Please don't make statements about  
14 people's motives, using incendiary and inflammatory  
15 language, that is not helpful to the process.

16 MS. MCPHAUL: Well, I was trying to show  
17 to you that you need to consider the people. That it's  
18 easy, when you're dealing with businesses all the time, to  
19 put them first. And, you need to understand that there  
20 are thousands and thousands of people out there whose  
21 lives will be affected.

22 CHAIRMAN HONIGBERG: Thank you very  
23 much. Ms. Lerner, do you have something you would like to  
24 do in Round 2?

1 MS. LERNER: I do. Thank you. So, a  
2 few things that are just -- can you hear me okay? A few  
3 things that are somewhat just small technical changes. I  
4 submitted a letter yesterday, I don't know that the  
5 Committee has had an opportunity to see that. Within the  
6 document, where it's talking about the "sound testing" and  
7 specifically the "receptor distances", it refers  
8 inconsistently to a "15 foot" difference versus -- or,  
9 distance, rather, versus a "seven and a half meter". And,  
10 we have suggested that be consistently identified as  
11 "seven and a half meters".

12 Also, the term "facility" is used  
13 throughout the document, although "facility" is not a  
14 defined term. I'd suggest that any use of that be changed  
15 to "energy facility".

16 And, another comment was submitted  
17 yesterday in the letter, during the last deliberative  
18 session, I believe it was Commissioner Burack had  
19 suggested that, for the shadow flicker assessment, it be  
20 the wind -- you know, the developer consider it "longer  
21 than one mile". Although, in the recent draft, that was  
22 not reflected. It's set for "one mile". So, I'm just  
23 asking that you reconsider the language on that.

24 Another point, which not necessarily to

1       this rulemaking, but I thought it might be appropriate to  
2       put out there, is if you go onto the SEC website, and you  
3       look at the regulatory framework for the SEC statute, it's  
4       missing RSA 162-H:10-a. That was the new language added  
5       from SB-281.

6                     CHAIRMAN HONIGBERG: Okay.

7                     MS. LERNER: Okay.

8                     CHAIRMAN HONIGBERG: I know that was  
9       true a couple of months ago, when someone brought that to  
10      our attention. Is it still true?

11                  MS. LERNER: I looked this morning.

12          Yes. Which I feel is --

13                  CHAIRMAN HONIGBERG: You're absolutely  
14      right. That is unacceptable.

15                  (Multiple parties speaking at the same  
16      time.)

17                  CHAIRMAN HONIGBERG: Ms. Lerner, that is  
18      unacceptable.

19                  MS. LERNER: Okay.

20                  CHAIRMAN HONIGBERG: I brought that to  
21      the relevant people's attention when that brought to our  
22      attention two or even three months ago. That has not been  
23      fixed is completely on us.

24                  MS. LERNER: Okay.

1 CHAIRMAN HONIGBERG: And, the people who  
2 run the technology, it's a shared responsibility at this  
3 point, between the Department of Environmental Services  
4 and the Public Utilities Commission, in conjunction with  
5 the Department of Information Technology. We will make  
6 sure it gets fixed as quickly as we are able to do so.  
7 That is --

8 MS. LERNER: Thank you.

9 CHAIRMAN HONIGBERG: I did not realize  
10 that was still a problem.

11 MS. LERNER: Yes. No, I appreciate  
12 that. And, the only reason I bring that up is the only  
13 time I can reference that statute language is to do a  
14 Google search based on the specific section. So, if I  
15 bring up your site, I can't get to it.

16 CHAIRMAN HONIGBERG: Well, I would say  
17 that there's a couple of the different ways you can find  
18 it on the State's website. There's, on the State  
19 Legislature's website, there's a link to all of the RSAs,  
20 and 162-H:10 is -- I'm sorry, 162-H has been updated as  
21 of -- all of the changes that include that section.

22 MS. LERNER: Okay.

23 CHAIRMAN HONIGBERG: So, there's a link  
24 on the home page of the Legislature, near the bottom, that

1       says -- I think it's called "RSAs". And, if you click  
2       through there, you can find it there. In addition to  
3       that, I think that language is -- it's in the session laws  
4       that were there. But the easiest way to find it is by  
5       searching the RSAs.

6                     However, as soon as it can be done,  
7       we're going to get it up, so that there's an appropriate  
8       link on the SEC's website. And, I apologize for that.

9                     MS. LERNER: No. Thank you very much.  
10          Also, just a few comments from some of the other testimony  
11       prior. As Jeanie Forrester had mentioned "site control",  
12       that's a very pressing issue. We're very concerned with  
13       the current language within the draft rules, and I'm  
14       hoping that will be addressed based on some of the  
15       feedback from the public provided today.

16                   Along with Susan Arnold's comment  
17       regarding "visual impact distances greater than 10 miles",  
18       currently, the draft rules show it as "10 miles". I'd  
19       suggest you consider much greater. I do receive comments  
20       from people that live as far away as Alton, New Hampshire.  
21       And, they do say, at night, they can see the red flashing  
22       lights. So, again, I don't know that during the day  
23       they're visible. But, certainly, at night, those red  
24       lights do carry quite a long distance.

1                           In terms of Susan Geiger's comments  
2 regarding "having three active wind projects in the State  
3 of New Hampshire and not being aware of noise complaints,  
4 shadow flicker" and whatnot, my response to that is, we  
5 don't know who has these, we'll call them "waiver  
6 agreements" or "good neighbor agreements". It's become  
7 very obvious, through the media, that, in the case of  
8 Granite Reliable, before that project went to the SEC, the  
9 residents in that area had already signed good neighbor  
10 agreements. We don't know if that's the case for every of  
11 the wind projects. So, there's actual harm being done to  
12 the people in these communities, it's an unknown, because  
13 of these disclosure agreements.

14                           That's all I have. Thank you very much.  
15 I appreciate the opportunity for comment.

16                           CHAIRMAN HONIGBERG: Mr. Blair. Oh, I'm  
17 sorry. Commissioner Scott.

18                           COMMISSIONER SCOTT: Just for the  
19 Chair's edification. I'm on the website now. So, --

20                           CHAIRMAN HONIGBERG: Which website?

21                           COMMISSIONER SCOTT: The SEC website  
22 now. So, I agree, it needs to be corrected. But, if you  
23 click on the overall 162-H, it does include "162-H:10-a",  
24 but it does not break it down below, as all the other

1 subsections are. So, it's there, but it's not correct  
2 where it should be, I think, also.

3 CHAIRMAN HONIGBERG: So, it's wrong in a  
4 slightly different way than we thought it was?

5 COMMISSIONER SCOTT: That's correct.

6 CHAIRMAN HONIGBERG: Oh, good.

7 MS. LERNER: I'm sorry. Can you tell  
8 me, just I have that up on my --

9 CHAIRMAN HONIGBERG: Let's go off the  
10 record for a minute.

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

13 CHAIRMAN HONIGBERG: Okay. Mr. Blair.

14 MR. BLAIR: First of all, I wanted to  
15 thank all the Committee members for all you've done. In  
16 general, I think the draft rules are much, much better  
17 than they were.

18 But I wanted to comment on the --  
19 there's a comment from several of the attorneys that  
20 represent several of the wind developers. And, basically,  
21 and this actually echoes Lori's previous comment, "has the  
22 Committee received any complaints?" Well, there's no  
23 requirement for this Committee to get any complaints.  
24 There's a number -- I know of several people in the Groton

1 area that have signed agreements, because they were  
2 impacted either by noise or shadow flicker or buildings  
3 too close to a road, that signed what I like to call "good  
4 neighbor agreements". And, there's no requirement.  
5 There's no feedback mechanism to this Committee to know if  
6 there was a mistake, if there was some adjustment that was  
7 necessary, and perhaps later deliberation. And, there's  
8 no requirement for any future applicant to disclose those  
9 agreements.

10 So, the fact of the matter is, there are  
11 these "good neighbor agreements", that where people get  
12 paid off, when they're impacted in a meaningful way, that  
13 the energy company, basically, sort of does it. And,  
14 it's -- I don't want to call it a "bribe", but it's a way  
15 of making the -- paying for the problem to go away.

16 And, so, that's in -- I looked at  
17 Section 301.03(c)(8). There's a requirement to disclose  
18 any legal agreements, but there's no ongoing requirement.  
19 Now, I don't know where that would go in your draft. But  
20 I would strongly encourage you to have an ongoing  
21 requirement to disclose, so, the Committee at least knows  
22 when something has gone amiss and maybe make some  
23 modification going forward.

24 Thank you very much for your time.

1 MR. PIEHLER: Could I --

2 CHAIRMAN HONIGBERG: Yes. Mr. Piehler.

3 MR. PIEHLER: Yes. I'd like to follow  
4 up on what Tripp said. I had an encounter with the wind  
5 company. And, I was asked to have a public meet -- a  
6 private meeting, and I'm on a planning board, conservation  
7 commission, maybe selectman. And, I was asked about my  
8 concerns. And, I said "the only time we will have a  
9 meeting is if everything that's discussed will be public.  
10 All terms, all conditions." We never had a meeting.

11 My point is that these things that take  
12 place behind the scenes are real. But the minute it wants  
13 to become public, the companies back away.

14 CHAIRMAN HONIGBERG: And -- okay. Thank  
15 you. That's fine.

16 Mr. Getz, how much more do you have,  
17 because you have the ability to submit this entire speech  
18 in writing? And, so, I think that might -- you might  
19 avail yourself of that. I suspect you're going to be  
20 filing something in writing anyway, are you not?

21 MR. GETZ: Yes. That's correct, Mr.  
22 Chairman. We'll be filing in writing proposed edits,  
23 with some comments and some, you know, similar to what we  
24 did in March. But, you know, my experience has been,

1 there are a number of issues that, when you go through the  
2 rules, it's easier to communicate what some of the issues  
3 may be in the public hearing phase. And, that's why you  
4 have a public comment hearing and written comments.

5 CHAIRMAN HONIGBERG: Absolutely. And,  
6 we would love for you to identify what the issues are. I  
7 would say that, if you have long expositions about the  
8 philosophy of rulemaking and the difficulty of linking the  
9 statute to the rules, that you save those for the written  
10 submission. And that, if you have tangible, specific  
11 proposals, that you either make them, because they're one  
12 or two, or that you put them in writing.

13 So, if you want to flag the issues for  
14 us, and a brief explanation of why those are issues, that  
15 will be a helpful thing right now.

16 MR. GETZ: Okay. I will try to go  
17 through this as quickly as I can, Mr. Chairman. So, with  
18 respect to the "cumulative impacts", that's first  
19 addressed in 301.03(h)(6), two issues. One is, the  
20 definition of "cumulative impacts" includes "all proposed  
21 energy facilities for which an application has been  
22 accepted". I think that's too speculative. And, it's not  
23 "reasonably foreseeable", which is the notion under the  
24 Environmental Policy Act about "cumulative impacts". So,

1       the practical issue of "how does an applicant get that  
2       information and put it in its application?" And, also,  
3       with the -- with this specific Subsection (6), setting it  
4       out as a separate section, does it make sense to put all  
5       the information there, when, really, all of the  
6       information that's in there is going to be in the  
7       respective subsets of the natural, scenic, recreation --  
8       recreational, and cultural resources? So, you're going to  
9       get all that information anyways, why have a separate  
10      section?

11                   Turning to 301.04(a)(4), and I believe  
12       there was an exchange between you and Mr. Wiesner about  
13       the "explanation of how the financing plan compares with  
14       financing plans for other facilities". I would propose  
15       insert the language "financing plan the applicant has  
16       employed". Because, otherwise, the requirement, I guess,  
17       is that an applicant would look at every project similar  
18       built within the United States, or more, and try to get  
19       information that probably is confidential and is not going  
20       to get. So, just adding what the applicant has I think  
21       would address that issue.

22                   Turn to 301.06, on "historic sites".  
23       Subsection (c) talks about a "finding" that the Division  
24       of Historical Resources would make. DHR does not make

1 findings. That is a term of art. They make a  
2 determination, but that's not what they do.

3 Under Section -- Subsection (f), it  
4 talks about a "description of the status of the  
5 applicant's consultations with DHR, if applicable, the  
6 lead agency, and with the consulting parties." Well, the  
7 applicant doesn't -- the applicant consults with DHR, it  
8 doesn't consult with the consulting parties. And, to the  
9 extent consulting parties are having consultations with  
10 DHR, the applicant may or may not be aware of what the  
11 subject matter is or the status. And, to the extent the  
12 consulting parties want to put something into the process,  
13 the requirement should be on them and not on the  
14 applicant, which I'm not sure how they would get that  
15 information.

16 In this context, there's also an issue  
17 with the definition of "historic sites", 102.20,  
18 ""historic sites" means "historic property", as defined in  
19 36 C.F.R. 801 [800.16(l)(1)?] and 227-C [227-C:1, VI?],  
20 and may include rural, designed, traditional and natural  
21 landscapes." Well, that last phrase is not included in  
22 either 36 C.F.R 800 or in RSA 227. Not sure what was  
23 intended by that, haven't had a chance to go back and look  
24 at the transcript, and Director Muzzey is not here. But

1       it seems like that language extends the jurisdiction, goes  
2       beyond what "historic site" means. And, especially if  
3       it's including "natural landscapes", maybe if it was  
4       including "cultural landscapes", that context comes up in  
5       terms of the C.F.R., it talks about traditional,  
6       religious, and cultural issues important to Indian tribes,  
7       but that definition seems to go too far.

8                          With respect to decommissioning, 301.08,  
9       I agree with what Mr. Rielly was saying. But there's, you  
10      know, essentially, there there's too much going on in that  
11      paragraph. It's a drafting issue. I think the better  
12      approach there would be to talk about the type of  
13      information that an applicant must submit, and use the  
14      statutory language. But to say that, you know, who has to  
15      submit it, why it would have to be an independent party,  
16      when you look at the succeeding sections, you know, it  
17      talks about fire safety and emergency response  
18      consultations, but it doesn't say it has to be an  
19      "independent" person. And, any applicant who files a case  
20      has got to prove that it's got experts, it's got to make  
21      its case. So, I don't understand why that would be there.

22                          The notion of excluding recognized  
23      accounting concept of salvage value, right from -- in the  
24      type of information that an applicant would submit, really

1       don't understand why you would do that at all, but  
2       certainly not in the type of information you would submit.  
3       You know, perhaps an applicant would say "here's what the  
4       values would be", and could give you with and without  
5       salvage value. But excluding it off the bat I don't think  
6       is a useful exercise.

7                   And, then, limiting here the types of  
8       assurances, again, this section is about the type of  
9       information that should be submitted. What you want to do  
10      with it and how you want to apply it in your criteria is a  
11      different issue, and, as Mr. Rielly noted, it may be  
12      different from a wind farm to a transmission line to a  
13      biomass project.

14                  With 301.09, I agree with Mr. Griffin's  
15      observation under "orderly development". It's a little  
16      confusing, in terms of, there's really no definition of  
17      the "region". There's this long views of the notion of  
18      host municipalities, etcetera. I think further here,  
19      there's a very different reality between Sections (a),  
20      (b), and (c), in terms of the land use, the economy, and  
21      employment. So, I think what happened before, when you  
22      were discussing this, you just decided to use the same  
23      language in all three places, and I don't think that  
24      really works.

I would also say, with respect to the preface, there is a requirement that the applicant include information "including all of the master plans and zoning ordinances", etcetera. Well, I think this conflates the requirement under the Findings section of 162-H:16, IV, with respect to orderly development, that you're required to give "due consideration to the views of the municipalities", etcetera. Well, let them provide their views to you as part of the process. Having -- requiring the applicant to tell you what their views are, their written views, and including all these documents, I think is an obligation, one, that they may not -- that an applicant may not be aware of everything, but then why include all these other documents, I'm not sure is useful to the process at all.

And, you know, with the -- I'm going to make some recommendations with respect to the "historic sites" criteria, that it follow the approach used in the "natural environment" criteria, which I think makes a lot of sense. So, we'll do that in writing.

And, I think I will close. And say, with that, thank you very much. I understand this is a painful and painstaking process. And, I thank, you know, Mr. Wiesner and Iacopino as well for the work they did in

1 putting these rules together. It's hard to get a workable  
2 document, when the issues are so complex.

3 CHAIRMAN HONIGBERG: Thank you. At the  
4 risk of regretting what I'm about to say, is there anyone  
5 else who has anything else, very, very briefly, that they  
6 feel we need to hear, before we adjourn?

7 MS. GEIGER: I have a question.

8 CHAIRMAN HONIGBERG: Ms. Geiger, yes.

9 MS. GEIGER: Just a question please. In  
10 what manner would you like --

11 (Court reporter interruption.)

12 MS. GEIGER: I'm sorry. I'd like to  
13 know what would be most helpful to the Committee, in terms  
14 of the type or format of written comments that you'd like  
15 to receive? I mean, is it necessary that we submit a  
16 black line version of the draft rules? Would that be most  
17 helpful to you? Would you prefer a narrative, a  
18 description of the areas of concern and suggestions, or  
19 would you like both? I don't want to bog down the record,  
20 I just want to be helpful. Thank you.

21 CHAIRMAN HONIGBERG: Making a perhaps  
22 unwarranted assumption, that the changes that people are  
23 going to be suggesting are limited to certain sections, I  
24 would say, if you give us the language as it is in the

1 revised draft, how you would change it, and a brief  
2 narrative explanation of why you think that's an  
3 appropriate change, would seem to me to be the most  
4 helpful way to present it.

5                   Does anyone on the Committee, or either  
6 of the gentlemen who serves as the Committee's lawyer,  
7 have any different or other view on that question?

8                   (No verbal response)

9                   CHAIRMAN HONIGBERG: Seeing none, that  
10 would be the guidance we would offer. But understand that  
11 people have other things they want to say or other ways  
12 they want to say it, they're free to do that. That's just  
13 one person's opinion as to how to present that in a  
14 helpful manner.

15                   Is there anything else?

16                   (No verbal response)

17                   CHAIRMAN HONIGBERG: If not, I thank you  
18 all for your comments. I thank you all for your patience.  
19 And, we will be back again on Monday.

20                   **(Whereupon the hearing was adjourned at**  
21                   **12:02 p.m.)**

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