

1                                   **STATE OF NEW HAMPSHIRE**

2                                   **SITE EVALUATION COMMITTEE**

3   **April 23, 2015** - 9:06 a.m.  
4   Public Utilities Commission  
5   21 South Fruit Street  
6   Suite 10  
7   Concord, New Hampshire

8                           In re:   **SITE EVALUATION COMMITTEE:**  
9                                   **DOCKET NO. 2014-05:  Petition**  
10                                   **for Jurisdiction over a Renewable**  
11                                   **Energy Facility by Antrim Wind,**  
12                                   **LLC, and Others.**  
13                                   ***(Technical Session)***

14   **PRESENT:**

15   Michael J. Iacopino, Esq.   Counsel for the Committee  
16                                   (Presiding)                                   (Brennan Lenehan)

17   Also present:  Iryna Dore, Esq. (Brennan Lenehan)

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23                           **COURT REPORTER:**  Steven E. Patnaude, LCR No. 52  
24

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

Barry Needleman, Esq. (McLane, Graf...)  
Patrick Taylor, Esq. (McLane, Graf...)  
Jack Kenworthy (Antrim Wind Energy)  
Henry Weitzner (Walden Green Energy)  
David Raphael (LandWorks)

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Jean Vissering

**Reptg. Audubon Society:**

David Howe, Esq.  
Carol Foss  
Francie Von Mertens

**Reptg. Harris Center for Conservation Education:**

James Newsom

**Reptg. the Antrim Board of Selectmen:**

Justin Richardson, Esq.  
Michael Genest, Chairman  
John Robertson, Selectman  
Gordon Webber, Selectman

**Reptg. the Antrim Planning Board:**

Christopher Condon, Chairman

**Reptg. the Schaefer family:**

Brenda Schaefer, *pro se*

**Reptg. the Wind Action Group:**

Lisa Linowes

**Reptg. Lorraine C. Block & Richard Block:**

Richard Block, *pro se*  
Lorraine Carey Block, *pro se*

Charles Levesque, *pro se*  
Dr. Fred Ward, *pro se*  
Elsa Voelcker, *pro se*

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                               **DAVID RAPHAEL**

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**P R O C E E D I N G**

MR. IACOPINO: Okay. Good morning, ladies and gentlemen. We are here in Docket Number 2014-05 of the New Hampshire Site Evaluation Committee. Our purpose today is to conduct a technical session with respect to the witnesses who have filed testimony. To date, we have -- well, let me back up. My name is Michael Iacopino. For those of you who don't know me, I'm Counsel to the Committee. I will be conducting the technical session today.

The purpose of our session is for the Parties to trade information. You have an idea of the positions of the various Parties from the prefiled testimony. The purpose of this session is to allow Parties to question each other about that testimony. We're doing this a little more formally than is often done at the Public Utilities Commission, and that's because of the large number of participants that we have. We have a record. Everything that is said is being recorded. So, I would ask that you make sure that you speak into a microphone, and that you speak slow enough so that our court reporter can take down what you have to say. I would also ask that everybody refrain from speaking over other people. If a question is asked, let the questioner

1 finish the question, and please let the person who's  
2 answering the question answer it. If there is any  
3 discussion, try to allow the other folks in the discussion  
4 to finish what they're saying before you seek to speak.

5 We have received, I believe, nine  
6 prefiled testimonies in this case. We have received the  
7 prefiled testimony of Jack Kenworthy, on behalf of the  
8 Applicant; the prefiled testimony of David Raphael, on  
9 behalf of the Applicant; the testimony of Jean Vissering,  
10 on behalf of Counsel for the Public; we received prefiled  
11 testimonies from Gordon Webber, Michael Genest, and John  
12 Robertson, on behalf of the Antrim Board of Selectmen; we  
13 received testimony from Christopher Condon, on behalf of  
14 the Antrim Planning Board; we've received testimony from  
15 Lisa Linowes, on behalf of the Windaction Group; we  
16 received prefiled testimony from Richard Block and Loranne  
17 Carey Block, on behalf of the non-abutting intervenors; we  
18 received prefiled testimony of Annie Law and Robert  
19 Cleland, on behalf of the non-abutting intervenors; and we  
20 received prefiled testimony from Elsa Voelcker, also on  
21 behalf of the non-abutting intervenors.

22 Just so folks know, Ms. Law and Mr.  
23 Cleland cannot make it today, they had a family issue that  
24 they had to deal with. So, they will not -- they will not

1 be here.

2 And, also, Ms. Duley Longgood had  
3 advised me she would not be here, but I understand that  
4 Ms. Schaefer is here for the abutting intervenors.

5 That's all of the testimony that we have  
6 received to date. I had previously sent out to all of the  
7 participants an order and agenda for this session. The  
8 order that we're going to use is we're going to first have  
9 the Applicant's witnesses, Mr. Kenworthy and Mr. Raphael,  
10 presented for questioning; followed by Ms. Vissering, on  
11 behalf of Counsel for the Public.

12 I was planning on doing all of the Town  
13 witnesses. Or, did you want to have them separated,  
14 Planning Board from the Board of Selectmen?

15 MR. RICHARDSON: It's really up to  
16 whatever works the best.

17 MR. IACOPINO: I was thinking of putting  
18 all four up for a panel there.

19 MR. RICHARDSON: That would be fine.  
20 May I ask a question, if it's appropriate?

21 MR. IACOPINO: Sure. Let me just finish  
22 the order we're going to go in.

23 And, then, that's going to be followed  
24 by Lisa Linowes. And, then, I guess Ms. Voelcker, because

1 she's the only one from the non-abutting group that is  
2 here. And, obviously, if Mr. and Mrs. Block show up, they  
3 will be there -- they will be on that panel as well.

4 Go ahead, Justin. You had a question.

5 MR. RICHARDSON: So, under the kind of  
6 standard practice and Administrative Procedures Act, this  
7 would be -- these proceedings would be part of the record,  
8 but they wouldn't be considered evidence, is that right?  
9 In other words, if this goes on the -- and, you know, for  
10 example, so, the questions, and like a data request,  
11 normally wouldn't become part of the record, and it  
12 couldn't be cited in a brief or a memo, unless a party  
13 attached the data request to testimony.

14 So, am I correct in assuming that  
15 questions we ask and answers we ask are for informational  
16 purposes, and they're not automatically part of the  
17 evidence considered by the Committee, unless a party moves  
18 them in by request?

19 MR. IACOPINO: You are absolutely  
20 correct. This is a discovery proceeding. There is a  
21 transcript being made that should help all of you in your  
22 preparation for the final hearing.

23 However, what is said here today is not  
24 considered by the Committee members, unless you formally

1 move it into the record at the time of the final hearing.  
2 The reason for that is, because this is for discovery.  
3 There may be a lot of things that are irrelevant that will  
4 be discussed here that will never be discussed during the  
5 course of the proceeding. The other thing is, this  
6 transcript is generally not provided to the Committee  
7 members. However, it will go up on the website. So, you  
8 know, I can't guarantee a Committee member might not look  
9 at it. But they will be advised as well that this is not  
10 part of their record for consideration, unless it is made  
11 part of that record during the course of the final  
12 hearing.

13 Yes, Mr. Ward. Dr. Ward, sorry.

14 MR. WARD: Yes. I'm a non-abutter. I  
15 don't have any prefiled testimony. If I'm allowed to  
16 question Ms. Vissering, then that's fine for me. I have  
17 nothing more. I can get it all in then. So, if I'm  
18 allowed to question her, then I have no testimony other  
19 than that.

20 MR. IACOPINO: Well, the next thing I  
21 was going to go into was the order of questioning. And,  
22 you all know, each of the groups that were consolidated  
23 were requested to have a spokesman prepared to basically  
24 represent that particular group. I understand



1 Ms. Schaefer is here for the abutters. I understand that  
2 the non-abutters have not actually selected a  
3 spokesperson.

4 Dr. Ward, are your questions primarily  
5 the types of ones that you've been sending to me in emails  
6 about weather and meteorological issues?

7 MR. WARD: Well, they stem from  
8 meteorological issues. But there's other questions having  
9 to do with the testimony of Ms. Vissering that brought up  
10 some other issues, which are somewhat meteorological, but  
11 not totally.

12 MR. IACOPINO: What I want to avoid is I  
13 don't want to have, you know, everybody in the  
14 non-abutting group asking questions. So, I'd ask you guys  
15 to take a minute, talk to each other, the other members  
16 are right behind you, and see if you have a division that  
17 makes sense. Because I don't want, for instance, I don't  
18 want Mr. Levesque, if he's going to be representing the  
19 group, to be asking questions about fire safety or  
20 something like that, and then have you ask similar  
21 questions here.

22 MR. WARD: I guarantee, I'm able to do  
23 this in less than two and a half minutes. My questions  
24 will be like no other.

1 MR. IACOPINO: Well -- all right. Well,  
2 let me back up. Is there a designated spokesman for the  
3 non-abutting group yet?

4 MR. LEVESQUE: No, there is not.

5 MR. IACOPINO: Okay. What I am going to  
6 do is I am going to suggest that you -- that Mr. Levesque,  
7 because he's been through this proceeding once before,  
8 serve in that capacity. And, then, when he's done with  
9 his questions -- if you don't mind, Mr. Levesque? When  
10 he's done with his questions, if you think you have  
11 additional questions, let me know, and we'll talk about it  
12 at that point. Okay, Dr. Ward? If it is something  
13 different, you'll get to ask it.

14 MR. WARD: I thought we -- well, now, I  
15 may be reading it wrong. Weren't we going to be able to  
16 ask questions of the witnesses?

17 MR. IACOPINO: You will.

18 MR. WARD: Okay.

19 MR. IACOPINO: And, then --

20 MR. WARD: So, what you're saying,  
21 applying to the questions, too, then?

22 MR. IACOPINO: That's what I'm talking  
23 about, is the questioning.

24 MR. WARD: Okay. Okay.

1 MR. IACOPINO: I'm sorry?

2 MS. MALONEY: No. You finish your order  
3 -- you finish your order of witnesses.

4 MR. IACOPINO: Oh, I did. I finished  
5 it.

6 MS. MALONEY: Oh. Okay.

7 MR. IACOPINO: I was just going to go  
8 into the rest of it. But if you have a question.

9 MS. MALONEY: I just had a question on  
10 the scope of the proceedings. My understanding, based on  
11 your order of pending motions, was that this technical  
12 session was part of the discovery, which was to be limited  
13 to the issue of how the proposed Facility differs from the  
14 proposed Facility in docket 2012-01. Is that correct?

15 MR. IACOPINO: Yes. And, that's the  
16 order that the Committee issued. Obviously, folks -- I  
17 mean, this is an informal proceeding, even though we're on  
18 the record. So, folks are going to be given some leeway.  
19 But, if we get too far afield, I will just say that the  
20 question doesn't make -- isn't relevant to what's being  
21 decided. And, if somebody has an objection to a question,  
22 because they think it's too far afield, speak up.

23 MS. MALONEY: Well, my only, I guess,  
24 point in addressing that, and I understand that, and I

1 understand there's leeway, but most of the evidence  
2 submitted by the Town and the Planning Board, while it  
3 relates to jurisdiction, didn't really -- wasn't really  
4 germane to this issue. And, I know that Attorney  
5 Richardson may disagree. But most of it addressed the  
6 Town Master Plan, the fact that they didn't have an  
7 ordinance. And, you know, when we're talking about  
8 getting "too far afield", I mean I understand why that  
9 relates to the entire issue of jurisdiction, but I'm not  
10 sure of that.

11 MR. IACOPINO: Well, I think that the --  
12 because it does relate to jurisdiction, I think I would,  
13 depending upon the question, I would probably be inclined  
14 to allow questions about those issues.

15 MS. MALONEY: I understand that. I  
16 understand that. It's just that it was somewhat  
17 voluminous. And, it was really not related to the issue  
18 of whether or not there was a difference between the  
19 former Facility and the current proposed Facility.

20 MR. IACOPINO: Okay. Well, they're  
21 going to be up there. Their testimony will be subject to  
22 questioning. If somebody thinks that we're way off track  
23 here or way beyond what we're supposed to be doing under  
24 the original Order, speak up, and I'll take it

1 question-by-question and make a decision as to whether or  
2 not it's far afield.

3 But what I want to stress is, we're  
4 trying to let you folks trade information. It's meant to  
5 be in an informal fashion, so that, you know, we're not  
6 citing rules of evidence, even though they don't apply, or  
7 anything like that here. But, if somebody is too far  
8 afield, I'll stop it. Okay?

9 So, the order of questioning will go in  
10 the following order: Obviously, when a party's witnesses  
11 are up there, they won't be in the order of inquiry. But  
12 we'll start off with Counsel for the Public; followed by  
13 the Applicant; we'll have them followed by the Town  
14 Boards, through Mr. Richardson; followed by Windaction  
15 Group; followed by Harris Center for Conservation  
16 Education, if Mr. Froling or their representative -- are  
17 you here for them?

18 MR. NEWSOM: Yes. Stephen,  
19 unfortunately, had a medical emergency today.

20 MR. IACOPINO: Oh. Sorry to hear that.

21 MR. NEWSOM: So, I shouldn't have any  
22 questions.

23 MR. IACOPINO: And, what's your name?

24 MR. NEWSOM: James Newsom.

1                   MR. IACOPINO: Okay. So, if Mr. Newsom  
2 has any questions, he'll go after Lisa Linowes; followed  
3 by Mr. Howe, on behalf of the Audubon Society; followed by  
4 the abutting property owners, who I understand is going to  
5 be represented by Ms. Schaefer here; and then the  
6 non-abutting property owners, who have already indicated  
7 there may be -- maybe two people actually asking questions  
8 for them.

9                   You should ask questions. This is not a  
10 place to argue the issues in the case. This is a place to  
11 obtain information. If you start arguing, I will stop  
12 you. And, if you have a request, if your questions wind  
13 up with you need more information, and there's a request  
14 for a particular document, you should make that request on  
15 this record. Myself and Iryna Dore, who is from my office  
16 over there, are going to keep track of those requests.  
17 Generally, those -- if additional documents are requested,  
18 they should be provided to the requesting party within  
19 seven days of today, unless there's an objection. If  
20 there's an objection, it is incumbent upon the party  
21 seeking the information to file an appropriate motion with  
22 the Committee to get the information. Just so that that's  
23 clear, it's not the -- the burden is not on the person who  
24 is answering the questions, if they object to providing

[WITNESSES: Kenworthy ~ Raphael]

1 information, to, in the first instance, explain their  
2 objection to the Committee. The party seeking the  
3 information must file a motion, explain why it's necessary  
4 or why it should be provided, and file that with the --  
5 with the Committee. The party answering the question or  
6 from whom the document or other information is sought will  
7 have seven days to object. And, the Chairman of the  
8 Committee will make a decision on those requests.  
9 Hopefully, there will be none. Hopefully, this will be a  
10 friendly exchange, that everybody will be able to exchange  
11 information, and do it in a civil and way that educates  
12 the folks that need the information.

13 Mr. Block, welcome. I think you're  
14 going to be in the front row. That's what happens when  
15 you come last.

16 MR. BLOCK: That's what I tell me  
17 students.

18 MR. IACOPINO: And, also, Mr. Block, you  
19 want to put your name and stuff on here. And, we're going  
20 to start with the Applicant's witnesses. I don't know how  
21 you -- yes, you two may want to talk. I don't know how  
22 that's going to affect the non-abutting questions.

23 But, while they're caucusing, if Mr.  
24 Kenworthy and Mr. Raphael could come up. Thank you.

[WITNESSES: Kenworthy ~ Raphael]

1 (Off the record.)

2 MR. IACOPINO: Okay. The first  
3 witnesses in this tech session are Mr. Kenworthy and  
4 Mr. Raphael. We're going to start with questions from  
5 Counsel for the Public. We do not swear in witnesses  
6 here, because this is an informal proceeding.

7 So, Ms. Maloney, if you wanted to start  
8 off.

9 MS. MALONEY: Thank you. Good morning.  
10 Mr. Kenworthy, I have a few questions for you.

11 MR. KENWORTHY: Good morning.

12 **WITNESS: JACK KENWORTHY**

13 **WITNESS: DAVID RAPHAEL**

14 BY MS. MALONEY:

15 Q. In the Petition, and I -- it's noted that the turbines  
16 were going to be "495 feet tall". And, I note that in  
17 your testimony you indicated that that was not correct,  
18 that they're not. Was that just a mistake?

19 A. (Kenworthy) No. I think at the time that we filed the  
20 Petition back in November, there was still a  
21 possibility that another type of turbine may be  
22 employed there. So, one of the types of turbines that  
23 was under consideration had heights up to the 495 feet  
24 that we mentioned in the Petition. But, by the time my



[WITNESSES: Kenworthy ~ Raphael]

1 testimony was filed, we had made the final selection  
2 for a Siemens turbine, which has the height that's  
3 referenced in my testimony.

4 Q. Okay. And, with respect to the Siemens turbines, what  
5 is the diameter of those turbines at the base?

6 A. (Kenworthy) Subject to check, I believe it's 16 feet.  
7 But I would have to check that to verify.

8 Q. So, you're not sure?

9 A. (Kenworthy) I'm not positive of that right now.

10 Q. Can you get us that information?

11 A. (Kenworthy) Yes.

12 Q. Okay. Thanks. On -- do you have your testimony in  
13 front of you?

14 A. (Kenworthy) I do.

15 Q. Great. On Page 5 of your testimony, I think looking at  
16 Line 4, you said that you "intend to submit updates on  
17 the Shadow Flicker Analysis"?

18 A. (Kenworthy) Yes.

19 Q. Has that been completed?

20 A. (Kenworthy) Yes, it has.

21 Q. And, can we have a copy of that analysis?

22 A. (Kenworthy) I don't know that we intended to file our  
23 shadow flicker report at this stage, given that it's  
24 the jurisdictional docket. But the work has been

[WITNESSES: Kenworthy ~ Raphael]

1 completed.

2 Q. Well, I understand that. But you did reference it in  
3 your testimony on this issue. And, I do think it is  
4 germane to this issue.

5 MS. MALONEY: So, counsel, is there some  
6 reason why you would object to us having a copy of that?

7 MR. NEEDLEMAN: Why don't we discuss it  
8 at a break.

9 MS. MALONEY: Okay.

10 BY MS. MALONEY:

11 Q. You also -- what about the OCAS? Are you aware of it  
12 being employed at any other facilities to date?

13 A. (Kenworthy) Well, OCAS is a particular brand of  
14 technology that's owned by Vestas. I think it refers  
15 generally to a technology that uses radar to activate  
16 lighting control systems. I am aware of at least one  
17 wind farm in Canada that has employed it and where it  
18 is operational. I am also aware of at least one wind  
19 farm in the United States that has the technology  
20 installed. And, I believe that's the Perrin Ranch  
21 Project out in Arizona. And, it is -- it's installed  
22 and it has been tested, and it will become kind of  
23 fully operational, once the FAA has issued its new  
24 advisory circular.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. Okay. And, do you have any information about when that  
2 or if that will occur?

3 A. (Kenworthy) I -- nothing definitive, in terms of  
4 exactly when the FAA will issue that advisory circular.  
5 There's certainly been progress that's been made just  
6 recently, at the end of 2014, the FAA conducted  
7 extensive testing of a different manufacturer's  
8 technology at the NREL facilities in Colorado.

9 (Court reporter interruption.)

10 **CONTINUED BY THE WITNESS:**

11 A. (Kenworthy) Sorry. NREL, the National Renewable Energy  
12 Laboratory. And, that was a successful test of the  
13 technology, which was generally believed to be one of  
14 the last kind of hurdles for the technology to get  
15 through before the advisory circular is issued. So,  
16 the FAA takes time to do things. But we've certainly  
17 seen progress, and generally expect the advisory  
18 circular to come out in the reasonably near future.

19 BY MS. MALONEY:

20 Q. So, there's no place in the United States where it's  
21 been deployed, correct?

22 A. (Kenworthy) When you say "deployed", you mean --

23 Q. Being used.

24 A. (Kenworthy) It is being used on other types of

[WITNESSES: Kenworthy ~ Raphael]

1 structures.

2 Q. At a wind farm?

3 A. (Kenworthy) I do not believe that it is operational, in  
4 the sense that it is the only controlling system at a  
5 wind farm in the United States, that's correct.

6 Q. And, what is your timeframe, in terms of construction?  
7 How long would it take this farm to --

8 A. (Kenworthy) Our expectation is that we'd like to be  
9 operational by the end of 2017.

10 Q. Okay. Also, on Page 5, you talked a little bit about  
11 "ground clearing and grading amounts will be reduced  
12 significantly". What are the differences between this  
13 Project and the last Project, with respect to the  
14 grading and clearing?

15 A. (Kenworthy) The primary difference is that all of the  
16 civil infrastructure beyond Turbine 9 has been removed.  
17 So, that would include the clearing area for Turbine  
18 10, up on top of Willard Mountain, and all of the road  
19 infrastructure that went from Turbine 9 to Turbine 10,  
20 which was kind of a fairly long, sweeping arc of road.  
21 So that our total road area is reduced to about three  
22 and a half miles, from what was I think a little over  
23 four miles in the last docket.

24 Q. And, so, there's been no change in how you're going to

[WITNESSES: Kenworthy ~ Raphael]

1 approach grading and clearing with respect to the rest  
2 of the turbines, just the issue of the elimination of  
3 Turbine 10?

4 A. (Kenworthy) And, the infrastructure beyond Turbine 9,  
5 leading up to Turbine 10.

6 Q. Okay. Was this based on any kind of studies or -- the  
7 elimination of Turbine 10, or it was just based on the  
8 decision of the SEC?

9 A. (Kenworthy) Well, I think it was -- certainly, the  
10 result of the last docket was clear to us that Turbine  
11 10 was creating a concern with respect to visual  
12 impact, in particular, to the Willard Pond area. And,  
13 then, with that concern in mind, obviously, we've  
14 worked with David here and his firm, LandWorks, to  
15 evaluate the kind of potential for additional changes,  
16 which include the reduction of Turbine 9, to help  
17 address those concerns.

18 So, does that answer your question?

19 Q. Well, a little bit. I was just wondering if you  
20 conducted any studies of visibility of roads or  
21 clearings?

22 A. (Kenworthy) Well, yes. I mean, in the course of  
23 performing the visual analysis, we've certainly  
24 analyzed what portions of roads -- what portions of

[WITNESSES: Kenworthy ~ Raphael]

1 roads and clearing will be visible from the Project.

2 Q. So, who did that analysis?

3 A. (Kenworthy) That was prepared by LandWorks.

4 Q. Okay. In terms of revegetation of the roads, you --  
5 obviously, when you're in construction, the roads are  
6 going to be wider, and then, according to your  
7 testimony, they're going to be reduced in width,  
8 correct?

9 A. (Kenworthy) That's right.

10 Q. And, what about the revegetation, from the point of the  
11 original construction to the point when it's completed?  
12 What about the revegetation of that area, how is that  
13 going to be done?

14 A. (Kenworthy) So, the -- I believe the initial kind of  
15 limits of disturbance, the site-clearing impacts, will  
16 extend to about 55 acres. And, that will include  
17 clearing that's necessary for not only construction,  
18 but, obviously, the transport of equipment, you know,  
19 long blades needing clearance for turning radiuses.  
20 And, then, after construction is complete, the roads  
21 themselves will be reduced down to 16 feet, which means  
22 that the shoulders of those roads will be -- they will  
23 have soil replaced and will be seeded with the native  
24 seed mix. And, also, the cut-and-fill slopes will be

[WITNESSES: Kenworthy ~ Raphael]

1       also seeded and covered with a native seed mix. So  
2       that the kind of finished facilities that are kind of  
3       unrestored will be about 11 acres.

4   Q.   So, when you say -- would woody vegetation be allowed  
5       in those shoulders?

6   A.   (Kenworthy) Yes, in certain instances. I think there's  
7       places where we have overhead lines, that are roadside,  
8       down the access road, that will need to be kept clear,  
9       kind of in accordance with kind of "good utility  
10      practice". But, you know, generally speaking, for  
11      areas that don't need to be maintained as clear, then  
12      they would be allowed to revegetate naturally.

13   Q.   So, what would happen, in the case of needing to repair  
14      a turbine, if you had to get a crane back up that road?  
15      I was involved in a hearing recently where that did  
16      occur, and that caused the facility to have to come  
17      back and petition the SEC for an amendment to the  
18      revegetation plan. So, actually, it wasn't a 16-foot  
19      road width, it actually ended up being much greater. I  
20      mean, what kind of -- how do you anticipate that?

21                   MR. NEEDLEMAN: I'd just like to object  
22      to relevance. It's just not clear to me how this relates  
23      to the subject of this docket.

24                   MS. MALONEY: Well, we would say it

[WITNESSES: Kenworthy ~ Raphael]

1 relates to the subject of this docket, because the roads,  
2 obviously, are part of the visual impact, and they were  
3 part of Ms. Vissering's opinion on visual impact. And,  
4 so, obviously, what those roads look like and how they  
5 will be revegetated will -- do impact, do have visual  
6 impacts. And, so, the more information I have about this,  
7 that's one thing that's really not really addressed in  
8 detail in this report. And, that's what we're here to do,  
9 is to try to get more detail on that.

10 MR. IACOPINO: If he can answer the  
11 question, let him answer. We'll proceed.

12 **BY THE WITNESS:**

13 A. (Kenworthy) Sure. I'm not familiar with the details of  
14 the docket that you're referring to. But, generally,  
15 the restoration of the roads does not involve removing  
16 the roadbed. So, wherever a road is restored from a  
17 34-foot wide width, which is a crane path, down to a  
18 16-foot wide width, those -- that roadbed  
19 infrastructure will remain. And, if it were necessary  
20 to bring a crane back in for some type of major  
21 component repair, then the soil and seeding would be  
22 removed from those shoulders, and the crane will be  
23 brought in. And, then, after the crane were brought  
24 back out and the repair was complete, it would be once



[WITNESSES: Kenworthy ~ Raphael]

1 again reseeded.

2 BY MS. MALONEY:

3 Q. Okay. Thanks. On Page -- again, on Page 5 of your  
4 report -- of your testimony, rather, I think that's  
5 where you are addressing a couple issues. You indicate  
6 that you "commissioned a Visual Impact Assessment"?

7 A. (Kenworthy) Yes.

8 Q. And, I notice you didn't submit that as part of your  
9 testimony. Can we have a copy of that?

10 MR. NEEDLEMAN: Let's discuss that at a  
11 break also.

12 MS. MALONEY: Okay.

13 BY MS. MALONEY:

14 Q. Were there any other studies relating to visual impacts  
15 that you conducted, in addition to viewshed, like a  
16 visual impact study, was that conducted as well?

17 A. (Kenworthy) Yes. I think it's all one study. There  
18 was on visual assessment that we performed for the  
19 Project.

20 Q. And, that included the viewshed?

21 A. (Kenworthy) Yes. That's correct.

22 Q. Why do you believe the additional 100 acres along the  
23 ridgeline, where the turbines would be located, would  
24 provide mitigation for the -- additional mitigation for

[WITNESSES: Kenworthy ~ Raphael]

1 the Project?

2 A. (Kenworthy) Well, this actually was something that was  
3 directly referenced by Ms. Vissering in the last  
4 docket, was that preserving 100 percent of the  
5 ridgeline is important. And, so, in part, due to that,  
6 we approached the landowners and we were able to reach  
7 an agreement to acquire that easement. So, I think  
8 that may have been one of the key reasons for us  
9 believing that it was appropriate additional mitigation  
10 was from the -- I believe it was in the testimony, or  
11 it might have been during the discussion in the  
12 transcripts from Ms. Vissering in the 2012 docket.

13 Q. Do the -- I'm assuming that the manufacturer of the  
14 turbines requires a certain setback for development  
15 around those turbines, as far as part of their  
16 warranty. Is that an incorrect assumption?

17 A. (Kenworthy) I think it depends. I mean, in this  
18 particular type of environment, we really don't have  
19 any adjacent development to the Project. So, it's not  
20 something that we've had to evaluate with Siemens.

21 Q. But does -- are you aware of the warranty for the  
22 turbines? Are you aware of the contents of the  
23 warranty?

24 A. (Kenworthy) Yes.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. And, does it require a setback?

2 A. (Kenworthy) A setback from what?

3 Q. Of development.

4 A. (Kenworthy) I guess I'm not quite sure what you mean by  
5 "development".

6 Q. Well, any kind, any kind of use, forestry, logging,  
7 anything? Activity?

8 A. (Kenworthy) No. Not for forestry or for -- I mean, the  
9 warranty does not depend upon adjacent uses. To some  
10 extent, obviously, the turbine manufacturer will  
11 evaluate the wind data that we have from the site, to  
12 make sure that the site meteorological characteristics,  
13 turbulence, intensity, in particular, are kind of  
14 square with their warranty terms, so that the kind of  
15 mechanical loads analysis will pass. So, very tall  
16 trees, close-by turbines can cause turbulence that may  
17 be of concern.

18 But the evaluation that they have done  
19 on this site for site suitability, which has been  
20 completed, involves an evaluation of the limits of  
21 disturbance that we provided them, which I referenced  
22 earlier, which is that 55 acres of clearing. And, with  
23 that, we will satisfy their site suitability analysis  
24 and their full warranty terms.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. Okay. Can we have a copy of that warranty?

2 MR. NEEDLEMAN: Can you explain why that  
3 would be relevant to this docket?

4 MS. MALONEY: Well, again, it's relevant  
5 in the sense of, we got an extra 100 acres for mitigation,  
6 I would like to see if the warranty requires any  
7 limitations on the activity on that ridgeline.

8 MR. KENWORTHY: I think there may well  
9 be an issue of confidentiality for us with that warranty  
10 with Siemens. I'm not sure we can disclose it.

11 MS. MALONEY: Okay. Well, --

12 MR. NEEDLEMAN: It's still -- and, also,  
13 I understand, with respect to the shadow flicker report,  
14 the VIA, --

15 MS. MALONEY: Uh-huh.

16 MR. NEEDLEMAN: -- I just don't see how,  
17 with respect to changes from one project to the other, the  
18 warranty would provide any information that's relevant  
19 here to the Committee.

20 MS. MALONEY: Okay. Well, we can --

21 MR. NEEDLEMAN: We can discuss it.

22 MS. MALONEY: We can discuss it.

23 BY MS. MALONEY:

24 Q. Is there any chance you're going to change the

[WITNESSES: Kenworthy ~ Raphael]

1 manufacturer of the turbines again?

2 A. (Kenworthy) No. We are -- we are planning for Siemens  
3 turbines.

4 Q. Okay. I guess, though, on the ridgeline, obviously,  
5 you're going to have to do some clearing and grading,  
6 just for installation of the turbines, and you're going  
7 to have to keep that clear, is that correct?

8 A. (Kenworthy) Yes. There will be a road, that's right,  
9 along the ridgeline.

10 Q. Will that be the same road that you're talking about,  
11 the 16-foot road that first is 38 feet, then it's  
12 reduced, is that what you --

13 A. (Kenworthy) Yes. It's a crane path along the ridgeline  
14 there. So, it will start as a 34-foot wide road, and  
15 then be reduced to 16 feet.

16 Q. Okay. As you're aware, in the last docket, Counsel for  
17 the Public's expert singled out Turbines 9 and 10,  
18 because she, both of those turbines, because she  
19 believes there would be unreasonable adverse impacts.  
20 But that was only one of -- her removal of both those  
21 turbines, that was only one of her recommendations. Is  
22 there any reason why you didn't consider the additional  
23 recommendations she made?

24 A. (Kenworthy) I believe we did consider all of those

[WITNESSES: Kenworthy ~ Raphael]

1 recommendations. And, I think we've made significant  
2 changes to the Project to address them. The removal of  
3 Turbine 10, obviously, accomplishes that one  
4 recommendation outright. The reduction in height of  
5 Turbine 9 has the kind of visual effect of virtually  
6 eliminating it's visibility from Willard Pond, which  
7 was identified as a very, kind of a sensitive resource.

8 The reduction in height of Turbines 1  
9 through 8 is not significant, but there is a -- there  
10 is a slight reduction in height there. And, also a  
11 kind of slight reduction in the overall kind of size  
12 and mass of the turbines.

13 We have also -- one of the  
14 recommendations was to employ a radar-activated  
15 lighting control system, which we have committed to do.  
16 The revegetation of the site, after construction, is  
17 also something that we have committed to do. The  
18 screening of the substation area is something that we  
19 have evaluated and developed a screening plan to  
20 accomplish.

21 So, I think we have considered all of  
22 the recommendations that were made in that docket and  
23 look to address them comprehensively.

24 Q. So, the screening at substation, you're going to follow

[WITNESSES: Kenworthy ~ Raphael]

1       that recommendation?

2   A.   (Kenworthy) We have evaluated it for the kind of  
3       potential for visual impacts. And, we have, yes, we  
4       have developed a -- not just the kind of natural  
5       screening that will be there by virtue of the trees  
6       that will remain after clearing, but also have a  
7       landscape plan to enhance that screening post  
8       construction.

9   Q.   And, is that -- is that in writing? Do you have a  
10       study or something as part of that plan that we might  
11       be able to get a copy of?

12               MR. NEEDLEMAN: Again, let's discuss  
13       that. My understanding is, is that's still in draft form  
14       at this point.

15               MS. MALONEY: Okay.

16   BY MS. MALONEY:

17   Q.   You're not really suggesting that the 3-foot reduction  
18       of the Turbines 1 through 8 is having a significant  
19       change on the unreasonable aesthetic impacts of the  
20       Project?

21   A.   (Kenworthy) My contention and my belief is that the  
22       collection of changes that we have made, which include  
23       the removal of Turbine 10, a significant reduction in  
24       height of Turbine 9, as I mentioned, the continued

[WITNESSES: Kenworthy ~ Raphael]

1 commitment to use the radar-activated light control  
2 system, the increased on-site and off-site mitigation,  
3 and a consideration of the other factors that I  
4 mentioned that were included in Ms. Vissering's  
5 original report, collectively, do make a significant  
6 change to the level of impacts associated with the  
7 Project aesthetically.

8 Q. And, when you're referencing the "on-site mitigation",  
9 you're talking about the ridgelines?

10 A. (Kenworthy) Yes. The additional 100 acres of  
11 conservation land.

12 MS. MALONEY: I don't have anything else  
13 for you at this time.

14 MR. KENWORTHY: Thank you.

15 MR. IACOPINO: Okay. Justin, on behalf  
16 of the Selectmen and the Planning Board.

17 MR. NEEDLEMAN: Can I just ask one  
18 question?

19 MR. IACOPINO: I'm sorry?

20 MR. NEEDLEMAN: Are we going to come  
21 back to Mr. Raphael and go around again or is this --

22 MR. IACOPINO: Do you have no questions  
23 for --

24 MS. MALONEY: I have -- no, I do have



[WITNESSES: Kenworthy ~ Raphael]

1 questions for Mr. Raphael. I just --

2 MR. IACOPINO: Oh. Please ask them  
3 then.

4 MS. MALONEY: Okay. All right. Sorry.

5 MR. RICHARDSON: I should have jumped  
6 right in when I had my chance.

7 BY MS. MALONEY:

8 Q. Good morning, Mr. Raphael. I'm sorry, I can't see you.

9 A. (Raphael) I'm scooching up so you can.

10 Q. It's not your fault.

11 A. (Raphael) Good morning.

12 Q. So, what were you commissioned to do when you took this  
13 assignment?

14 A. (Raphael) We were commission to conduct a visual  
15 assessment.

16 Q. Okay.

17 A. (Raphael) "Commissioned", excuse me.

18 Q. Hired to do, I guess it's "commissioned".

19 A. (Raphael) Yes.

20 Q. And, was the Project as proposed to you that which is  
21 being presented today?

22 A. (Raphael) As proposed, the --

23 Q. Right.

24 A. (Raphael) -- was the Project as --

[WITNESSES: Kenworthy ~ Raphael]

1 Q. The Project that you did the assessment of, is that the  
2 Project that's being proposed today?

3 A. (Raphael) Yes. It is the Project that's being proposed  
4 today, but we also had reviewed the previous docket and  
5 the original Project proposal as well.

6 Q. Did you review the SEC's decision on the original  
7 docket?

8 A. (Raphael) Yes, we did.

9 Q. And, did you review Ms. Vissering's report?

10 A. (Raphael) Yes.

11 Q. So, was the focus of your -- so, the focus of your  
12 study was the overall visual impacts, correct?

13 A. (Raphael) The focus of our study was to the overall  
14 visual effect, yes.

15 Q. Okay. Visual effect. And, you distinguish that why?

16 A. (Raphael) I really prefer to use the notion of "visual  
17 effect", because that's what we're really looking at.  
18 When you begin with the notion of "visual impact",  
19 "impact" seems to imply negativity, in that there will  
20 be an impact, or, you know, from the initial  
21 supposition of the project. So, we prefer, I mean, it  
22 may be semantics to some, but it's important to us,  
23 that we're trying to take an objective approach to  
24 this. So, we're starting from the baseline.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. Okay. I understand what you're saying. But your  
2 testimony was really just directed towards not the  
3 entire visual impact, but just the differences between  
4 the prior Project and the current Project?

5 A. (Raphael) Yes.

6 Q. So, you did a visual impact analysis on the Project as  
7 a whole, correct?

8 A. (Raphael) Correct.

9 Q. And, that's the study that we asked for that we could  
10 talk about. And, what were your conclusions?

11 A. (Raphael) Well, our overall conclusion was the Project  
12 will not have an unreasonable adverse impact on the  
13 aesthetics and scenic qualities of the Project region  
14 and Project area.

15 Q. And, part of your study was to do the viewshed  
16 analysis, correct?

17 A. (Raphael) Yes, it was.

18 Q. I notice that you provided a couple simulations, there  
19 were a number of pictures?

20 A. (Raphael) Right.

21 Q. Did you provide -- produce any additional simulations?

22 A. (Raphael) We -- I'm trying to remember. No, there are  
23 some additional simulations as part of the overall  
24 analysis that were developed.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. Okay.

2 A. (Raphael) And other visual studies as well, not just  
3 simulations, in order to understand the nature of the  
4 Project.

5 Q. What other studies?

6 A. (Raphael) Well, in conducting a visual assessment, you  
7 use a number of tools to arrive at an understanding of  
8 what the project will look like and what its effect  
9 will be from the resources that you are charged -- that  
10 we are charged to evaluate. And, that includes  
11 everything from fieldwork and understanding from  
12 particular locations, to the use of tools, software  
13 tools, such as 3D Analyst, to understand what turbines  
14 are visible and to what extent they're visible, and  
15 other types of studies. Occasionally, we'll use  
16 line-of-sight sections, for example, to analyze  
17 visibility as well.

18 Q. Well, and, in particular, with respect to this Project,  
19 okay, you used the word "studies", are you just talking  
20 about just tools?

21 A. (Raphael) Yes. Individual tools that we use to study  
22 the Project.

23 Q. Okay. And, that's all part of your overall study?

24 A. (Raphael) It all is part of the visual assessment. Not

[WITNESSES: Kenworthy ~ Raphael]

1 every study that -- and analysis that we do is actually  
2 included specifically in the analysis. But it's part  
3 of the work that we conduct in the field and in the  
4 office to produce the analysis.

5 Q. Okay. Is there some reason why it's not included?

6 A. (Raphael) Well, I mean, certain things, like sketches  
7 or things you might produce in the field as notes and  
8 that type of thing, you wouldn't necessarily include in  
9 the final report.

10 Q. The 3D Analyst?

11 A. (Raphael) Yes.

12 Q. So, is that a part of what you use to do your  
13 simulations or --

14 A. (Raphael) Well, we, not -- no, that's -- no, we don't  
15 use the 3D Analyst, *per se*, to produce the simulations.  
16 But we use 3D Analyst to do a first step sort of look  
17 at visibility. Simulations are produced with other  
18 tools.

19 Q. What do you -- how do you do the simulations?

20 A. (Raphael) Well, in a short-form account of that, it  
21 begins with selecting a site that's appropriate or  
22 desirable to assess the view from, and what the project  
23 will look like from that view. So, it begins with  
24 fieldwork and photography that we take in the field

[WITNESSES: Kenworthy ~ Raphael]

1 using certain camera tools. And, then, the photography  
2 is brought into a computer environment, software  
3 environment, that includes CAD and other tools, such as  
4 3D modeling and Photoshop, to ultimately produce a  
5 photo-realistic representation of what the project and  
6 the individual turbines will look like.

7 So, it's a multistep process that  
8 involves specific forms of data, you know, coordinates,  
9 elevations that we plug into the software platform that  
10 we use, and several steps then to model the actual  
11 turbines. And, again, as I said a moment ago, to make  
12 them photo-realistic, so that we can provide a, you  
13 know, as accurate a sense as possible with those  
14 simulations.

15 Q. So, when you did the simulations, did you do -- I mean,  
16 I see them, for example, I'm looking at Exhibit 18, and  
17 that's the currently proposed Project. And, then, I'm  
18 looking at the proposed condition, I think it's the  
19 same view -- oh, rather, no, there's not. The  
20 Exhibit 18 is it. These are "Exhibit 18: Simulation  
21 of proposed conditions from Willard Pond Turbine 10",  
22 and then it says "previously proposed turbine". So,  
23 this is what you -- you did a simulation of the past  
24 proposed Project, and then you did a simulation of the

[WITNESSES: Kenworthy ~ Raphael]

1 current proposed Project, is that correct?

2 A. (Raphael) Actually, the simulation, and I'm not sure, I  
3 think I have the same exhibit number, but one of the  
4 simulations from the previously proposed Project was  
5 not done by us, it was done by another firm that was  
6 previously retained by Antrim Wind Energy --

7 Q. Oh.

8 A. (Raphael) -- to do the initial visual assessment.

9 Q. Okay.

10 A. (Raphael) Saratoga Associates.

11 Q. Right. I'm just looking at what was labeled as  
12 "Exhibit 18", labeled "2 of 3" and "3 of 3"?

13 A. (Raphael) Uh-huh.

14 MR. TAYLOR: Mary, it might be helpful  
15 to reference the attachment number in the top right-hand  
16 corner, I believe.

17 MS. MALONEY: DR-2(b) and DR-2(c).

18 MR. RAPHAEL: I don't have those,  
19 actually. That same numbering assignment must have  
20 changed.

21 (Atty. Taylor showing document to Mr.  
22 Raphael.)

23 MR. IACOPINO: Thank you.

24 MR. RAPHAEL: Yes, here it is. I'm

[WITNESSES: Kenworthy ~ Raphael]

1       sorry. 2(a), yes, I've got that now.

2       **BY THE WITNESS:**

3       A.     (Raphael) So, let me -- if you were -- let me just make  
4             a correction. If you were looking at 2(b), 2(a) and  
5             2(b), the simulations in this exhibit are actually both  
6             by LandWorks. I was using a different attachment here  
7             to reference the Antrim -- the Saratoga Associates  
8             simulation.

9       BY MS. MALONEY:

10      Q.     Okay. So, you did both of those, and you did the prior  
11             Project and then you did the current Project?

12      A.     (Raphael) Yes.

13      Q.     But, on some of the simulations, you used Saratoga's  
14             prior Project?

15      A.     (Raphael) Just one, I think, in this, in the three  
16             exhibits that we submitted.

17      Q.     Okay. And, you indicated that you did some additional  
18             simulations that are part of the overall --

19      A.     (Raphael) Yes.

20      Q.     Okay. Do you recall what they are?

21      A.     (Raphael) I can't, I'd have to refer to my report as to  
22             which ones we did. But, I mean, I know a number of  
23             them, certainly. You know, we --

24      Q.     From, I mean, I see this from Bald Hill and from



[WITNESSES: Kenworthy ~ Raphael]

1 Willard Pond. Did you do some from any other location?

2 A. (Raphael) Yes, we did.

3 Q. Do you know what they are?

4 A. (Raphael) I can't list them entirely, but we did

5 simulations from locations such as Pitcher Mountain and

6 various other resources in the region.

7 Q. Is there some reason why you didn't submit them as part

8 of this testimony?

9 A. (Raphael) We were focusing on the substantive changes

10 at Willard Pond, which seemed to be one of the key

11 issues in the previous docket. And, we're not

12 intending to submit the complete visual assessment as

13 part of this particular proceeding.

14 Q. And, did you do a visual assessment of Gregg Lake?

15 A. (Raphael) Yes, we did.

16 Q. Okay. And, again, you didn't submit that, because you

17 didn't think it was part of this proceeding?

18 A. (Raphael) The visual simulation from Gregg Lake did not

19 feature and highlight the changes that you can see

20 directly from Willard Pond. And, therefore, we did not

21 submit that simulation as part of this.

22 Q. It was not -- I'm sorry, could you repeat that.

23 A. (Raphael) The reason it was not submitted as part of

24 this, from my perspective, is that we wanted to address

[WITNESSES: Kenworthy ~ Raphael]

1 the question at hand, which was the significance of the  
2 changes. And, therefore, the significance of these  
3 changes are best seen from the Willard Pond environment  
4 that was the focus and part of the concerns in the last  
5 docket. So, that's what was submitted.

6 Q. So, you believe the focus -- the only focus for the  
7 concerns in the last docket was Willard Pond?

8 A. (Raphael) No. No, of course not. No. There were many  
9 other considerations. But the substantive change here  
10 is most visible, I think, and most directly related to  
11 the Willard Pond. And, so, that's why these were  
12 submitted.

13 Q. Did you show roads and clearings on your visual  
14 simulations?

15 A. (Raphael) Yes.

16 Q. Maybe I can come up. Can you show me where those are,  
17 because I couldn't see them?

18 A. (Raphael) Well, you really -- I can't show you, because  
19 they're not visible.

20 Q. Oh.

21 A. (Raphael) They're hidden by trees. They're intervened  
22 by existing vegetation.

23 Q. So, you didn't -- okay.

24 A. (Raphael) We didn't -- we didn't have to, because

[WITNESSES: Kenworthy ~ Raphael]

1       they're not visible. So, it was not necessary to  
2       simulate them from that location.

3   Q.   Okay. I might follow up on that.

4   A.   (Raphael) Sure.

5   Q.   But I'm going to move along. So, you're also saying  
6       that the effect of grading and clearing associated with  
7       the Project is not visible?

8   A.   (Raphael) No, that's not what I'm saying. I'm saying  
9       that, in these simulations, they're not visible.

10   Q.   So, you don't think there will be a -- do you believe  
11       there will be a visual impact from the effect of  
12       grading and clearing?

13   A.   (Raphael) Not generally for the Project. The one place  
14       where there's probably, you know, most visibility is  
15       from a different vantage point, one single vantage  
16       point that we discovered. But, you know, generally, if  
17       you look at the vantage points that you're looking at  
18       from this, from the region, and that's where a  
19       line-of-sight section is helpful, that you understand  
20       that you're below the Project. So, between you and the  
21       Project and the footprint, the baseline -- the base  
22       area where the clearing and the grading occurs for the  
23       road and the turbine location, it's not visible,  
24       because there are intervening trees and vegetation, if

[WITNESSES: Kenworthy ~ Raphael]

1 not landforms, between you, where you're looking at the  
2 Project, and the actual Project site.

3 Q. Did you make any assumptions about revegetation on the  
4 crane path, when you did your study?

5 A. (Raphael) What do you mean by "assumptions"? I'm  
6 not --

7 Q. About what kind of revegetation was going to take  
8 place.

9 A. (Raphael) We understood that there was going to be  
10 revegetation. So, that was certainly, you know, part  
11 of our thinking and understanding.

12 Q. But, I mean, did you make assumptions like woody  
13 vegetation or grasses or did you have any information?

14 A. (Raphael) Well, you know, in terms of standard  
15 practice, you would use a native seed mix and an  
16 appropriate seed mix for that particular location.  
17 And, it varies from region to region, and what you're  
18 looking for in terms of germination and effect. My  
19 experience is that revegetation, particularly in New  
20 England, New Hampshire, Vermont, Maine, is actually  
21 quite rapid on its own, and usually involves the native  
22 species, which are most suitable to propagation in  
23 sunlight and open areas, and which typically will  
24 revegetate, you know, areas that have been graded or

[WITNESSES: Kenworthy ~ Raphael]

1 cleared.

2 Q. Okay. Do you know how long that would take?

3 A. (Raphael) Well, it actually happens quite quickly.

4 Having visited, for example, another project in  
5 Vermont, a year after construction revegetation was  
6 already occurring. There were already seedlings and  
7 small trees beginning to appear. So, revegetation can  
8 occur within several years, with smaller material, and  
9 be quite effective within, you know, five years to ten  
10 years, if a screening issue is of concern. But that  
11 was not an issue, from our perspective, in this  
12 particular instance, due to the reasons I explained  
13 earlier.

14 Q. Because you won't be able to see them, because they're  
15 under cover?

16 A. (Raphael) Most of this -- most of the views from the  
17 regional resources do not show you the floor of the  
18 Project site, if you will, where the grading and  
19 clearing occurs.

20 Q. Are you able to identify the details of your visual  
21 assessment that you describe on Page 3 of your  
22 testimony? Can you -- I mean, you talk about the  
23 methodology you used, and you talk about "specific  
24 definitions and clear thresholds". Can you elaborate

[WITNESSES: Kenworthy ~ Raphael]

1 on that?

2 A. (Raphael) Well, I mean, I think, in a general sense,  
3 the best way to understand or approach a methodology  
4 will be to read the report. It's quite detailed and  
5 comprehensive. So, I can't, you know, recite it  
6 readily from start to finish, except to say that we  
7 have a three- or four-step process that we employ, that  
8 begins with an inventory of the project area and the  
9 resources that we are charged, and, most typically,  
10 from wind project to wind project review, which are  
11 public resources and public vantage points that deal  
12 with scenic and recreational areas and locations. So,  
13 it begins with an inventory. Then, we go through a  
14 process which identifies a sensitivity of each of those  
15 resources. So, for example, in this Project, we looked  
16 at, I think, as many as 300 resources in the 10-mile  
17 Project radius. So, starts from a very comprehensive  
18 and large-scale view. And, then, we look at the  
19 sensitivity of those resources.

20 So, for example, one way in which you  
21 eliminate a resource from having any sensitivity is "is  
22 there visibility of the Project from that resource?"  
23 And, if there is no visibility, then automatically it  
24 is, you know, eliminated from any further evaluation

[WITNESSES: Kenworthy ~ Raphael]

1 and review.

2 Then, we go to another step, which would  
3 be, I guess, a third step, which is to understand what  
4 the visual effect of the Project will be from the  
5 resources that are remaining that do have potential  
6 visibility. And, that involves site visit and  
7 fieldwork. We, you know, we visited over 100 sites,  
8 several -- some of them several times. So, it's a  
9 very, again, extensive process, that relies on six  
10 different criteria to understand what the visual effect  
11 of the Project will be.

12 And, then, we have a second step to that  
13 process where, after understanding and evaluating  
14 visual effect, we have a conclusion, based on those six  
15 different criteria and thresholds, which I think most  
16 people can agree with, and, certainly, hopefully  
17 eliminate or greatly reduce subjectivity as to  
18 sensitivity of the individual resource. If that  
19 resource has a, you know, moderate to high potential  
20 sensitivity to visual change or visual effect, then we  
21 will do a fourth step analysis, which is "what will be  
22 the effect on the viewer?" And, so, we're trying to  
23 get at the sense of the reasonable person in this mix.  
24 In other words, if an average or reasonable person were

[WITNESSES: Kenworthy ~ Raphael]

1 to view this Project during their typical activity or  
2 experience on that site, what will that affect on that  
3 viewer be?

4 And, that combination of steps then will  
5 lead us to a conclusion as to whether, again, the  
6 potential overall visual effect on a particular  
7 resource might be moderate to high, or -- or not. And,  
8 those with a moderate to high sensitivity warrant  
9 further study and review. And, then, the entire  
10 methodology is synthesized and summarized in the  
11 conclusion of the visual assessment.

12 Q. Okay. Thank you for that explanation.

13 MS. LINOWES: Excuse me? I'm sorry. I  
14 apologize for interrupting. I just -- there was a  
15 statement that a report has been made available. I don't  
16 believe there's a report in the record, if that could be  
17 clarified, because I don't see a report, other than your  
18 testimony. Thank you.

19 MR. RAPHAEL: Thank you for that  
20 question. I believe counsel will be discussing the  
21 submission of that report. It has not been submitting as  
22 yet.

23 MS. LINOWES: Okay. So, when you stated  
24 "the best thing to do is to read the report to understand



[WITNESSES: Kenworthy ~ Raphael]

1       it", that's not -- actually not possible at this time for  
2       any of the parties that are in this room right now, is  
3       that correct?

4                   MR. RAPHAEL: No, and that's why I tried  
5       to explain, in short form, what that methodology is. I  
6       mean, but --

7                   MS. LINOWES: Okay. Thank you.

8                   MR. RAPHAEL: Surely.

9                   MS. MALONEY: Might end up being a long  
10      form, because, without seeing it, we might have to ask a  
11      lot of questions about it.

12   BY MS. MALONEY:

13   Q.   So, you talk about your six criteria or six specific  
14       categories. I mean, could you tell me what they are?

15   A.   (Raphael) I don't have them right in front of me, and I  
16       don't memorize them. But they have to do with a number  
17       of different factors. You know, visibility is one,  
18       visual dominance is another. I would really, let's  
19       visual dominance or --

20                   (Court reporter interruption.)

21   **CONTINUED BY THE WITNESS:**

22   A.   (Raphael) Visual prominence or dominance, number of  
23       turbines visible. There are six criteria. I don't  
24       know if I -- I don't believe I have covered them all.

[WITNESSES: Kenworthy ~ Raphael]

1 But they have to do with the visual qualities of the  
2 project.

3 BY MS. MALONEY:

4 Q. And, you remember like three out of the six?

5 A. (Raphael) Yes. I mean, I have so many facts and  
6 figures and projects in my mind, I don't -- I mean, I  
7 don't have them on the top of my head.

8 Q. On Page, I guess, 3, I guess still at 3, you're  
9 talking -- and you just mentioned this "reasonable  
10 person" comment. Where does that -- how is the effect  
11 on that person determined, this person?

12 A. (Raphael) It also addresses several criteria, in terms  
13 of what activity is the individual engaged in, what is  
14 the duration of view that the individual would  
15 experience at that resource. Those are two. There are  
16 two others, which just aren't popping into my mind  
17 right now, forgive me.

18 Q. So, when you went through this analysis for, and it  
19 looks like you focused mainly on Willard Pond, I mean  
20 what activity was this reasonable person engaged in at?  
21 You went through that analysis. So could you explain  
22 who that person was and what activity they were  
23 involved in?

24 A. (Raphael) I'm sorry. Please rephrase, please state

[WITNESSES: Kenworthy ~ Raphael]

1           that question again. Forgive me.

2   Q.   Well, you said that, when I asked for what this  
3       "reasonable person", what is that "reasonable person"?  
4       You said it was based upon what activity that person  
5       was involved in and the time period this person would  
6       be engaged in that activity. So, specifically, who's  
7       that person that you addressed in this?

8   A.   (Raphael) It is the typical person that might come to  
9       that resource and experience that resource.

10   Q.   But who? I mean, give me an idea of what that -- what  
11       person was -- what activity was that person engaged in  
12       specifically?

13   A.   (Raphael) Where?

14   Q.   At Willard Pond?

15   A.   (Raphael) At Willard Pond? Well, typically, at Willard  
16       Pond, the observations were, there were people,  
17       individuals fishing, and individuals out paddling in  
18       kayaks and canoes, are typical users and typical uses  
19       of that particular pond.

20   Q.   And, what would be the length of time that they would  
21       be engaged in that activity?

22   A.   (Raphael) It varies. We spent a couple of days there.  
23       I actually was there for an entire afternoon, and  
24       observed that the general duration was anywhere from an

[WITNESSES: Kenworthy ~ Raphael]

1 hour to two hours. Although, it's important to note  
2 that, in the case of paddlers, when I was there one  
3 instance, the paddling group went around the pond, and  
4 then sort of settled in under Bald Mountain area. So,  
5 up against the shoreline adjacent to the Bald Mountain  
6 topography. So, sometimes they stop in different  
7 locations, sometimes they float, sometimes they come  
8 and go. It certainly varies.

9 But, generally speaking, it's a very  
10 small pond. So, you know, if you want to  
11 circumnavigate the pond, it doesn't take you terribly  
12 long to do that, depending on how fast you paddle. So,  
13 you know, the duration of view for paddlers -- duration  
14 of experience for paddlers is not overly extensive.

15 Q. Okay. I'm wondering if you considered the actual  
16 resource itself and the nature of the resource? Was  
17 that part of your study?

18 A. (Raphael) Certainly.

19 Q. And, the impact of this particular resource was a  
20 sanctuary, correct?

21 A. (Raphael) Correct. It's referred to as a "sanctuary".

22 Q. And, did you consider the impact of these turbines on  
23 that sanctuary?

24 A. (Raphael) Yes.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. And how so?

2 A. (Raphael) Well, again, through our methodology and  
3 analysis, through our field visits, our understanding  
4 of the prominence or I'll say the awareness of the  
5 sanctuary beyond the local region, which is limited, if  
6 at all. It's not listed on any website, it's not --  
7 other than the Audubon's, of course. But it's not  
8 considered a -- we look at things as whether it's on a  
9 tourism website or listed by, you know, New Hampshire  
10 on any of their websites or regional websites. We want  
11 to have an understanding of how precious and how  
12 important this resource is in a broader view of all the  
13 resources in the region.

14 And, our conclusion was this resource,  
15 while it's a nice place, it doesn't rise to the level,  
16 from a scenic perspective, of being an outstanding or  
17 unique resource, which is certainly an important gauge  
18 that we would consider.

19 My sense of the sanctuary is that it is,  
20 and Audubon, is that Audubon is dedicated towards  
21 wildlife and education. We didn't see a lot of  
22 connection in either Audubon language or the actual  
23 experience of the pond with high scenic quality or high  
24 scenic values.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. Well, I mean, a sanctuary, so, you did review the SEC  
2 decision on this, correct?

3 A. (Raphael) Yes.

4 Q. Okay. If you -- I'm just getting into some of the  
5 terms you used in your testimony. You talked about the  
6 "four criteria" that you used on Page 3. Could you  
7 identify what those are?

8 A. (Raphael) Well, I think I referred to them. It had to  
9 do with, again, how close is the Project? How many  
10 turbines are visible? Are the turbines dominant or  
11 prominent? We also use a, forgive me, because I'm now  
12 starting to remember, another key issue or tool that we  
13 use, which is a unique tool that we've kind of  
14 pioneered, I believe, the use of, is angle of view.  
15 It's very important to understand, you know, that any  
16 viewer in an environment has a 360-degree view. And,  
17 we do believe it's important to understand what  
18 percentage of that view is taken up by the project. Is  
19 it a large percentage of the view? A small percentage  
20 of the view? So, that will weigh in on visual effect.

21 Q. Is angle of view, isn't that specific to a particular  
22 location?

23 A. (Raphael) It is specific to a particular location. So,  
24 you would have a particular vantage point. Just like

[WITNESSES: Kenworthy ~ Raphael]

1 in visual simulations, you base those on particular  
2 locations.

3 Q. So, with respect to the percentages that you've listed  
4 in your testimony, I mean, that's based upon where you  
5 were looking at that --

6 A. (Raphael) Correct.

7 Q. -- moment? If you got closer to the turbines, wouldn't  
8 the angle of view increase, percentage increase?

9 A. (Raphael) Potentially. Just as though, and it will  
10 decrease if you move away from it. And, there are  
11 places where you won't see it at all at Willard Pond as  
12 well. So, that all goes into the mix of our  
13 evaluation.

14 Q. There are places on Willard Pond where you won't see  
15 any of the turbines?

16 A. (Raphael) Correct.

17 Q. Okay. You use the term "dramatic" in your testimony,  
18 that's just an adjective or adverb, is that correct?

19 MR. NEEDLEMAN: Where --

20 BY MS. MALONEY:

21 Q. That's not part of your criteria?

22 A. (Raphael) Could you put me -- could you place that for  
23 me on a page, so I can put it in context?

24 Q. I think on Page 4, Line 5, the "context and nature of

[WITNESSES: Kenworthy ~ Raphael]

1 view is more dramatic, in sensitive areas".

2 A. (Raphael) Yes.

3 Q. Okay. That's just -- that's not based on any of your  
4 criteria?

5 A. (Raphael) Well, it evolves out of the criteria,  
6 certainly. You use the tools in the methodology to  
7 assess whether it's "minimal", "substantial",  
8 "extensive", "dramatic". I mean, those are terms we  
9 might use in describing changes or, you know, effects.

10 Q. Okay. But there's no scientific basis for that term,  
11 correct?

12 A. (Raphael) No. Not individually.

13 Q. I guess, again, on Page 4, at the bottom of your  
14 testimony there, you talk about "the 5 turbines that  
15 are visible from this location are at distances of 1.62  
16 miles or greater than 3/10ths of a mile further than  
17 the 10 turbine", the Number 10 Turbine, is that what  
18 you're saying?

19 A. (Raphael) Yes.

20 Q. So, would proximity of the turbines also be important  
21 to consider?

22 A. (Raphael) Yes. I did mentioned that, "proximity".  
23 Distance to turbine is another factor.

24 Q. Do you consider 1.62 miles to be a large distance?



[WITNESSES: Kenworthy ~ Raphael]

1 A. (Raphael) Again, it depends on the context and the  
2 particular setting.

3 Q. And, how so?

4 A. (Raphael) Well, other elements in the landscape and  
5 elements which can even block the view would render  
6 that distance negligible or immaterial. If you're  
7 looking directly at the turbine, certainly, you know,  
8 1.62 miles is close. But it, again, also bears on the  
9 orientation and how the resource is used. If the  
10 primary experience of the resource has the turbines to  
11 your back, then 1.62 miles is not an issue. If the  
12 predominance of the activity is addressed or  
13 experienced in a manner that the turbines are not in  
14 view, then proximity matters less, obviously, if at  
15 all.

16 Q. But the activity at this location, we're not talking  
17 about the turbines being at your back, correct?

18 A. (Raphael) No. Not at Willard Pond.

19 Q. Can you provide any other examples of wind projects  
20 where the visibility from sensitivity -- from sensitive  
21 resources was similar?

22 A. (Raphael) Let me think for a few minutes. I mean,  
23 similar in what sense? You know, there are a number of  
24 different factors which would weigh into whether

[WITNESSES: Kenworthy ~ Raphael]

1 something was similar or not. Are you talking just in  
2 terms of distance?

3 Q. Where the visibility is --

4 A. (Raphael) Sure. I think, for example, Lempster has  
5 ponds in Pillsbury State Park, where distances are not  
6 totally different or similar for some of the ponds. A  
7 project that I was involved in in Vermont had --

8 Q. But, excuse me, Lempster, we're not talking about  
9 visibility, we're just talking about the sensitive  
10 resources.

11 A. (Raphael) You asked about distance or something  
12 similar.

13 Q. No, I asked about the sensitive resources. Can you  
14 give me examples of other wind projects where there was  
15 a visual impact from sensitive resources, for example,  
16 a sanctuary like this, a wildlife sanctuary?

17 A. (Raphael) Well, there are -- a number of wind projects  
18 will have a number of resources where the project is  
19 visible from sensitive resources.

20 Q. Can you give me an example of one?

21 A. (Raphael) Well, in Vermont, a project that we were  
22 involved in was Sheffield Wind. And, there are  
23 turbines directly in view of a popular state park and  
24 beach, down the lake 5.5 miles distant.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. Five miles -- five point -- five and a half miles away?

2 MR. RICHARDSON: I'd like to have just a  
3 comment or an objection at this point. Where the issues  
4 are jurisdiction, and changes between this facility from  
5 the one previously proposed, I mean, we're getting into a  
6 comparison of the underlying Project to other facilities  
7 in other locations. And, I just worry that we're not  
8 going to finish at the rate we're going.

9 MR. IACOPINO: We may not finish. But  
10 everybody knew that before we came here.

11 MR. RICHARDSON: But I think we ought to  
12 focus to the issues likely to lead to discoverable  
13 evidence.

14 MR. IACOPINO: And, I think  
15 understanding the methodology used by this witness is an  
16 appropriate type of question to understand those  
17 differences. And, that's how I understand what the  
18 questions are.

19 So, go ahead.

20 MS. MALONEY: I'm wondering where we  
21 left off.

22 MR. IACOPINO: Similar -- similar  
23 projects.

24 BY MS. MALONEY:

[WITNESSES: Kenworthy ~ Raphael]

1 Q. You said "Vermont", but you said "Sheffield" had a  
2 sanctuary five point -- five and a half miles?

3 A. (Raphael) A state park and beach.

4 Q. A state park and beach.

5 A. (Raphael) Yes.

6 Q. It's not quite the same, would you agree, a wildlife  
7 sanctuary?

8 A. (Raphael) Had a boat launch. People go there to fish,  
9 people go there to paddle.

10 Q. Do they have motorized boats allowed there?

11 A. (Raphael) Yes. There are motorized boats there, yes.

12 Q. On Page 5, you talk "From Gregg Lake at a point of high  
13 visibility, the field of view will be reduced from  
14 17.28 down to 16.14". That's your angle of view, is  
15 that what you're talking about here?

16 A. (Raphael) Yes, if you're looking towards the Project.

17 Q. And, how do you determine the highest -- how do you  
18 determine the highest visibility point?

19 A. (Raphael) We typically will do a sampling, but we'll  
20 typically -- there are two things we typically do. One  
21 is, we will go to the location where either folks who  
22 are recreating will start their experience, like a boat  
23 launch is a typical place that we would want to survey,  
24 such as at Willard Pond. Or, we also typically will

[WITNESSES: Kenworthy ~ Raphael]

1 look at that angle of view from the location at which  
2 the Project is most visible, where most turbines are  
3 visible and the Project is most visible.

4 Q. So, you look at different locations, and the section  
5 that is the most visible, that's the point you used  
6 here?

7 A. (Raphael) We would -- typically, we often do use --  
8 base it on that particular location, yes.

9 Q. And, did you do that in this instance?

10 A. (Raphael) I believe so. I think that's -- it's taken  
11 from the northeast portion of the pond where the  
12 simulations are shown from.

13 Q. Do you believe that the 3-foot reduction in turbine  
14 height from Turbine 7 -- 1 through 7 are going to have  
15 any meaningful visual change on the Project?

16 A. (Raphael) Well, to use a term you called me on, no, it  
17 will not be dramatic.

18 Q. Okay. And, you indicate, on Page 5, that from "Willard  
19 Pond, there will be significant area of the lake that  
20 use to have 8 or 9 turbines, that will now have 6 or  
21 7"?

22 A. (Raphael) Correct.

23 Q. But, clearly, there will be 6 or 7 turbines visible  
24 from vantage points on Willard Pond?

[WITNESSES: Kenworthy ~ Raphael]

1 A. (Raphael) Yes.

2 Q. And, similar with Gregg Lake, correct?

3 A. (Raphael) Yes.

4 Q. So, I guess I just want to go back and clarify or just  
5 ask you this question outright. Would you agree that  
6 the DePierrefeu Sanctuary is a sensitive resource?

7 A. (Raphael) I mean, it appeared and it emerged as a  
8 sensitive resource because it was part of an Audubon  
9 property.

10 Q. But you didn't feel it was -- that had a visual --

11 A. (Raphael) Well, I mean, I hiked, for example, --

12 Q. -- unusual visual impact? I mean, I don't want to put  
13 words in your mouth. I just --

14 A. (Raphael) I'm sorry. Forgive me.

15 MR. IACOPINO: Please finish your  
16 question.

17 MR. RAPHAEL: Yes, please do.

18 MR. IACOPINO: And, then, let him answer  
19 please.

20 BY MS. MALONEY:

21 Q. No, I'm just coming back to your earlier testimony, if  
22 you could repeat that again, about what determination  
23 you made about that.

24 A. (Raphael) About Willard Pond specifically or the

[WITNESSES: Kenworthy ~ Raphael]

1 sanctuary as a whole?

2 Q. The sanctuary, yes.

3 A. (Raphael) Well, I -- I was quite struck by the fact  
4 that, in some locations, the "sanctuary" is a misnomer.  
5 I hiked up to Goodhue Hill, for example, and found  
6 evidence of logging and areas that were not  
7 particularly well cared for, in terms of the logging  
8 impacts and the aftereffects, where there was erosion  
9 and runoff. And, the hike up to Goodhue Hill in  
10 particular left me wondering whether this was truly a  
11 sanctuary. I do believe the "sanctuary" determination  
12 is probably more oriented toward the wildlife component  
13 than scenery. And, in fact, there's really no  
14 discussion of scenic values related to Willard Pond or  
15 that sanctuary. By, if my recollection is correct, you  
16 know, in the website in Audubon, and in any, you know,  
17 documents, there is one publication I think that does  
18 refer to Willard Pond as a paddling spot, certainly.  
19 But I did not come away from that area, particularly  
20 Goodhue Hill and Willard Pond, with a sense that it was  
21 an extraordinary location or rose to the level of many  
22 other more remote or sensitive locations.

23 The hike up Bald Hill is a very  
24 enjoyable hike, and has some interesting woodland and

[WITNESSES: Kenworthy ~ Raphael]

1 geology to it. So, yes, there is some interest and  
2 enjoyment for recreation there. The scenic quality and  
3 scenic values did not rise to as high a level as other  
4 locations, from my experience.

5 Q. So, from a sightseeing point of view, you're saying  
6 that that's what you're addressing here?

7 A. (Raphael) In part.

8 Q. And, what's the other part?

9 A. (Raphael) Well, there are a number of other factors,  
10 which, again, as I described in the methodology, are  
11 weighed in to how we evaluate the visual effect on that  
12 site.

13 Q. Did you look at the impact of turbines that large on  
14 the actual size of the mountains and ridges themselves?

15 A. (Raphael) The scale relationship --

16 Q. Exactly.

17 A. -- is what you're referring to? Yes.

18 Q. And, would you agree that the size of the proposed  
19 turbines are about 70 percent of the size of the ridge?

20 A. (Raphael) I don't believe that's the figure we came up  
21 with or I'm aware of. What I did look at is we looked  
22 at different -- we did some comparisons and found that  
23 the turbine relationship to the landform itself, in  
24 terms of scale relationship, didn't really rise to a



[WITNESSES: Kenworthy ~ Raphael]

1 level of being unreasonable or something that was  
2 unusual. You do not see Willard Mountain or Tuttle  
3 Hill as an individual landform. They're part of an  
4 upland area and a ridge-land area. And, there's maybe  
5 one point perhaps on Gregg Lake where you could make a  
6 comparison of landform and scale. But, generally,  
7 that's a more effective tool or an important  
8 consideration if you're placing a project, like a wind  
9 project, on a singular isolated landform that may or  
10 may not look, you know, scalewise, in a certain  
11 fashion. You know, it depends on the landform.

12 But this area, neither of those ridges  
13 are distinct, in terms of being able to see them in  
14 total. I think that's one of the reasons this Project  
15 is such a good site. Because there are so many  
16 landforms and elevations and ridges in this area that  
17 it limits visibility overall dramatically, compared to  
18 other projects that I've been involved with. And,  
19 there's really not many places where that scale issue  
20 emerges as a critical concern.

21 Q. Okay. You are aware that these are the largest  
22 turbines that are being proposed in this state?

23 A. (Raphael) Size is not really an issue in that regard.  
24 It's really where you're seeing it from, where you're

[WITNESSES: Kenworthy ~ Raphael]

1 taking the view from. So, a 500-foot turbine seen, you  
2 know, three miles away may not look a whole lot  
3 different than a 450-foot one.

4 Q. You said you reviewed Ms. Vissering's report?

5 A. (Raphael) Yes.

6 Q. Did you agree with her conclusions?

7 A. (Raphael) No.

8 Q. You did not. So, the Project as proposed before you  
9 did not agree that it would have an unreasonable impact  
10 to the resource?

11 A. (Raphael) You know, I -- I want to think about how I  
12 want to answer that, because we did not conduct a  
13 visual assessment for the 10-turbine Project. So, I  
14 think it would be unfair for me to or improper for me  
15 to comment on what conclusion I might have had from  
16 that. We look at each project individually, in terms  
17 of the components and the characteristics of that  
18 project as it is being proposed.

19 However, I will offer the fact that,  
20 with all due respect to Ms. Vissering, I felt the  
21 methodology that she used and the conclusions she  
22 reached were based on an incomplete analysis, and a  
23 methodology that, you queried me on my methodology, and  
24 I did my best to explain it, I don't understand what

[WITNESSES: Kenworthy ~ Raphael]

1 Jean's methodology was on that Project. I feel as  
2 though that visual assessment was not comprehensive,  
3 was contradictory in places, and didn't provide the  
4 tools necessarily to properly evaluate the Project.

5 Q. Did you -- you said you reviewed the SEC decision in  
6 this case?

7 A. (Raphael) Yes.

8 Q. Did you agree with their conclusions on unreasonable  
9 visual impact?

10 A. (Raphael) No. Because, again, I don't feel as though  
11 the SEC had the benefit of a comprehensive methodology  
12 to review and to make the right decision with perhaps.  
13 They made the decision based on the information that  
14 they had. I respect that decision. I would think they  
15 might come to a different decision had they had a more  
16 comprehensive and detailed analysis and methodology to  
17 work with.

18 Q. How about the analysis and methodology used by AWE's  
19 prior consultant, visual impact consultant's?

20 A. (Raphael) I would make the same comments.

21 Q. Which are?

22 A. (Raphael) That I felt it lacked a consistent  
23 methodology and was not as complete a analysis as it  
24 could have been or should have been.

[WITNESSES: Kenworthy ~ Raphael]

1 MS. MALONEY: I don't have anything  
2 further.

3 MR. IACOPINO: Mr. Richardson?

4 MR. RICHARDSON: I have no questions.

5 MR. IACOPINO: Lisa?

6 MS. LINOWES: Thank you. Okay. I just  
7 have --

8 MR. IACOPINO: Oh. Actually, let me  
9 just stop you for one moment, Ms. Linowes.

10 MS. LINOWES: Sure.

11 MR. IACOPINO: I just want to make sure  
12 that I have a good list of what you've requested,  
13 Ms. Maloney. I have five things listed: The diameter of  
14 the turbines at the base; the new Shadow Flicker Analysis,  
15 which I understand there may be an objection to; the  
16 actual Visual -- Visual Impact Assessment, which I  
17 understand there may be an objection to; the request for  
18 the warranty; and the --

19 MR. NEEDLEMAN: Screening.

20 MR. IACOPINO: -- draft screening  
21 landscape plan for the substation. Does that comport with  
22 your recollection of what you requested?

23 MS. MALONEY: Yeah. Yes.

24 MR. IACOPINO: All right. So, for the

[WITNESSES: Kenworthy ~ Raphael]

1 other parties, those things have been requested. You  
2 don't need to go over that turf again. Ms. Linowes.

3 MS. LINOWES: Thank you. Just before I  
4 get started, there were a couple of documents that were  
5 requested by Counsel for the Public that the attorney for  
6 Antrim Wind had stated he would get together with her. I  
7 want to make sure that all of the Parties have an  
8 opportunity to have access to those documents, and it's  
9 not just between Antrim Wind and Counsel for the Public.

10 MR. IACOPINO: Well, to the extent that  
11 they're agreed to be provided, they will be provided to  
12 all Parties. I know that a number of them there appears  
13 to be some kind of objection, which there's going to be  
14 some discussion about. In the absence of a request for  
15 some form of confidentiality, I assume that those -- that  
16 they will be distributed to all of the Parties to the  
17 proceeding, unless there's a request to do it some  
18 different way.

19 MS. LINOWES: Okay. Thank you.

20 MR. IACOPINO: Which usually would be a  
21 confidentiality-based request. So, --

22 MS. LINOWES: Thanks. Okay. I just  
23 wanted to get some of the technical questions out of the  
24 way quickly.

[WITNESSES: Kenworthy ~ Raphael]

1 BY MS. LINOWES:

2 Q. Mr. Kenworthy, the Turbines 1 through 8, those are  
3 going to be 488 feet, in total, from base to tip?

4 A. (Kenworthy) To the tip, yes. I think it's 488 and  
5 change.

6 Q. Okay. So, between 48 -- 488 and 489, is that correct?

7 A. (Kenworthy) Yes. I believe that's correct.

8 Q. Okay. And, Turbine 9 will be 447 feet?

9 A. (Kenworthy) Yes, more or -- plus or minus a couple  
10 inches. I think it's just under 447 feet.

11 Q. Okay. And, the rotor diameter on all of the Turbines 1  
12 through 9 will be 113 meters?

13 A. (Kenworthy) That's correct.

14 Q. Okay. And, the blade length on 1 through 8, I don't  
15 think that was in your testimony, or Turbine 9. Do you  
16 know what the blade length is?

17 A. (Kenworthy) The blade lengths are the same, because  
18 they're all the same rotors.

19 Q. Okay.

20 A. (Kenworthy) So, and I believe I can check this, too,  
21 but I believe they're 55 meters.

22 Q. Okay. If you could please, --

23 A. (Kenworthy) I will.

24 Q. -- that would be great. Thank you. And, the tower

[WITNESSES: Kenworthy ~ Raphael]

1 height, I believe that you had stated in your testimony  
2 that the tower height for Turbine 9 was 79.5 meters.  
3 What is it for Turbines 1 through 8?

4 A. (Kenworthy) 92.5.

5 Q. Okay. Meters. Okay. And, you said earlier today that  
6 the overall mass of the turbines will be smaller. Are  
7 you -- I'm assuming you're talking about the rotor  
8 diameter. Are there other dimensions that you're  
9 talking about or is there something else there?

10 A. (Kenworthy) Yes. Rotor diameter, the actual nacelle is  
11 smaller on the Siemens turbines. And, the towers  
12 themselves are smaller towers for the Siemens turbines.

13 Q. Is it significantly smaller, the nacelle?

14 A. (Kenworthy) I believe it's about, and, again subject to  
15 check, and I can get you this information, --

16 Q. Okay.

17 A. (Kenworthy) -- but I believe it's about 25 percent at  
18 least shorter.

19 Q. Okay. That will be wonderful, if you can get that.

20 A. (Kenworthy) Yup. We have that.

21 Q. Also, as you saw likely in my testimony, I had -- I  
22 went out to the FAA site and compared the locations of  
23 that long -- for the previous ten turbines, and now  
24 nine turbines are identical. Can you confirm that

[WITNESSES: Kenworthy ~ Raphael]

1           today that the locations have not moved?

2   A.   (Kenworthy) That's correct. Turbines 1 through 9 are  
3       in the same locations.

4   Q.   Okay. And, with regard to the 100 acres, I had  
5       included in my testimony, I could show you on my  
6       Surface here, the two maps that were part of the prior  
7       docket. One was a map that showed the first proposal  
8       for mitigation along the ridge, two areas that did not  
9       encompass some turbines. And, then, you had come back,  
10      as part of the request for rehearing, and indicated  
11      there was another 100 acres, and that was on another  
12      map. And, I can show you the maps, if you would like  
13      to see them. Or, I don't know if you have a memory of  
14      what they look like?

15   A.   (Kenworthy) I'm sorry. I'm not sure what the question  
16       is.

17   Q.   I haven't asked the question yet.

18   A.   (Kenworthy) Oh.

19   Q.   I'm trying to understand if you know those maps? Know  
20       what maps --

21   A.   (Kenworthy) I don't know which maps.

22                   MS. LINOWES: Okay. Could I show him?

23                   MR. IACOPINO: Absolutely. Sure. And,  
24   Lisa, this is from your testimony?



[WITNESSES: Kenworthy ~ Raphael]

1 MS. LINOWES: That's correct. At  
2 Attachment G, I believe.

3 MR. IACOPINO: Okay.

4 (Ms. Linowes showing her Surface tablet  
5 to Mr. Kenworthy.)

6 (Court reporter interruption.)

7 MR. IACOPINO: We need to do this in a  
8 way he can take it down. You know what, Mr. Raphael, if  
9 you could spin that microphone around, turn it on, spin it  
10 around.

11 And, Lisa, if you want to sit right  
12 there while you show him that, and speak into the  
13 microphone, and please try not to talk over each other.

14 BY MS. LINOWES:

15 Q. There's that map, and this was the map that was -- you  
16 had presented as part of the rehearing request, where  
17 the white -- this white area was the extra 100 acres.

18 A. (Kenworthy) Again, I'm sorry, I'm not sure if there's a  
19 specific question you're asking me.

20 Q. I'm trying to first -- well, what I'm asking is, are  
21 these the -- the question is, does this represent the  
22 same mitigation land that you're talking about today or  
23 has it changed?

24 A. (Kenworthy) The 100 acres that you're referring to in

[WITNESSES: Kenworthy ~ Raphael]

1       that map is the 100 acres that we're referring to on  
2       the ridgeline that is additional mitigation.

3   Q.   Okay. And, then, the other two blocks, which are these  
4       green blocks here [indicating], and this was the  
5       original one, but expanded to take Turbine -- include  
6       Turbines 9 and 10 back way back when, that are these  
7       now still in place as well?

8   A.   (Kenworthy) Perhaps it would just be easier for me to  
9       explain --

10   Q.   That would --

11   A.   (Kenworthy) -- the kind of evolution of the  
12       conservation lands, because you're flipping back and  
13       forth between maps, and it's hard to follow. But  
14       everything that is on your first map, okay, in green,  
15       is approximately 685 acres that was contained in the  
16       original Application in January of 2012 as conserved  
17       land.

18                   MR. NEEDLEMAN: And, just to be clear,  
19       you're referring to Appendix B of Ms. Linowes' testimony?

20                   MR. KENWORTHY: Appendix B, yes.

21                   MS. LINOWES: That's correct.

22                   MR. KENWORTHY: And, then, it says  
23       "Attachment JK-4". Maybe that's not related to that.

24                   MS. LINOWES: That's from the prior --

1 **CONTINUED BY THE WITNESS:**

2 A. (Kenworthy) And, then, on the next map, this includes a  
3 number of additions. So, I'm pointing to the parcel on  
4 top of Willard Mountain. We included that land in  
5 December of 2012, --

6 BY MS. LINOWES:

7 Q. Uh-huh.

8 A. (Kenworthy) -- as an additional 123 acres. Bringing  
9 the total up to about 808 acres of conservation land.

10 Q. If I may ask, that was after the Committee had had its  
11 deliberations or prior to the Committee having its  
12 deliberations, do you recall?

13 A. (Kenworthy) That -- excuse me. That 123 acres was  
14 prior to the Committee deliberating on the Project.  
15 So, there was 808 acres.

16 Q. But the record had been closed at that point? Or  
17 not -- I'm sorry. The public hearing portion of the  
18 proceedings had been closed, is that correct?

19 A. (Kenworthy) Yes. There were no further hearings after  
20 we had introduced that 123 acres.

21 Q. Okay.

22 A. (Kenworthy) And, then, the 100 acres that comprises all  
23 of the rest of the ridgeline, and connects all of the  
24 conservation lands together, was proposed as additional

[WITNESSES: Kenworthy ~ Raphael]

1 mitigation after the SEC had issued its denial.

2 Q. Okay. Great. Thank you.

3 A. (Kenworthy) You're welcome.

4 Q. Okay. Then, in your testimony, and perhaps this was a  
5 typo, back at the time when that first 100 acres --  
6 when you raised that 100 acres that we just talked  
7 about, that was going to encompass Turbines 3, 4, 5,  
8 and 6. And, your testimony today, or from March 30th,  
9 says it will be "Turbines 5, 6, 7, 8". Is that a typo  
10 or are you just talking about the areas in a different  
11 way?

12 A. (Kenworthy) Yes. You know, I actually noticed that  
13 myself from the previous docket. And, I believe that  
14 my current testimony is correct. That the turbines  
15 that are within that 100 acres are Turbines 5, 6, 7,  
16 and 8.

17 Q. The turbines, if you recall what that map looked like,  
18 where Turbine 9 and 10 were the bottom part of that  
19 page, is that correct, your memory of what it was like?

20 A. (Kenworthy) Turbine 10 was on top of Willard Mountain  
21 and the closest to Willard Pond.

22 Q. Okay.

23 A. (Kenworthy) And, then, the turbines go down in number  
24 from there as you head east and north.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. Okay. So, that -- actually, that would, I believe,  
2 mean "3, 4, 5, and 6" were the turbines that are in the  
3 white area. Do you want to look at the map again?

4 A. (Kenworthy) Sure.

5 MR. TAYLOR: You know what, I'll give  
6 him my copy.

7 MS. LINOWES: Okay. Thank you.

8 MR. IACOPINO: Thank you, Mr. Taylor.

9 (Atty. Taylor handing document to Mr.  
10 Kenworthy.)

11 **BY THE WITNESS:**

12 A. (Kenworthy) This is a difficult map to read. It's  
13 certainly not Turbine 3. So, Turbines 1, 2, and 3 are  
14 all in the originally conserved land. I must have a  
15 better map than this. All right. So, this is Turbine  
16 10 --

17 (Ms. Linowes showing Surface tablet to  
18 Mr. Kenworthy.)

19 **BY THE WITNESS:**

20 A. (Kenworthy) Oh, yes.

21 BY MS. LINOWES:

22 Q. Three, four, five, and six.

23 A. (Kenworthy) I'm sorry. I think you're correct. One,  
24 two, that's three, that's four, that's five, that's

[WITNESSES: Kenworthy ~ Raphael]

1 six. Yes. I apologize, you're correct.

2 Q. Okay. And, would it be possible, since that's not part  
3 of the record other than my testimony, if you could  
4 submit or make available an official document of that  
5 map?

6 A. (Kenworthy) To -- are you making a request of us --

7 Q. A request, correct.

8 A. -- to put it in the record?

9 Q. At least make it part of the -- available to the  
10 parties so they could make it part of the record. I  
11 pulled something from a prior docket. And, you're  
12 confirming today that it's accurate. I just -- it  
13 would be better if it came from you.

14 MR. NEEDLEMAN: I'm not sure what you're  
15 asking for. Is it a corrected map?

16 MS. LINOWES: Not a corrected map.  
17 Well, his testimony should be corrected, I think, but not  
18 a corrected map, just to make that map an official --

19 MR. RICHARDSON: He's just agreed to Ms.  
20 Linowes's map as being accurate. So, I think it's already  
21 in the record.

22 MR. IACOPINO: Yes. You've actually put  
23 it in, because you've attached to your testimony.

24 MS. LINOWES: Okay.

[WITNESSES: Kenworthy ~ Raphael]

1 MR. IACOPINO: Well, actually, none of  
2 this is in the record, but it's available to the Parties.  
3 And, if somebody wishes to, including yourself, wish to  
4 make Attachment G to your testimony an exhibit at an  
5 eventual hearing, you would have the ability to try to do  
6 that, and, obviously, it's subject to the agreement of the  
7 Chair.

8 MS. LINOWES: Thank you. And, I think  
9 my concern is, his testimony states that it's "Turbines 5,  
10 6, 7, 8". The document, that maps, appears to be Turbines  
11 3, 4, 5, and 6 are the part of the 100 acres. But we got  
12 confirmation today that that is the correct map, but it's  
13 not coming from -- and, unless it comes from him, I'm not  
14 sure if it's official. Okay.

15 MR. IACOPINO: You will have  
16 transcript --

17 MS. LINOWES: Okay.

18 MR. IACOPINO: -- where he acknowledged  
19 that you were correct in your assessment of that map.

20 MS. LINOWES: Okay.

21 MR. IACOPINO: I don't know if that's  
22 accurate or not, but that's what he clearly just said.

23 MS. LINOWES: Okay.

24 MR. IACOPINO: So, you know, you'll have

[WITNESSES: Kenworthy ~ Raphael]

1       that, and you'll have the ability, assuming that, if there  
2       is an error, he doesn't correct his testimony with the  
3       Committee, you will have the ability to put that part of  
4       the questioning or to ask him more questions about it at  
5       the time of the -- at the time of a hearing.

6                       MS. LINOWES: Okay. All right. Thanks.

7 BY MS. LINOWES:

8 Q.   And, Mr. Kenworthy, what is the sound power level  
9       expected on the Siemens turbines? I do not believe  
10      that was part of your testimony.

11 A.   (Kenworthy) No, it was not part of my testimony. And,  
12      again, subject to check, I believe that the Siemens  
13      sound power levels for the Antrim site are 106 dBA.

14 Q.   Plus or minus?

15 A.   (Kenworthy) Well, they have an uncertainty value of  
16      1.5.

17 Q.   Okay. Thank you. Okay. Now, I wanted to talk to you  
18      a little bit about the differences between the prior  
19      Project and this Project. And, you said that there is  
20      going to be a substation associated with the Project,  
21      is that correct?

22 A.   (Kenworthy) Yes.

23 Q.   Is it your -- is it still the expectation that the  
24      substation be located on property that is subdivided



[WITNESSES: Kenworthy ~ Raphael]

1 and on its own property? Is that still a requirement?

2 A. (Kenworthy) Yes, it is.

3 Q. Have you already undertaken the subdivision process  
4 with the Town of Antrim?

5 A. (Kenworthy) Yes, we have.

6 Q. So, that property has been subdivided out?

7 A. (Kenworthy) It has, yes.

8 Q. Okay. How many met towers are on the Project right  
9 now?

10 A. (Kenworthy) As of today?

11 Q. Uh-huh.

12 A. (Kenworthy) None.

13 Q. Okay. So, you've taken down the one met tower that was  
14 up there?

15 A. (Kenworthy) That's correct.

16 Q. Is the LIDAR system still out there?

17 A. (Kenworthy) No, it is not.

18 Q. Okay. So, when was the last time you were collecting  
19 wind data for the Project site?

20 A. (Kenworthy) I would have to check that. I believe that  
21 the met tower was taken down in the Fall of 2013. But  
22 I would have to check that.

23 Q. And the LIDAR?

24 A. (Kenworthy) I believe the LIDAR was removed in the

[WITNESSES: Kenworthy ~ Raphael]

1 Winter of 2012. But I would also want to check that.

2 Q. Okay. That would be great. Now, during the  
3 proceedings, you -- two gentlemen from Westerly Wind  
4 were on the witness stand, this is going back to the  
5 prior docket. And, I had asked them at that time, this  
6 would be Mr. Pasqualini and Cofelice, asked them, "so,  
7 after three years of met tower data that's been  
8 collected to date, and also at least a year of LIDAR  
9 data, you still need another -- more wind data",  
10 because at that time, as you recall, you were asking  
11 for another met tower to be approved by the Site  
12 Evaluation Committee, and I asked them "how many more  
13 years of wind data would he need?" He said "a minimum  
14 of one year". Is that still the case?

15 A. (Kenworthy) We do not believe that we require any  
16 further wind data from the site pre-construction.

17 Q. So, you have a commitment from financiers that they're  
18 not going to need additional wind data?

19 MR. NEEDLEMAN: Objection. I don't  
20 understand how this is relevant to the present docket.

21 MS. LINOWES: Okay. I'll explain why  
22 it's relevant. The reason it's relevant is -- well, let  
23 me ask you the next question, I think it will become  
24 evident.

[WITNESSES: Kenworthy ~ Raphael]

1 BY MS. LINOWES:

2 Q. Is it your plan to ask the Town of Antrim to approve  
3 another met tower?

4 MR. NEEDLEMAN: Same objection. I'm  
5 still not sure why it's relevant to this docket.

6 BY MS. LINOWES:

7 Q. Is it your plan to ask the Site Evaluation Committee to  
8 approve another met tower on this Project, other than  
9 the permanent one that might be part of the final  
10 Project?

11 A. (Kenworthy) No. As I stated a moment ago, we do not  
12 have plans to acquire more pre-construction wind data  
13 from the site.

14 Q. Do you anticipate at any point then the possibility  
15 that you may have to ask the Site Evaluation Committee  
16 to approve another met tower?

17 MR. NEEDLEMAN: Same objection.

18 MR. IACOPINO: Well, I think it does go  
19 to the differences between what was proposed before and  
20 what was -- what's being proposed at this point. So, you  
21 can, if you can answer, if you know.

22 **BY THE WITNESS:**

23 A. (Kenworthy) I guess the answer is the same. That we do  
24 not anticipate requiring any additional

[WITNESSES: Kenworthy ~ Raphael]

1 pre-construction wind data.

2 BY MS. LINOWES:

3 Q. Okay. So, if I understand you correctly, the gentlemen  
4 from Westerly Wind, at the prior proceeding, did not  
5 believe there was enough wind data to help in the  
6 financing, but you're saying you don't have a problem  
7 now?

8 MR. NEEDLEMAN: The same objection.

9 BY MS. LINOWES:

10 Q. Is that correct?

11 MR. NEEDLEMAN: Same objection.

12 MS. LINOWES: The reason it's coming --  
13 the reason the question is being asked is because we're  
14 trying to figure out whether or not we're going to be  
15 introducing the same kinds of questions moving forward  
16 before the Site Evaluation Committee.

17 Are you going to come before the Site  
18 Evaluation Committee and ask for it to approve a met  
19 tower? Are we going to go through that process again?  
20 That's why I'm asking the question.

21 MR. IACOPINO: But he's told you he has  
22 no -- he's said it three times now, he has no plans for  
23 any more pre-construction wind data. I assume, in the  
24 absence of the need for pre-construction wind data, there

[WITNESSES: Kenworthy ~ Raphael]

1 would not be a met tower constructed, unless they're used  
2 for some other purpose.

3 MS. LINOWES: Okay. Oh, okay. All  
4 right.

5 MR. IACOPINO: So, why don't we move on.

6 MS. LINOWES: So, that need has gone  
7 away. Okay.

8 BY MS. LINOWES:

9 Q. Do you intend to update any of the studies related to  
10 the Project, other than noise, shadow flicker, and I  
11 believe that was -- and the visual assessment? Or, are  
12 all those studies all the same for this version of the  
13 Project?

14 A. (Kenworthy) We have -- you're correct, we've updated  
15 the visual assessment and the sound report and the  
16 Shadow Flicker Analysis. We have had biologists go  
17 back to the site in the Fall of 2014 to evaluate  
18 conditions on the site. We have updated all of our  
19 site engineering to reflect the current conditions and  
20 to reflect the change to a Siemens turbine.

21 I'm just trying to think if there's any  
22 other specific studies. We have updated our economic  
23 impact analysis. We've updated our property value  
24 impact analysis. I could -- there may be others. But

[WITNESSES: Kenworthy ~ Raphael]

1 we have gone through and updated everything that we  
2 believe is kind of -- has potentially changed and needs  
3 to be updated, to ensure that we have a complete  
4 application going before the Committee.

5 Q. Okay. So, on those, the update on your economic, what  
6 changed between the -- other than -- other than your  
7 own economics on the Project -- finances on the  
8 Project, what changed on the economic study?

9 A. (Kenworthy) Are you asking for what changed in the  
10 results of the study? What the --

11 Q. What were they looking at and what were the changes?  
12 Correct.

13 A. (Kenworthy) They were looking at the same methodology  
14 was employed as was originally employed. The inputs,  
15 obviously, were somewhat different. We have fewer  
16 turbines. And, you know, what kind of -- some of the  
17 macro economic assumptions that are -- were updated to  
18 ensure that they were current, and the analysis was  
19 rerun.

20 Q. Uh-huh.

21 A. (Kenworthy) So, basically, making sure that the inputs  
22 were accurate, and rerunning the analysis using the  
23 same methodology as was done previously.

24 Q. Okay. And, was that done by Mr. Matherson or

[WITNESSES: Kenworthy ~ Raphael]

1 Dr. Gittell?

2 A. (Kenworthy) It was performed by Seacoast Economics,  
3 which is Matt Magnusson's group.

4 Q. Okay. And, so, now, when you, as I understand it, you  
5 had at least one public engagement session with the  
6 Town of Antrim recently, is that correct?

7 A. (Kenworthy) Well, we've been -- met with the Town of  
8 Antrim many times, including recently.

9 Q. Related to this Project and this -- because you go  
10 to -- based on the new 162-H requirements, you had a  
11 public engagement session?

12 A. (Kenworthy) Yes, we -- well, yes, we did. We held a  
13 public information session --

14 Q. Uh-huh.

15 A. (Kenworthy) -- in early April.

16 Q. Okay. And, did you bring any of these updated studies  
17 with you?

18 A. (Kenworthy) No. We did not bring the studies with us.

19 Q. So, did you bring any of your experts?

20 A. (Kenworthy) We did -- no, we did not.

21 Q. Okay. So, the presentation to the Town of Antrim was  
22 largely centered on the differences between the prior  
23 Project and this Project?

24 A. (Kenworthy) No, it was not centered on the differences.

[WITNESSES: Kenworthy ~ Raphael]

1 It was really kind of a start-to-finish description of  
2 what the Project was. And, it did, in the course of  
3 going through those descriptions, highlight what some  
4 of the changes were between this Project and the 2012  
5 Project. And, that presentation is actually -- it's up  
6 on our website --

7 Q. Okay.

8 A. (Kenworthy) -- for anybody to be able to access.

9 Q. So, did anyone who had been familiar with the prior  
10 Project have a sense that the Project was -- what was  
11 your sense of how the people in the room felt? That it  
12 was essentially the same project? Was it a very  
13 different project? Can you characterize what the --

14 MR. NEEDLEMAN: I'll object to that  
15 question. The transcript will be available. And, you  
16 know, anyone can read it when they want. But that will  
17 just require Mr. Kenworthy to speculate.

18 MS. LINOWES: He was in the room.

19 MR. IACOPINO: Right. But what do you  
20 think he's going to say? You know? Actually, Lisa, if  
21 you're going to move on to another subject, let me just  
22 check with Mr. Patnaude to see if he's okay.

23 Do you need a break, Steve?

24 MR. PATNAUDE: Yes.



[WITNESSES: Kenworthy ~ Raphael]

1 MR. IACOPINO: Okay. We're going to  
2 take a ten-minute break.

3 (Recess taken at 11:01 a.m. and the  
4 technical session resumed at 11:15 a.m.)

5 MR. IACOPINO: All right. Thank you all  
6 very much. Ms. Linowes, if you will continue please.

7 MS. LINOWES: Thank you.

8 BY MS. LINOWES:

9 Q. Mr. Kenworthy, in the prior docket, you had an  
10 agreement with the Harris Center with regards to, I  
11 believe, the entity holding the conservation easement  
12 on the mitigation land. Is that still the case?

13 A. (Kenworthy) Yes. All of the agreements that we had  
14 with the Harris Center in the last docket we still have  
15 today.

16 Q. Okay. And, did they cover all of the land, including  
17 the 100 acres, or just the -- or, what land does it  
18 cover?

19 A. (Kenworthy) That would include -- it does not include  
20 the 100 acres. So, there are five different letters of  
21 intent between Antrim Wind, the landowners, and the  
22 Harris Center, that make up the 808 acres. And, then,  
23 there is a -- the additional one is the 100 acres,  
24 which is between the landowner, Antrim Wind, and the

[WITNESSES: Kenworthy ~ Raphael]

1 Town of Antrim.

2 Q. Okay. So, the Town of Antrim -- I'm sorry, what is the  
3 Town of Antrim's responsibility in that part?

4 A. (Kenworthy) They would be the easement holder.

5 Q. Have they agreed to that?

6 A. (Kenworthy) They have entered into an LOI with us.

7 Q. Does something like that have to be approved by the  
8 Town or the public or is that something that the Board  
9 of Selectmen can enter into?

10 A. (Kenworthy) The Board of Selectmen have entered into  
11 the LOI with us. I believe the way that the language  
12 of the LOI reads is that "it's subject to municipal  
13 acquisition of property. And, so, I think it is  
14 something that ultimately will go to a vote at town  
15 meeting.

16 Q. So, the Town actually has to buy the land?

17 A. (Kenworthy) No. They're not buying it, but they are  
18 acquiring it. They're receiving it as a gift.

19 Q. Okay.

20 A. (Kenworthy) We pay for the cost of the easement, and it  
21 also requires us to pay an amount to cover their  
22 reasonably anticipated costs of monitoring the  
23 easement. And, so, I believe that is subject to  
24 approval of the Town, both the gift of the land and the

[WITNESSES: Kenworthy ~ Raphael]

1 gift of the money to administer the easement.

2 Q. So, just so I'm clear, there is a possibility that that  
3 may not be approved by the vote of the Town, is that  
4 correct?

5 A. (Kenworthy) That is a possibility.

6 Q. You have not stated that in any of your documentation,  
7 if I'm not mistaken, is that correct?

8 A. (Kenworthy) Well, we have filed the actual documents  
9 that contain the language that governs the agreement.

10 Q. Which is the letter of intent?

11 A. (Kenworthy) That's correct.

12 Q. Is it -- if that does not work out, do you have someone  
13 else to hold the easement or isn't it -- is your intent  
14 not to have an easement on that?

15 A. (Kenworthy) No, absolutely, we would find somebody else  
16 to hold the easement.

17 Q. Okay. And, on the Project itself, are you still  
18 anticipating a capacity factor somewhere in the  
19 39 percent range, as you did with the prior Project?

20 A. (Kenworthy) We expect the capacity factor to be  
21 slightly lower than that, in the vicinity of  
22 37 percent.

23 Q. Is that because of a new analysis on your wind data or  
24 is that because of the turbine change?

[WITNESSES: Kenworthy ~ Raphael]

1 A. (Kenworthy) It is really due to the turbine.

2 Q. Okay. In the \$100,000 donation, I do not believe that  
3 was part of what you had offered to the Committee back  
4 in 2013, is that correct?

5 A. (Kenworthy) That's correct. I think it says in my  
6 testimony that that is -- that is new, that is brand  
7 new.

8 Q. Okay. And, do you have an agreement with the New  
9 England Forestry Foundation?

10 A. (Kenworthy) We do.

11 Q. And, it's signed and --

12 A. (Kenworthy) Sure.

13 Q. And, can you -- are there conditions on that that you  
14 can share with us?

15 A. (Kenworthy) Conditions on --

16 Q. On the agreement.

17 A. (Kenworthy) You're asking us to produce the document?

18 Q. That will be wonderful, if you can produce it. I'm  
19 asking right now, if you -- if you wanted to produce  
20 it, that will be fine.

21 A. (Kenworthy) I can certainly describe the document or  
22 what it contains. It is an agreement between Antrim  
23 Wind and the New England Forestry Foundation, where  
24 Antrim Wind as committed to fund \$100,000 that NEFF has

[WITNESSES: Kenworthy ~ Raphael]

1       agreed to accept, which will be used to acquire new  
2       lands, either in fee or via a conservation easement, in  
3       the vicinity of the kind of project area that are  
4       targeted to enhance and preserve the aesthetic  
5       character of the region and the recreational  
6       opportunities for the public, and sustainable forestry,  
7       in essence.

8   Q.   Okay. And, is that -- thank you for that. Is the  
9       document conditioned on approval of the Project --

10  A.   (Kenworthy) It is.

11  Q.   -- by the Site Evaluation Committee?

12  A.   (Kenworthy) Yes.

13  Q.   Or, is it -- is it conditioned on the Project being  
14       built, if it doesn't get approved, if it doesn't go  
15       through the Site Evaluation -- if the Site Evaluation  
16       Committee does not assert jurisdiction, what happens  
17       with that agreement?

18  A.   (Kenworthy) I believe it is conditioned upon  
19       construction of the Project, subject to check. But my  
20       recollection is that it's conditioned upon the  
21       construction of the Project, and not any particular SEC  
22       action.

23  Q.   And, going back to the Harris agreement, is what --  
24       Harris Center agreement, is it the same thing?

[WITNESSES: Kenworthy ~ Raphael]

1 A. (Kenworthy) Yes. I believe the Harris Center  
2 agreements are within 180 days of commercial  
3 operations.

4 Q. Okay. And, then -- okay, and there's the Town one.  
5 Now, you had stated in your testimony that the PILOT  
6 Agreement -- that you seem to suggest that, today, that  
7 it would be the highest paid per megawatt valued PILOT.  
8 And, back in the prior document [docket?],  
9 Dr. Gittell's testimony stated that it was -- the PILOT  
10 consisted of \$11,250 per megawatt. Is that still the  
11 case?

12 A. (Kenworthy) Yes. It's \$11,250 per megawatt in year  
13 one, increasing at two and a half percent per year, for  
14 twenty years.

15 Q. Okay. So, that is not -- that is not really -- that  
16 has not changed, from the prior document to the --  
17 docket to this docket, correct?

18 A. (Kenworthy) Those terms?

19 Q. Yes.

20 A. (Kenworthy) No. Those terms have not changed from the  
21 prior docket.

22 MS. LINOWES: Okay. All right. And,  
23 then, I just have a few questions for Mr. Raphael. Thank  
24 you.

[WITNESSES: Kenworthy ~ Raphael]

1 MR. KENWORTHY: You're welcome.

2 BY MS. LINOWES:

3 Q. First question, Mr. Raphael, Mr. Kenworthy's testimony  
4 consistently refers to a "Doctor Raphael". Is it  
5 "doctor" or "mister"? What --

6 A. (Raphael) It's "mister".

7 Q. Okay.

8 A. (Raphael) My father was a doctor, though.

9 Q. Okay. Am I pronouncing your last name correctly?

10 A. (Raphael) Yes.

11 Q. Okay. In your testimony, and this is a -- this is  
12 somewhat similar to the questions you were asked, but I  
13 have a different slant on them. So, if it sounds  
14 redundant, please feel free to stop me. You here --  
15 there's a statement on Page 3 of your testimony, you  
16 say that your "approach is to include specific  
17 definitions and clear thresholds, which reduce  
18 subjective conclusions." And, then, throughout your  
19 testimony, you seem -- you appear to be attempting to  
20 quantify the changes in the visual impact from the  
21 prior Project to this Project. Is that a kind of a  
22 mathematical assessment to the differences in the two  
23 visual impact statement assessments?

24 A. (Raphael) Well, I guess I would have two responses to

[WITNESSES: Kenworthy ~ Raphael]

1       that. "Quantify" only in the sense that we -- or  
2       that --

3                   MR. RAPHAEL: Is it on?

4                   MR. KENWORTHY: Yes, it is now.

5                   MR. RAPHAEL: Okay.

6       **CONTINUED BY THE WITNESS:**

7       A.   (Raphael) Only in order to certainly identify the  
8           specific changes to the number of turbines and turbine  
9           heights, and then the consequent changes, for example,  
10          in percentage of visibility from certain -- from, you  
11          know, locations and angle of view. So, once you change  
12          a project, then there are a number of other factors  
13          which are changed as well. But it does go back to a  
14          methodology, which also, as you referred to, does have  
15          specific thresholds to determine, you know, whether a  
16          project, you know, has a low, medium or a moderate or  
17          high determination under a particular criteria.

18       BY MS. LINOWES:

19       Q.   So, I want to talk to you about the numbers then,  
20           because I'm more of an analytical person than a visual  
21           person. So, on Page 4 of your document -- of your  
22           testimony, you state that "the area with potential  
23           visibility in 10-mile radius would be" -- I guess you  
24           state that "area with potential visibility in 10-mile



[WITNESSES: Kenworthy ~ Raphael]

1 radius [will be] reduced by 12 percent." Can you  
2 explain to me how you arrived at that "12 percent"?

3 A. (Raphael) Certainly.

4 Q. Thanks.

5 A. (Raphael) So, if my recollection is correct, I think it  
6 is, this is a project that, within the 10-mile radius,  
7 if you plug in landform and a assumed tree height,  
8 which is the standard procedure for conducting viewshed  
9 mapping analyses.

10 Q. And, what tree height did you use?

11 A. (Raphael) I believe we typically use a -- and, please,  
12 I would have to go check, I think we use a 40-foot  
13 default height for trees.

14 Q. Okay.

15 A. (Raphael) I only know that because my recollection is  
16 that, in many resources, and particularly in the Antrim  
17 area, there are trees quite a bit higher than that.  
18 But, be that as it may, the viewshed analysis that's  
19 conducted through software can also tell us, given  
20 those parameters, how much of the total area within  
21 10 miles will have project visibility. And, so, when  
22 you drop a turbine out, and you lower a turbine height,  
23 there is a difference typically between what the  
24 percentage visibility within that project viewshed was

[WITNESSES: Kenworthy ~ Raphael]

1 and now becomes with those changes.

2 Q. And, maybe you can't do this, maybe it's all done in  
3 the software, but can you tell me how that calculation  
4 is done? So, we had a physical -- we had one turbine  
5 eliminated, we had one turbine lowered by some 40 feet  
6 or 30, whatever, and then we had all of the other  
7 turbines lowered by roughly a yard. So, how is that --  
8 how do you do that calculation?

9 A. (Raphael) Well, again, you plug in the heights, the  
10 locations, coordinates. You use the parameters that I  
11 outlined previously. And, what happens, essentially,  
12 if you can imagine, is that the -- there's a  
13 relationship between each cell that the computer uses  
14 to calculate visibility, which is a hectare typically,  
15 and that cell -- does that cell see the top of the  
16 turbine? See the top of three turbines? See the top  
17 of eight turbines? Or, nine turbines?

18 Q. Uh-huh.

19 A. (Raphael) And, so, there is a calculation that the  
20 software does internally to determine that visibility.  
21 So, obviously, it would follow from that that if you  
22 lower a height or you remove a turbine, there would be  
23 a consequent potential reduction in overall  
24 visibility.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. Okay. So, if I understand that correctly, you started  
2 with the original Project, and then you got some level  
3 of visibility per hectare, and then you deleted  
4 components or lowered, and then found the difference  
5 between those two and came up with a number? Is  
6 that --

7 A. (Raphael) That's correct.

8 Q. Okay. And, did you do the assessment with just  
9 lowering the eight -- the height of the eight turbines  
10 by a yard?

11 A. (Raphael) I would imagine -- I would assume, yes, we  
12 must have. We would have used --

13 Q. What did you -- Okay.

14 A. (Raphael) We would have used -- obviously, we would  
15 have compared it to the original viewshed, with the  
16 heights and numbers that were being employed in the  
17 previous docket, and then plug in the heights being  
18 proposed in this new Project, and the number of  
19 turbines that would be proposed.

20 Q. Okay. So, is it your sense, having familiarity with  
21 the software and having used it multiple times, that  
22 dropping -- let's say all -- all were kept --

23 (Court reporter interruption.)

24 MS. LINOWES: Oh, start again?

[WITNESSES: Kenworthy ~ Raphael]

1 MR. IACOPINO: Repeat the question.

2 MS. LINOWES: Oh, sure.

3 BY MS. LINOWES:

4 Q. Having familiarity with the software and using it  
5 frequently, if we just lowered the turbine heights by a  
6 yard, and left all the same, would there have been  
7 any -- what kind of percentage would you expect? Much?  
8 A lot? Little?

9 A. (Raphael) A little. I wouldn't expect a lot.

10 Q. As much as a percent?

11 A. (Raphael) I wouldn't want to speculate. It really  
12 varies from project to project, terrain, tree  
13 height, --

14 Q. Okay.

15 A. (Raphael) -- landforms. It really does vary.

16 Q. I know. But we're talking about one project with  
17 492 feet turbines and one project with 488 and change,  
18 that?

19 A. (Raphael) The difference between the eight turbines  
20 that are now a lower height than the previous eight  
21 turbines would be small, most likely.

22 Q. Okay.

23 A. (Raphael) In the overall viewshed.

24 Q. And, so, the real change in your mind is the

[WITNESSES: Kenworthy ~ Raphael]

1 elimination of Turbine 10 and the lowering of Turbine  
2 9, is that correct?

3 A. (Raphael) No. No, I think the real change is an  
4 accumulation of elements overall with regard to the  
5 Project. I don't look at that, in that context, in  
6 isolation. I look at all the various elements that  
7 have gone into this new proposal, and have come to the  
8 conclusion that it is substantively different than the  
9 previous one.

10 Q. Okay. Mr. Raphael, to harken back to something you  
11 said earlier, your understanding was that the Project  
12 was not an undue adverse effect visually with ten  
13 turbines in its original layout, is that correct?

14 A. (Raphael) You know, I want to just qualify that by  
15 saying, as I did earlier, that I did not conduct a  
16 comprehensive visual assessment in that regard. So,  
17 that is based on my -- my work primarily focused on  
18 this Project, and I think I could infer that, based on  
19 what I understand about the Project generally, its site  
20 in Antrim and other factors which go into that  
21 thinking, landforms, percentage visibility, all of that  
22 sort of thing, I would probably be coming to the same  
23 conclusion. But, again, I want to qualify that, that I  
24 did not do the full visual assessment for a ten-turbine

[WITNESSES: Kenworthy ~ Raphael]

1 project of a certain height.

2 Q. But you were critical of Ms. Vissering's assessment and  
3 her find -- and her recommendations or at least her  
4 finding, her own finding on the Project, is that  
5 correct?

6 A. (Raphael) Well, I was critical of the fact that her  
7 findings were based on what I believe was an incomplete  
8 and somewhat contradictory methodology.

9 Q. So, if I -- I drew from something you had said earlier  
10 that, if you were to -- if you were the witness for  
11 Antrim Wind back in 2012, there would have been a  
12 different outcome with the same Project?

13 MR. NEEDLEMAN: I'll object to that.  
14 It's mischaracterizing his testimony.

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

17 MS. LINOWES: Okay. I'll move on.

18 BY MS. LINOWES:

19 Q. I'm a little bit stuck still on this. Okay, let me ask  
20 you this question. When an individual is standing,  
21 let's say, on the beach at Willard -- in an area where  
22 he or she can see multiple turbines in the Willard Pond  
23 area, and they're looking up at the turbines, is that  
24 correct?

[WITNESSES: Kenworthy ~ Raphael]

1 A. (Raphael) Well, if they want to see them, yes, they  
2 would have to look up.

3 Q. Yes. Okay.

4 A. (Raphael) Indeed.

5 Q. Is it, with what you know about visibility and  
6 perceptions, is it your sense that an individual can  
7 measure from a mile away a one-yard difference in  
8 height?

9 A. (Raphael) Probably not.

10 Q. And, could -- what could they -- what would an  
11 individual be able to discern on a structure that is  
12 488 feet tall? At what height will they notice it's  
13 shorter, if they were all the same height?

14 A. (Raphael) I'm not prepared to answer that question.  
15 I'd have to really think about that and do some  
16 research. I would not want to speculate in that. I  
17 think it would be different. You know, the interesting  
18 thing about wind and wind projects is that  
19 discernibility is you're asking about and sensitivity,  
20 which is part of what somebody would or would not  
21 discern, is often a function of their overall attitude  
22 toward the project, their place in the project's  
23 location. Are they abutters? Are they far away? Are  
24 they visitors? It's different depending on the

[WITNESSES: Kenworthy ~ Raphael]

1 individual and their perspective with regard to wind.

2 I mean, some people wouldn't go to that level of detail  
3 of saying "oh, my gosh, this is 10 feet higher or  
4 50 feet lower", and come to some conclusion positive or  
5 negative. It really depends on the individual's  
6 attitudes, what they're doing, where they are in the  
7 landscape, and what their concerns or interests are.

8 Q. Mr. Raphael, I believe that you're testifying that, in  
9 your testimony, I think almost every answer you're  
10 talking about "percentage difference". So, if we're  
11 talk about "percentage difference", then we're not  
12 talking about people's perceptions or emotional  
13 response to the turbines being up there, we're talking  
14 about whether they see them and experience them or not.  
15 And, let me ask you a question that gets to that. If  
16 there is a 12 percent reduction in the visual impact or  
17 visual -- visibility of the turbines, does that mean --  
18 what are we talking about there? That 12 percent fewer  
19 people will notice it? There is 12 percent less of a  
20 perception of the Project? Does it mean anything?  
21 Does that 12 percent mean anything?

22 A. (Raphael) It certainly means something. It means that  
23 there are going to be fewer locations from which you'll  
24 be able to see the Project. I think that should not go



[WITNESSES: Kenworthy ~ Raphael]

1 unnoticed or -- and should be considered, again, as  
2 part of this overall picture. Which my testimony was  
3 really designed to describe the differences between the  
4 previous Project and this Project, and not get into the  
5 depth and detail that, you know, the full visual  
6 assessment is designed to address.

7 Q. On Page 5, there was also a question asked of you  
8 that -- okay, on Page 5, you say that the "significant  
9 area of the lake used to have an 8 and 9 turbine  
10 potential visibility, now will have a 6 or 7 turbine".  
11 Now, I like to look at words. Is there a distinction  
12 between why -- why did you say "8 and 9 turbine" and "6  
13 or 7 turbine"? Is there any difference there?

14 A. (Raphael) Well, it's because the -- the reduction of  
15 Turbine Number 9 basically leaves the visibility from  
16 most of the pond, where it is visible, to just a blade,  
17 not a nacelle, a blade only. And, people looking at  
18 the Project may register the other turbines, which are  
19 more visible in terms of their total height, versus not  
20 necessarily seeing the blade directly or initially.  
21 And, so, that's why we put that, that range.

22 Q. Now, the capacity factor Mr. Kenworthy had mentioned  
23 was they're anticipating a 37 percent capacity factor.  
24 Now, one can look at that number and say "37 percent of

[WITNESSES: Kenworthy ~ Raphael]

1 the time the turbine will be operating and the rest of  
2 the time it's not." Where will the blade be when it's  
3 not operating? Upright?

4 A. (Raphael) It depends. I mean, usually, there's one  
5 blade. I mean, one blade, that one of the three blades  
6 will typically be in a vertical position.

7 Q. So, it will be visible?

8 A. (Raphael) It will be visible, if you look for it.

9 Q. You have to look for it?

10 A. (Raphael) Yes. Absolutely. We found many instances  
11 where blades against treelines and blades only are  
12 often missed or not registered by viewers. And, in  
13 fact, I've been in several cases where there were views  
14 of blades only that, in our visual simulations, we had  
15 to point out to people where the blades were, because  
16 of the trees and the pattern, the visual pattern of  
17 trees and branching tends to accommodate the blade and  
18 its verticality.

19 Q. Mr. Raphael, if I understood from your testimony, and  
20 also from Mr. Kenworthy, that the nacelle is going to  
21 be just at the treeline, is that correct?

22 A. (Raphael) Just below the treeline, I think, if -- yes.

23 Q. So, we're talking about a blade that's 55 meters in  
24 height that could be 100 percent visible, is that

[WITNESSES: Kenworthy ~ Raphael]

1 correct?

2 A. (Raphael) Well, the -- I guess, again, it depends on  
3 where you are. The simulations that we've done from  
4 the most visible location in the Willard Pond area, if  
5 you look at the simulations, I think it shows that  
6 the -- that probably it would be close to 100 percent,  
7 when it's in the vertical position.

8 Q. And, so, that's -- that's roughly, I doing it quick,  
9 three times 55, roughly 165 feet?

10 A. (Raphael) I haven't done the math.

11 Q. Okay.

12 A. (Raphael) I'll take your word for it.

13 Q. Is there anything, you went up to the site, is there  
14 anything standing from -- on anywhere on Willard Pond  
15 area that stands 165 feet that's on the ridgeline?

16 A. (Raphael) No. But that's really not what you're  
17 looking at. You're looking at everything between where  
18 you're standing in the ridgeline. So, it's possible  
19 that there are locations where trees will grow higher,  
20 and that the nacelle and the blade -- well, the blade  
21 will become less visible. It won't be 100 percent.

22 Q. Could you --

23 A. (Raphael) I think there's an expectation that trees  
24 will grow. Trees in that area are not all mature. So,

[WITNESSES: Kenworthy ~ Raphael]

1       there's a real possibility that the tree heights will  
2       get higher and even reduce the visibility of that  
3       particular turbine's blades.

4   Q.   In your assessment, you said that you "used a default  
5       tree height of 40 feet". How tall are the trees up  
6       there, do you know?

7   A.   (Raphael) I'd have to go back to records. I, you know,  
8       around Antrim and in some general locations, we  
9       measured trees anywhere from 50 to 70 feet, but there  
10      are also trees that are 30 feet as well. So, that's  
11      why 40 feet is a good average to work with. And,  
12      that's been adopted in a number of wind energy  
13      projects.

14   Q.   But, even if the tree grew 30 feet, measured against  
15      165 feet, would that be much of a blocking? Would that  
16      be -- have much of an effect?

17   A.   (Raphael) Sure.

18   Q.   All right. So, let me ask you this. You stated that  
19      you had done work on the Sheffield Wind Project. Who  
20      were you hired by?

21   A.   (Raphael) We were hired by a company "First Wind", --

22   Q.   Okay.

23   A.   (Raphael) -- which has now, I think, been absorbed into  
24      a company called "Sun Edison", if I'm not mistaken.

[WITNESSES: Kenworthy ~ Raphael]

1 Q. So, they were the proponents of it, but that was the  
2 applicant?

3 A. (Raphael) That was the applicant, correct.

4 Q. And, I believe that you also worked for Green Mountain  
5 Power, on the new Community Wind project?

6 A. (Raphael) That's correct.

7 Q. Have you ever seen a project, a wind project that you  
8 thought was inappropriately sited?

9 A. (Raphael) Yes. I've had several instances where we  
10 were asked to take on a project, and I couldn't, by an  
11 applicant, and I couldn't find favorably. We always  
12 review a project and do what I would call "some form of  
13 due diligence", before we can say to a potential client  
14 "Can we find favorably for you in this instance or  
15 not?" "Can we -- do we believe the project should be  
16 built here or not, given the visual effect  
17 potentially?" And, so, yes, there have been several  
18 instances.

19 Q. Okay.

20 A. (Raphael) Where I've either not gotten involved in a  
21 project or a project never happened because an analysis  
22 yielded, you know, the conclusion that the visual  
23 effects would not be ultimately reasonable.

24 Q. In either of those projects, were they -- were they all

[WITNESSES: Kenworthy ~ Raphael]

1 in New England?

2 A. (Raphael) They're all in New England, yes.

3 Q. Did any of those projects go on to get built that you  
4 did not participate in?

5 A. (Raphael) One I think is still underway, potentially.

6 Q. Can you share the name of that?

7 A. (Raphael) No -- wait a minute, let me think.

8 MR. NEEDLEMAN: Well, let me just pause  
9 for a minute.

10 MR. RAPHAEL: Yes.

11 MR. NEEDLEMAN: I just want to ask David  
12 to consider whether there's anything confidential about a  
13 potential engagement, --

14 MR. RAPHAEL: Right.

15 MR. NEEDLEMAN: -- before he answers.

16 MR. RAPHAEL: Yes. Thank you.

17 **BY THE WITNESS:**

18 A. (Raphael) You know what, I cannot -- I don't know. The  
19 answer is easy, I do not know.

20 BY MS. LINOWES:

21 Q. Okay. Now, in your testimony, and also in Mr.  
22 Kenworthy's testimony, it appears, and also in  
23 statements that you said today, it appears that you  
24 were primary -- had a lot of concerns about the visual

[WITNESSES: Kenworthy ~ Raphael]

1 effect of the Project on Willard Pond, is that -- and  
2 the sanctuary, is that true?

3 A. (Raphael) I'm sorry. Could you -- I missed the first  
4 part of that question. Would you mind repeating it?

5 Q. From your testimony, and also from some of what Mr.  
6 Kenworthy said in his testimony, as well as statements  
7 you made today, it appears that Willard Pond and the  
8 wildlife sanctuary were a focus of your review, is that  
9 correct?

10 A. (Raphael) One of our focuses, yes.

11 Q. Okay. Can you tell us today, in your own words, why  
12 you think the Site Evaluation Committee disapproved the  
13 Project?

14 MR. NEEDLEMAN: I'll object. That's  
15 calling for a legal conclusion.

16 MR. IACOPINO: He doesn't have to answer  
17 that. There was a 100-page order.

18 MS. LINOWES: Okay.

19 BY MS. LINOWES:

20 Q. And, did you read the transcripts of the deliberation,  
21 when the Committee was discussing the visual impacts?

22 A. (Raphael) Yes, I did.

23 Q. And, you walked away from reading those transcripts  
24 that the primary concern of the Committee was Willard

[WITNESSES: Kenworthy ~ Raphael]

1 Pond and the wildlife sanctuary?

2 A. (Raphael) That was one of several that I came away  
3 with.

4 Q. And, what were the others?

5 A. (Raphael) The other was the regional viewshed, concerns  
6 with regard to the regional viewshed.

7 Q. And, the regional viewshed spread out to how far?

8 A. (Raphael) Well, I think the Project area, the ten-acre  
9 area. And, I think my concern there was because,  
10 again --

11 Q. "Ten-acre"?

12 A. (Raphael) -- the SEC did not have the information they  
13 needed to make an informed decision in that regard, I  
14 feel, that it was incomplete.

15 Q. So, we're back to that --

16 A. (Raphael) I can't predict what their decision would  
17 have been regardless, but that was my -- my takeaway.

18 Q. Okay. And, --

19 MR. IACOPINO: And, did you mean to say  
20 "ten-acre" or "ten-mile"?

21 MR. RAPHAEL: "Ten-mile", excuse me.

22 Thank you. The ten-mile Project area radius.

23 BY MS. LINOWES:

24 Q. And, then, just one last question for you. What time



[WITNESSES: Kenworthy ~ Raphael]

1 of year were you at the site?

2 A. (Raphael) At what site?

3 Q. The Project site.

4 A. (Raphael) You mean the "Project area", the ten-mile  
5 radius?

6 Q. You said that you had "made multiple visits". Maybe  
7 you made multiple times, but what time of year did you  
8 --

9 A. (Raphael) We've been there spring, summer, and fall. I  
10 mean, I'm sorry, summer, spring, fall -- we've been  
11 there all -- I was there in the winter even. I was at  
12 Willard Pond during the winter months as well.

13 Q. Okay.

14 A. (Raphael) So, we've been there pretty much throughout  
15 the course of the year, at different times.

16 Q. Then, if I may, when did Antrim Wind engage you?

17 A. (Raphael) I don't -- I don't know specifically the  
18 date.

19 Q. Well, I'm just looking for a timeframe. Was it a year  
20 ago? Was it two years ago? Was it six months ago?

21 A. (Raphael) It's over a year ago.

22 Q. So, every visit that you've made was on behalf of  
23 Antrim Wind?

24 A. (Raphael) Correct. I mean, in the -- I've been in that

[WITNESSES: Kenworthy ~ Raphael]

1 area for other reasons, if that's your question?

2 Q. No, that's not my question. You went to the site to  
3 prepare your visual assessment on behalf of Antrim  
4 Wind, when were you there?

5 A. (Raphael) As I said, I was there over the course,  
6 myself and members of my staff probably have been in  
7 the area over the course of the year -- of a year, and  
8 all on behalf of our work for Antrim Wind Energy.

9 Q. So, you were there during every winter -- I mean,  
10 wintertime, with snow on the ground, summertime, when  
11 it was warm and people were utilizing the site, spring,  
12 and fall?

13 A. (Raphael) Yes.

14 MS. LINOWES: Okay. All right. Thank  
15 you very much.

16 MR. RAPHAEL: You're welcome.

17 MS. LINOWES: I'm all set.

18 MR. IACOPINO: Thank you. I will now  
19 move on to Mr. Newsom, did you have any questions for the  
20 Harris Center?

21 MR. NEWSOM: No questions.

22 MR. IACOPINO: Okay. Mr. Howe, for  
23 Audubon Society?

24 MR. HOWE: Yes.

[WITNESSES: Kenworthy ~ Raphael]

1 MR. IACOPINO: Thank you.

2 BY MR. HOWE:

3 Q. Mr. Kenworthy, the radar-activated lighting that was  
4 mentioned earlier today, isn't it true that you  
5 committed to that in the previous proceeding to use  
6 that lighting?

7 A. (Kenworthy) Yes, it is.

8 Q. Yes. Okay. Mr. Raphael, did you -- as a part of your  
9 visual assessment, have you done visual simulations  
10 from Goodhue Hill?

11 A. (Raphael) Yes.

12 Q. You did. Okay. All right. And, in your opinion, the  
13 Willard Pond Sanctuary is not a unique resource?

14 A. (Raphael) Well, it's not a one-of-a-kind.

15 Q. Right.

16 A. (Raphael) And that, I think, means it's not unique,  
17 yes. I've been to many places in New England that have  
18 very similar characteristics.

19 Q. Did you notice seeing any human structures from Willard  
20 Pond currently?

21 A. (Raphael) Yes. There's a dam at one end, I believe.  
22 The boat launch is a human-constructed --

23 Q. Right.

24 A. (Raphael) -- element in the -- on the pond. There's a

[WITNESSES: Kenworthy ~ Raphael]

1 parking lot near to the pond. So, --

2 Q. And anything else?

3 A. (Raphael) No. Not on the pond itself.

4 MR. HOWE: Okay. Thank you. That's all  
5 I have.

6 MR. IACOPINO: Thank you. Ms. Schaefer?

7 MS. SCHAEFER: No questions right now.

8 MR. IACOPINO: Thank you. Okay. I  
9 guess, Mr. Block, were you going to speak first for the  
10 non-abutting property owners.

11 MR. BLOCK: Yes. I just have a few  
12 questions, mostly for Mr. Raphael.

13 (Court reporter interruption.)

14 MR. IACOPINO: Get that microphone right  
15 in front of your face please.

16 MR. BLOCK: I'll move that over here.  
17 Okay. Just a few questions, mostly for Mr. Raphael.

18 BY MR. BLOCK:

19 Q. I assume you studied the Saratoga Associates' visual  
20 assessment, their whole study. How familiar are you  
21 with it?

22 A. (Raphael) Not, I mean, it was quite some time ago,  
23 so --

24 Q. Okay. In there, I believe there was a viewshed map of

[WITNESSES: Kenworthy ~ Raphael]

1 the 10-mile radius, which indicated color -- by color  
2 coding how many turbines would be visible. Do you --  
3 have you done or do you intend to do a modified or  
4 updated similar viewshed map for this, for the refined  
5 Project?

6 A. (Raphael) Yes.

7 Q. Has that been done yet?

8 A. (Raphael) Yes.

9 Q. Can that be made available to us?

10 A. (Raphael) I guess I'd defer to the lawyer.

11 MR. NEEDLEMAN: Is that part of the VIA?

12 MR. RAPHAEL: Yes.

13 MR. NEEDLEMAN: The VIA is going to be  
14 produced.

15 MR. IACOPINO: So, it will be.

16 BY MR. BLOCK:

17 Q. Do you remember the numbers on the Saratoga? They had  
18 a specific percentage on there, I believe, where they  
19 said, essentially, you could not see, and I believe,  
20 and I'll say it, I believe their report said you "could  
21 not see the turbines from 95 percent of the viewshed  
22 area". Do you recall that at all?

23 A. (Raphael) I don't specifically.

24 Q. Have you come up with a number for your current

[WITNESSES: Kenworthy ~ Raphael]

1 assessment?

2 A. (Raphael) Yes.

3 Q. And, can you tell us what that number is?

4 A. (Raphael) We -- the number we came up with, and, again,  
5 it's based on the factors that I think I outlined  
6 earlier, that essentially 97.5 percent of the Project  
7 area will not have visibility.

8 Q. Okay.

9 A. (Raphael) And, let me, can I just --

10 Q. Yes.

11 A. (Raphael) -- qualify that by saying it's very important  
12 to understand that a viewshed map is not the last word  
13 in terms of visibility. We often find that there are  
14 places that represents visibility where you can't see  
15 it, and likewise there are sometimes when there's been  
16 trees removed or a clearing that may not have appeared  
17 on the viewshed map. And, also, there's a, you know, a  
18 margin of error associated with the computer software  
19 that also gets plugged into the viewshed mapping.  
20 Which is why we do go through a process of -- based on  
21 that, we make assumptions about visibility, and then go  
22 and test that visibility in the site -- in the field,  
23 rather.

24 Q. Okay. Have you actually visited the turbine sites, in

[WITNESSES: Kenworthy ~ Raphael]

1 other words, up on the ridge?

2 A. (Raphael) I have not been up on the ridge. No, I have  
3 not.

4 Q. Okay. You did mention, I believe earlier, you were  
5 talking about some other vantage points where roads  
6 could be visible, but I don't think you specified.  
7 Could you elaborate on that? Do you know where it was  
8 that some of the roads would now be visible?

9 A. (Raphael) Well, I think the primary -- the primary area  
10 that comes to mind where the effects of clearing, I  
11 don't know if you're going -- I'd have to go back and  
12 look at our simulation and analysis, but Goodhue Hill  
13 will certainly have visibility of some of the effects  
14 of clearing for the Project. And, I just want to add  
15 to your comment about the "not visiting the Project  
16 site". While I didn't visit the Project site, I have  
17 been up, obviously, on Goodhue and Bald Mountain. So,  
18 I have been adjacent to the Project site. I've seen it  
19 from that perspective.

20 Q. I do understand that your concern is where the site is  
21 seen from. I was just curious, in terms of things like  
22 the actual height of the tree cover on the ridge and  
23 how that affects things. You mentioned you have  
24 several times, I guess, visited Willard Pond different

[WITNESSES: Kenworthy ~ Raphael]

1 times a year. A little earlier you talked about  
2 actually kayaking out there and observing people there.  
3 Do you remember what time of year that visit was, and  
4 maybe what day of the week?

5 A. (Raphael) It was a Friday, I'm pretty sure. I think it  
6 was in June of this past year. And, I didn't actually  
7 kayak myself. I observed kayakers, --

8 Q. Okay.

9 A. (Raphael) -- is my reference on that day.

10 Q. Okay. And, there was a mention earlier, you talked  
11 about the scale of -- the relationship of the scale to  
12 the ridge height to that. And, I believe you said that  
13 you did not come up with a 70 percent figure?

14 A. (Raphael) I'd have to -- we did look at sort of the  
15 ratio, a percentage. We compared, I believe, the view  
16 from Gregg Lake, looking towards the Project in Tuttle  
17 Hill, to a similar location on, I believe, May Pond, in  
18 Lempster, which is, you know, a highly scenic and  
19 preserved State recreation and park area, a very  
20 sensitive resource. And, they proved to be very  
21 similar, in terms of scale relationships. Even though,  
22 as has been pointed out by several, the turbine  
23 heights, obviously, in Lempster are smaller, and that  
24 speaks to the fact that height of turbines is not the



[WITNESSES: Kenworthy ~ Raphael]

1 ultimate criterion in determining visual effect. It  
2 has to do with where you're seeing it from, distance, a  
3 number of other factors that we've discussed today.

4 Q. Actually, I have a question here that -- oh, no, this  
5 is on your -- also on your testimony here. This is  
6 kind of following up to something that Lisa was saying.  
7 On Page 5 of your testimony, Lines 13-14, you talk  
8 about Gregg Lake.

9 A. (Raphael) Yes.

10 Q. "Where a great portion of the lake had nine turbines  
11 potentially visible, that will be reduced to six and  
12 seven turbines potentially visible." And, I'm  
13 wondering, how does the new change manage to eliminate  
14 possibly three turbines? I know there are changes to  
15 one removed and one been shortened. How do three get  
16 there?

17 A. (Raphael) Well, I think we went from maybe "eight to  
18 nine" to "six to seven". That would be the easiest  
19 explanation for that comment.

20 Q. Okay. But it just -- I'm reacting because it said  
21 "nine turbines" --

22 A. (Raphael) Right.

23 Q. -- or, "eight to nine turbines". Okay. I'm trying to  
24 think, I think I've actually covered everything else.

[WITNESSES: Kenworthy ~ Raphael]

1 In your comparison just now of Gregg Lake and May Pond,  
2 May Pond in the Lempster area, what kind of a criteria  
3 were you using to make that comparison?

4 A. (Raphael) Photographs from similar distances.

5 Q. Who took those photographs of Lempster?

6 A. (Raphael) I would have to go and check, I do not know.  
7 I think we might have used the photograph that might  
8 have been in the docket for Lempster, but I do not know  
9 the answer to that.

10 Q. And, the Gregg Lake photographs, are you talking about  
11 the Saratoga Associates or ones that you've taken?

12 A. (Raphael) Ones that we took.

13 Q. Will your full collection of paragraphs be available at  
14 any point soon, the simulations?

15 A. (Raphael) Again, they will be part of the VIA, the  
16 visual assessment.

17 MR. BLOCK: All right. No further  
18 questions.

19 MR. IACOPINO: Okay. That exhaust all  
20 the Parties. Let me just go through quickly for counsel  
21 what I understand to be -- oh, I'm sorry. Dr. Ward, go  
22 ahead.

23 MR. NEEDLEMAN: Mike, can I -- I just  
24 want to object for a minute. I have a concern about --

[WITNESSES: Kenworthy ~ Raphael]

1 MR. WARD: Could you speak into the mike  
2 please?

3 MR. NEEDLEMAN: Sure. The groups were  
4 consolidated, I think, for a purpose. And, I think the  
5 purpose --

6 MR. WARD: Is it on?

7 MR. NEEDLEMAN: Is it on?

8 MR. IACOPINO: I can hear him.

9 MR. NEEDLEMAN: The groups were  
10 consolidated for a purpose, and one of those purposes was  
11 to streamline the proceedings. And, I object to multiple  
12 members of a single group questioning the same witness. I  
13 would not object if they wanted to carve up witnesses for  
14 efficiency purposes and question different witnesses. But  
15 I think that it's unfair and repetitive for multiple  
16 members of a group to question the same witness.

17 MR. IACOPINO: Dr. Ward, do your  
18 questions, are they similar to the ones that have already  
19 been --

20 MR. WARD: They're totally different  
21 from the questions --

22 MR. IACOPINO: Please let me finish my  
23 question first, okay? There is somebody trying to take  
24 down -- there is somebody trying to take down what we're

[WITNESSES: Kenworthy ~ Raphael]

1 saying, okay? Are your questions similar to the ones that  
2 were already asked?

3 MR. WARD: No.

4 MR. IACOPINO: How long do you think you  
5 will be?

6 MR. WARD: Three or four minutes.

7 MR. IACOPINO: Go ahead. Ask your  
8 questions.

9 MR. WARD: Okay.

10 BY MR. WARD:

11 Q. Mr. Kenworthy, --

12 (Court reporter interruption.)

13 BY MR. WARD:

14 Q. In the previous docket, you put forward some models,  
15 for example, of shadow flicker. I can't tell for sure  
16 exactly what's in those. So, I'm making a specific  
17 request for the model that was used, very specific, and  
18 the data that went into it, and the data that was used  
19 to get the result. That's first. As far as the --

20 MR. IACOPINO: Dr. Ward, let me just  
21 clarify something. This is from the prior docket?

22 MR. WARD: Yes. But they're using a  
23 model here, and --

24 MR. IACOPINO: I know. I just want to

[WITNESSES: Kenworthy ~ Raphael]

1 clarify what exactly you're asking for.

2 MR. WARD: Well, the only thing that I  
3 have, Mike, is the prior docket.

4 MR. IACOPINO: I'm just trying to make  
5 sure --

6 MR. WARD: Okay.

7 MR. IACOPINO: -- that we're all on the  
8 same page about what you're asking for, okay?

9 BY MR. WARD:

10 Q. So, the model that was used previously, and I'm  
11 assuming it's the same model for this docket, is it  
12 not?

13 A. (Kenworthy) I'm honestly not sure what you're asking.  
14 What do you mean by "the model"? The software?

15 Q. You don't -- you don't go out and measure shadow  
16 flicker, do you?

17 A. (Kenworthy) No.

18 Q. Okay. So, you somehow or other calculate it, with a  
19 model?

20 A. (Kenworthy) Yes. So, software is used to analyze what  
21 the shadow flicker impacts from a project will be.  
22 It's purely mathematical.

23 Q. Well, if you're going to argue about what "model"  
24 means, I'll change the name. I want the equations then

[WITNESSES: Kenworthy ~ Raphael]

1           that you used to calculate the shadow flicker.

2   A.   (Kenworthy) I don't have the equations. It's a --

3   Q.   I'm asking for -- I'm making a request for whatever the  
4       document is.

5                   MR. NEEDLEMAN: Let me weigh in at this  
6   point. I'm going to object to that. We will agree to  
7   produce the new shadow flicker report. But, as far as  
8   underlying materials associated with it, we're not going  
9   to agree to produce those. The report will describe the  
10  method for which it was calculated. And, I think that's  
11  sufficient for purposes of this docket.

12                  MR. WARD: It's not sufficient, but  
13  we'll debate that. There's a lot of mistakes in it that  
14  don't apply to this. That's why I'm asking for it.

15                  MR. IACOPINO: Okay. This is not the  
16  place to argue. You can ask for it, and there's a process  
17  that we'll use if there's an objection to it. If, at the  
18  end of the day, there's still an objection to it, there's  
19  a process to follow to request the Committee to provide it  
20  to you, doctor. Okay?

21                  MR. WARD: I would also ask for whatever  
22  model you have, which takes into account shadow flicker on  
23  roads where you would be facing the Sun at the time of the  
24  flicker. I'm not talking about shadows across the road.

[WITNESSES: Kenworthy ~ Raphael]

1 I'm talking about the model, whatever it is that you use,  
2 that calculates where on what roads and how often there  
3 would be shadow flicker directly into the windshield of  
4 oncoming cars.

5 MR. NEEDLEMAN: And, again, we will  
6 produce the updated shadow flicker report.

7 MR. WARD: I'm sorry, I didn't hear you?

8 MR. NEEDLEMAN: We will produce the  
9 updated shadow flicker report.

10 MR. WARD: Well, I'm asking for enough  
11 information -- the shadow flicker report that I read the  
12 last time, and I assume it will be the same this time, did  
13 not tell enough to know whether the thing was done  
14 properly. I don't know what I should ask for other than  
15 that. I need enough information out of it to know whether  
16 it was done properly. That's what the whole focus of this  
17 thing is. I don't believe it was done properly.

18 I'm not trying to be argumentative. But  
19 there's not enough information in that report to tell  
20 whether it was. And, it seems to me that's critical.

21 MR. IACOPINO: I think what Mr.  
22 Kenworthy has said to you is "we used a software package  
23 to do that", and that he doesn't have the equations or the  
24 code that went into that software package. Was it

[WITNESSES: Kenworthy ~ Raphael]

1 identified in the prior report?

2 MR. KENWORTHY: The software that was  
3 used?

4 MR. IACOPINO: Yes.

5 MR. KENWORTHY: Yes. It is. And, it's  
6 not the same firm that has produced the report this time.  
7 So, it's a different firm.

8 MR. IACOPINO: So, at the very least,  
9 you're going to have the name of the software. And, you  
10 can make the request for this additional information.  
11 But, just so you know, when they give you the shadow  
12 flicker report, you're going to at least know what the  
13 software is that they use to come to the calculations. I  
14 understand that the calculations themselves are not there  
15 for you to see if they're correct, but you have to rely on  
16 the computer. But that's as much as it sounds to me like  
17 they have and can have. The rest you may need to get from  
18 the manufacturer of the software, as I understand it.

19 MR. WARD: So, will I --

20 MR. IACOPINO: You can still make your  
21 request.

22 MR. WARD: Okay. Let's say I make the  
23 request for what they're going to use. And, then, will I  
24 be allowed then to request the information that is not in



[WITNESSES: Kenworthy ~ Raphael]

1       that that I need in -- what I'm trying to do, so everybody  
2       understands, I don't think it was done properly, but I  
3       can't tell. And, it seems to me that's critical in this.  
4       You've got to have enough information. I'm not asking for  
5       a copy of something that's copyrighted or anything. I  
6       just need to know what you put in. What meteorological  
7       data did you put in? What astronomical data did you put  
8       in? For example, is the blade width put in that? It  
9       never was, and it seems to me that's a critical piece of  
10      information. But I need to be able to get enough to tell  
11      whether I can do anything with it.

12               MR. IACOPINO: And, they've told you  
13      what they're willing to provide you with. And, there's a  
14      process to get anything else that you may seek. I can't  
15      tell you whether the Committee will grant that additional  
16      request or not, Dr. Ward.

17               MR. WARD: Okay.

18               MR. IACOPINO: That's up to the Chairman  
19      of the Committee, not up to me.

20               MR. WARD: I understand.

21               MR. IACOPINO: And, you know, but there  
22      is a process for that.

23               MR. WARD: Okay. Well, I'm requesting  
24      what they have, I guess. That's the best thing I can get

[WITNESSES: Kenworthy ~ Raphael]

1 right now, provided that I can then hopefully ask, whether  
2 I'll get the rest, then I'll ask.

3 MR. IACOPINO: Okay.

4 MR. WARD: Okay. That then moves over  
5 to the question of the noise thing, and there's another  
6 model out there, which doesn't appear to be very well, but  
7 I can't tell from anything that I've gotten whether it's  
8 done properly or not. This is -- the problem I have is,  
9 I'm trying to look at this and to say "good", "bad" or  
10 "indifferent"? And, I can't.

11 Now, what am I supposed to do in order  
12 to find out whether it's proper or no?

13 MR. IACOPINO: Well, what are you  
14 specifically asking for with respect to the noise?

15 MR. WARD: Well, there's two things.  
16 One is the model, what was -- I'm really asking, what  
17 weather data went into the model? And, when were the  
18 observations made? And, were the weather data checked  
19 when the observations were made? Those are the --

20 MR. IACOPINO: Is that a question you  
21 can answer, Mr. Kenworthy?

22 MR. KENWORTHY: I can to the best of my  
23 ability. I did not produce our noise report. I'm not the  
24 expert. But my belief is that meteorological data does

[WITNESSES: Kenworthy ~ Raphael]

1 not factor in to the noise propagation report. That we  
2 assume conservative conditions, whereby the turbines are  
3 always producing the maximum amount of noise. That's a  
4 guaranteed sound power level from Siemens. And, that all  
5 receptors are always downwind from the machine, to assume  
6 that a conservative scenario for how sound is going to  
7 propagate over terrain. And, that that's produced in the  
8 model, that follows the relevant standards that govern  
9 this type of analysis.

10 The meteorology is not a factor, because  
11 it always assumes, again, that everybody is simultaneously  
12 downwind, and that the turbines -- that the wind  
13 conditions exist such that turbines are producing the  
14 maximum amount of noise at all times.

15 MR. WARD: Well, that part of it, of the  
16 production, I'm not arguing about the production. I'm  
17 arguing about the broadcast, which is very  
18 meteorologically dependent. And, I've gotten a look at  
19 the data, and there's some sound data in their report and  
20 in other things that we've had, and I can't find out  
21 whether those were made -- where they were made, and  
22 whether they were made under the conditions that  
23 meteorologically would guarantee the widest, noisiest  
24 broadcast of the data.

[WITNESSES: Kenworthy ~ Raphael]

1                   And, there were stories about the  
2       measurements and the timing of them. And, I see nothing  
3       in there that acknowledges that there's a big weather  
4       factor in there that would make an enormous amount of  
5       difference, and I don't know if it was put in or not.

6                   MR. IACOPINO: Wait a minute. Dr. Ward,  
7       are you referencing now the sound data at the individual  
8       receptors that were the selected receptors in the -- or  
9       are you talking about the overall modeling?

10                  MR. WARD: Well, the weather would  
11       guarantee that certain places around the turbines would  
12       get more noise than other places. Not only because they  
13       might be closer or whatever, but because,  
14       meteorologically, the sound will propagate depending on  
15       the exact meteorological conditions. There is a  
16       phenomenon called "ducting", d-u-c-t-i-n-g. I don't see  
17       that even referencing in there, and that is the key  
18       element in where this is going to be broadcast.

19                  MR. IACOPINO: Mr. Kenworthy, do you  
20       know whether ducting is considered in the sound level  
21       analysis that was done?

22                  MR. KENWORTHY: I don't know. I guess I  
23       would just reiterate my belief that the model is, again,  
24       assuming a point source, which is the maximum guaranteed

[WITNESSES: Kenworthy ~ Raphael]

1 sound power level from the turbine, and then is assuming  
2 kind of "worst case" conditions, following the relevant  
3 standards that govern how these models operate. Such  
4 that, again, it's everybody is always downwind, it's going  
5 to assume, if ducting was an issue that created more noise  
6 at a particular location, it's going to assume that  
7 condition always exists in the model.

8 And, I can say that, generally, the  
9 pre-construction models have been very accurate, with  
10 respect to, you know, post construction studies that have  
11 then been done to measure noise at the receptor locations,  
12 to verify that they do, in fact, comply with the relevant  
13 noise standards.

14 MR. WARD: Well, what you say may be  
15 true, but I don't have any data that shows that. And,  
16 what concerns me more than anything else, you keep talking  
17 about "downwind", that's not the big issue. The downwind  
18 or upwind is minor compared to ducting, like a factor of  
19 ten difference.

20 MR. NEEDLEMAN: I want to --

21 MR. WARD: And, I don't know what else  
22 to do about it.

23 MR. IACOPINO: But I just want to  
24 understand. So, you want the model for the sound --

[WITNESSES: Kenworthy ~ Raphael]

1 MR. WARD: I want to know what goes into  
2 the model.

3 MR. IACOPINO: You want the data that  
4 went into the model?

5 MR. WARD: Well, how do I ask it? I  
6 want to know what they put into it.

7 MR. IACOPINO: I have to write something  
8 up at the end of this. That's why I'm trying to get it  
9 specific, okay? I'm not trying to argue with you,  
10 doctor. I'm just trying to get a specific understanding  
11 of what it is you're asking for. I suspect they're going  
12 to object to it, and you may have to go through the  
13 process, but I've got to write it up.

14 MR. WARD: Right.

15 MR. IACOPINO: So, that's why I'm trying  
16 to get specific with you.

17 MR. WARD: Well, I guess the easiest  
18 thing to say is, I need to know what meteorological  
19 measurements, elements, whatever they are, went into the  
20 model.

21 MR. RICHARDSON: And, I'd like to  
22 register an objection at this point.

23 (Court reporter interruption.)

24 MR. RICHARDSON: I'm sorry, it is on. I

[WITNESSES: Kenworthy ~ Raphael]

1 don't have it close enough here it appears.

2 MR. IACOPINO: Yes, sir.

3 MR. RICHARDSON: We're here to decide  
4 whether this Project is different from the prior one that  
5 was denied, and whether the Committee should assert  
6 jurisdiction. The only relevance is whether the sound  
7 power levels coming from the turbines are different from  
8 the ones that were previously used, assuming that the  
9 sound power levels were the basis of the denial, which I'm  
10 not sure that they were.

11 This is going straight towards the  
12 question of whether or not the Committee should approve  
13 this Project, not to whether or not it should assert  
14 jurisdiction, or whether it's the same Project as was  
15 previously denied.

16 MR. IACOPINO: The motion is overruled.  
17 I think that Dr. Ward is legitimately trying to understand  
18 what was provided in the last proceeding, so that he can  
19 understand what's being provided here, and understand the  
20 differences. I think that's what he is trying to do. He  
21 may be doing it inartfully. And, he may have less  
22 experience with looking at these sound reports than the  
23 rest of the room has. But that's what we're doing here.

24 MR. RICHARDSON: We can provide

[WITNESSES: Kenworthy ~ Raphael]

1 everything that was provided last time around, and then  
2 that's, you know, we can compare what's there today to  
3 what was done two years ago.

4 MR. IACOPINO: I'm going to let him  
5 finish his questions.

6 BY MR. WARD:

7 Q. I'm trying to make it easy, okay? I just -- I need to  
8 know what, if they came up with a model or a software  
9 program or whatever, the minimum I need to know is what  
10 meteorological parameters went into it. And, when they  
11 went out and collected data for sound or things like  
12 that, did they match that with the weather data?

13 MR. IACOPINO: And, I have that listed.

14 MR. WARD: Right.

15 MR. IACOPINO: And, I think he's  
16 answered you as best as he can.

17 MR. WARD: I'm moving onto the next  
18 thing.

19 MR. IACOPINO: So, you can, you know,  
20 and assuming they don't give you precisely what you're  
21 looking for, you can file a motion with the Committee.

22 MR. WARD: Okay. That's fine. All  
23 right. Now, I'll move onto Mr. Raphael. And, I would  
24 request you lean forward. I can't see you.



[WITNESSES: Kenworthy ~ Raphael]

1 MR. RAPHAEL: Yes, I will. Yes.

2 MR. WARD: Okay.

3 BY MR. WARD:

4 Q. You mentioned, and I hope I'm quoting you correctly,  
5 you used two terms "visual prominence" and "visual  
6 dominance", okay. I might call it "how conspicuous  
7 things were". There's a lot of terms for it, okay?  
8 And, so, I'm asking you, as an expert in this, about a  
9 couple of things, which has seemed to me have not been  
10 mentioned, but should affect these things in a very  
11 material way. And, I'll start, for example, if you had  
12 the same thing, the exact same situation, nine or ten  
13 turbines, however you're going to do it, and you put it  
14 low down versus high up, is it not true that high up  
15 it's much more prominent, dominant, conspicuous,  
16 whatever you want to do it? Everything else being  
17 equal, higher up gives you more dominance?

18 A. (Raphael) No. I can't agree with that statement. If  
19 they're -- dominance, again, or prominence, which are  
20 somewhat interchangeable, perhaps, in this regard, is a  
21 function of a number of factors. And, it's the  
22 context. It's not just about being on --

23 Q. I'm going to get to those factors.

24 A. (Raphael) Can I please answer the question?

[WITNESSES: Kenworthy ~ Raphael]

1 MR. IACOPINO: Let him finish his answer  
2 please.

3 **CONTINUED BY THE WITNESS:**

4 A. (Raphael) It's not just as if it's on flat ground or up  
5 on a ridgeline. It has to do with what's around it,  
6 and the point of observation, and the actual landscape  
7 that you're experiencing this particular project  
8 within, will help to inform whether that element feels  
9 dominant or not.

10 BY MR. WARD:

11 Q. Now, I'll ask the question again.

12 A. (Raphael) Okay.

13 Q. I agree there's a lot of things, and I'm going to cover  
14 those as we go. I'm just clearly taking one element  
15 out of it. And, I'm saying take the exact same thing,  
16 and put it up a little higher, you don't agree that  
17 that would make it more prominent, dominant,  
18 conspicuous, whatever number we want to use, you do  
19 not --

20 A. (Raphael) Not necessarily.

21 Q. Okay. So, if it were on a very low hill or on Mount  
22 Washington, as far as you're concerned, that doesn't  
23 have any effect on it?

24 A. (Raphael) Well, that, I mean, that's a hypothetical

[WITNESSES: Kenworthy ~ Raphael]

1 example. And, I think it speaks to the notion of site  
2 specificity and project specificity. So, you  
3 determine --

4 Q. Let's --

5 MR. IACOPINO: Let him finish his answer  
6 please, Dr. Ward.

7 **CONTINUED BY THE WITNESS:**

8 A. (Raphael) -- you determine dominance and prominence on  
9 a project-by-project basis, using the characteristics  
10 of the project and the various elements that comprise  
11 or describe the setting within which the project is  
12 located. So, if you're -- you could be on a very high  
13 ridge, but it's surrounded by many other high ridges,  
14 of equal height or even higher, and that project may  
15 not then, as a result, seem as dominant in the  
16 landscape as if the project was on a single, you know,  
17 landform surrounded by a flat plain. So, it's really  
18 site-specific, project-specific. That's the best  
19 answer I can give you.

20 BY MR. WARD:

21 Q. Okay. Then, you have answered my second question,  
22 which is, as long as it's isolated, then isolation  
23 increases its prominence?

24 A. (Raphael) Well, again, I mean, you're asking me to

[WITNESSES: Kenworthy ~ Raphael]

1 speak hypothetically. I can't answer that, unless I  
2 understand the nature of the isolation and the setting.  
3 And, you know, for example, one of the tests of viewer  
4 effects is how remote or how -- or whether people  
5 actually will see it. You know, if there's not a large  
6 number of people who will experience a project, then  
7 the dominance of that project is reduced, because it's  
8 not affecting anyone or affecting very few people. So,  
9 there are other factors which go into assessing how  
10 dominant a project would be in any one location.

11 Q. I agree with you 100 percent, except what you're saying  
12 is that all these other factors, you're not going to  
13 concede that any one of them you could even speak  
14 hypothetically about. Because I'm going to go down the  
15 list, and each one you're going to tell me "well, it  
16 depends on" --

17 MR. IACOPINO: Why don't you ask the  
18 question, instead of telling him what he's going to tell  
19 you, okay? This is the time to get information. This is  
20 not the time to argue about whether you agree with him or  
21 not, okay?

22 MR. WARD: Okay. I'll ask him another  
23 question.

24 BY MR. WARD:

[WITNESSES: Kenworthy ~ Raphael]

1 Q. If you have something in a place that's visible, and  
2 it's moving, does that make it more prominent or  
3 dominant, versus not moving?

4 A. (Raphael) It might make it more noticeable, not  
5 necessarily prominent.

6 Q. "Prominent" was your word earlier.

7 A. (Raphael) Or dominant, yes.

8 Q. Okay. Next, supposing that it has a flashing red light  
9 on it, does that in and of itself make it more likely  
10 to be seen?

11 A. (Raphael) At night, yes.

12 Q. Supposing that it makes some noise, even if it's  
13 relatively minor noise, would that more likely bring  
14 your attention to it, so that it would become, whatever  
15 word you want to use, I'll call it prominent, dominant,  
16 conspicuous, whatever it is?

17 A. (Raphael) Well, again, "conspicuous" is different.  
18 "Dominant" I think is a visual term, and "noise" is an  
19 auditory experience. So, there would be a different  
20 effect, certainly. And, yes, if you're closer to a  
21 project, and it creates noise, then you're more likely  
22 to notice it the closer you are.

23 Q. And, if you had one of something or two of something or  
24 three or four, or, in this case, nine or ten, would

[WITNESSES: Kenworthy ~ Raphael]

1       that be more prominent, noticeable, conspicuous,  
2       whatever the term you want to use, versus just one?

3   A.   (Raphael) Again, it depends where you're seeing it  
4       from. I mean, with all due respect, for example, let  
5       me try to elucidate. If you're at a distance from  
6       Antrim, and there are nine turbines visible, and  
7       they're way off in the distance, then they may not  
8       affect you or feel -- be dominant or have a similar  
9       effect to a single large turbine on a flat plain that  
10      you see from great, great distances.

11   Q.   In other words, if I asked the question, if you picked  
12       a elevated site, versus flat down, and if it were  
13       isolated, without the extra ridges you'd throw in, and  
14       if it had something on it that was moving, let's say,  
15       like a windmill, and if it had a flashing red light on  
16       top of it, and if it made a little bit of noise, it  
17       might be Christmas music for all I care, just making  
18       noise, and there were a number of them, would you even  
19       notice whether -- I'm sorry, back up. Take all those  
20       five things, those would be more likely to make it  
21       noticeable, prominent, dominant, conspicuous,  
22       whatever the number is, would a whole set of them do  
23       that?

24   A.   (Raphael) In a hypothetical situation, probably yes.

1 MR. WARD: Thank you. That was it.

2 MR. IACOPINO: Thank you. I guess  
3 that's it for this panel of witnesses. I just want to go  
4 over what the requests are, and then we're going to break  
5 for lunch.

6 I have the following 18 requests. I  
7 know that some of them are objected to, but let me just go  
8 through them, okay? There's going to be a data check on  
9 the diameter of the turbine at the base. Number two, the  
10 Shadow Flicker Analysis was requested. And, I guess  
11 you've agreed to provide that. Number three, the visual  
12 impact study by Mr. Raphael's company is going to be  
13 provided. Number four, there was a request for the  
14 warranty, which is not agreed to at this point. Number  
15 five, there is a request for the draft screening/landscape  
16 plan for the substation, which as I understand has not yet  
17 been agreed to.

18 MR. NEEDLEMAN: No. On that one, I  
19 think we can produce that.

20 MR. IACOPINO: Okay. Thank you. Then,  
21 I --

22 MS. MALONEY: On the warranty -- excuse  
23 me, on the warranty, counsel said that they would -- is  
24 that okay? -- attempt to verify whether there is a

1 setback requirement. And, we would accept that.

2 MR. IACOPINO: Okay. So, that would be  
3 either provide the warranty or provide information whether  
4 there's a setback requirement.

5 MR. NEEDLEMAN: Well, we're going to  
6 start with trying to get the setback requirement. And, if  
7 there isn't one, I think that solves the problem.

8 MR. IACOPINO: Then, I go to number six,  
9 which is just a data check on the blade lengths. And,  
10 number seven, a data check on the 25 percent in size  
11 reduction of the nacelle. And, then, number eight, I  
12 have, I guess it's a data check, too, on the 106 dBA  
13 maximum sound power level, and it be 1.5 -- with a 1.5  
14 uncertainty value. Number nine, the date that the met  
15 tower was removed. Number ten, the date that the LIDAR  
16 was removed. Number eleven, you were going to check the  
17 NEFF agreement, to make sure it was conditioned upon  
18 construction, or, if it was conditioned upon anything, you  
19 will provide that. So, that's eleven. Number twelve was  
20 double check the tree height used in the VIA, Dr. Raphael.  
21 Number thirteen was the viewshed map, but I understand  
22 that will be part of the VIA?

23 MR. NEEDLEMAN: Correct.

24 MR. IACOPINO: Number fourteen, you're



1 going to identify the photos used for your Lempster  
2 comparison, --

3 MR. RAPHAEL: Yes.

4 MR. IACOPINO: -- from the Lempster  
5 Project.

6 MR. RAPHAEL: Yes.

7 MR. IACOPINO: Number fifteen is  
8 Dr. Ward's request for the shadow flicker model that was  
9 used and the data that went into it during the prior  
10 docket. Number sixteen is the equations that underlie  
11 that particular model. Number seventeen is the data that  
12 you used to determine if the shadow flicker on the roads,  
13 when facing the Sun directly into the windshield, how much  
14 shadow flicker there would be. Number eighteen, the model  
15 for the sound study. And, nineteen, a listing of the  
16 meteorological elements that went into the sound study.

17 That's what I have for requests. Does  
18 anybody believe I've missed anything?

19 (No verbal response)

20 MR. IACOPINO: Okay. We will break  
21 until five past one. That's 45 minutes. And, we'll start  
22 up with Ms. Vissering.

23 (Lunch recess taken at 12:21 p.m. and  
24 the technical session resumed at 1:10

1 p.m.)

2 MR. IACOPINO: All right. We're going  
3 to get going. And, Ms. Vissering, have you come up here.  
4 And, everybody is ready. Thank you all for coming back.  
5 Okay.

6 MR. RICHARDSON: I just wanted to say,  
7 Mr. Chairman, just a quick note.

8 MR. IACOPINO: I am not a "Chairman".

9 MR. RICHARDSON: I realize that.

10 MR. IACOPINO: You can call me "Mike".

11 MR. RICHARDSON: Mike, it's being in the  
12 room where I usually say that that gets me the most. I  
13 lose Mike Genest at 3:00. And, it looks like we,  
14 depending on how things go, we may or may not get to the  
15 Board of Selectmen by then.

16 I guess the first question I might ask  
17 is, do any members or people here object if he just leaves  
18 and doesn't -- isn't questioned or -- because the other  
19 members I will have until 4:00?

20 MR. IACOPINO: Does -- just go around  
21 the room quickly. Does anybody have any problem with  
22 addressing the Board of Selectmen without Mr. Genest?  
23 Counsel for the Public?

24 MS. MALONEY: I don't object.

[WITNESS: Vissering]

1 MR. IACOPINO: Mr. Block?

2 MR. BLOCK: I will -- the only request I  
3 will have is for them to provide that letter of intent  
4 that was mentioned earlier about. And, that's probably  
5 the only question I'll ask.

6 MR. IACOPINO: So, you don't need Mr.  
7 Genest for that?

8 MR. BLOCK: Not necessarily, no.

9 MR. IACOPINO: Okay. Lisa?

10 MS. LINOWES: I guess I'm okay. No  
11 objection.

12 MR. IACOPINO: Mr. Howe?

13 MR. HOWE: No problem.

14 MR. IACOPINO: I'm sorry?

15 MR. HOWE: No problem.

16 MR. IACOPINO: Mr. Ward, did you have  
17 specific questions for Mr. Genest?

18 MR. WARD: No.

19 MR. IACOPINO: How about Ms. Schaefer?

20 MS. SCHAEFER: No.

21 MR. IACOPINO: You obviously didn't?

22 MR. NEEDLEMAN: No.

23 MR. IACOPINO: Harris Center?

24 MR. NEWSOM: No.

[WITNESS: Vissering]

1 MR. IACOPINO: Okay.

2 MR. RICHARDSON: Okay.

3 MR. IACOPINO: All right.

4 MR. RICHARDSON: That's great. Thank  
5 you.

6 MR. IACOPINO: Okay. So, Mr. Genest,  
7 you should feel free to leave at 3:00. But we've gotcha  
8 till then.

9 (Laughter.)

10 MR. IACOPINO: Okay. The order of  
11 inquiry for Ms. Vissering will start with the Applicant,  
12 then go to the Town, then to Lisa Linowes, then to the  
13 Harris Center, Audubon Society, abutting property owners,  
14 and non-abutting property owners.

15 So, Mr. Needleman or Mr. Taylor, whoever  
16 is going to be questioning Ms. Vissering.

17 **WITNESS: JEAN VISSERING**

18 MR. NEEDLEMAN: Okay. Thank you.  
19 Ms. Vissering, I'm Barry Needleman. I represent Antrim  
20 Wind here. We met earlier today.

21 BY MR. NEEDLEMAN:

22 Q. Let me start out by just asking you when you first  
23 became involved in this case. Do you remember the date  
24 when Public Counsel contacted you? And, what I mean

[WITNESS: Vissering]

1 "this case", I mean specifically this new docket,  
2 nothing to do with the old one.

3 A. I would say a couple months ago. It was -- I don't  
4 know if that's accurate enough. I'm sorry, I don't --  
5 I don't remember the exact date. I would have -- it  
6 was fairly -- fairly recently. And, yes.

7 Q. And, from the time you were contacted, until you  
8 actually started doing any work, what was that period  
9 of time? I'm just trying to get a sense of when you  
10 actually started doing work on this?

11 A. Because it was fairly close to the due date, it was --  
12 I started pretty much immediately.

13 Q. Okay. So, were you working on this by the beginning of  
14 March, to the best of your recollection?

15 A. Yes. I would say I was.

16 Q. Okay. Any time sooner, if you can recall?

17 A. No, I think that was around the beginning of March is  
18 about when I started.

19 Q. And, what was the specific task that you were given?

20 A. The specific task was to look at the questions at hand  
21 in this, in this docket, which were the extent to which  
22 the Project differed from the previous Project,  
23 including in its physical form and also in its impacts.

24 Q. And, in order to accomplish that, you had to compare

[WITNESS: Vissering]

1 the old Project to the new one, is that right?

2 A. Yes.

3 Q. And, based on your experience in the prior docket, you  
4 understood the old proposal very well, I assume?

5 A. I did, yes.

6 Q. What information did you rely on in order to gain an  
7 understanding of the new proposal?

8 A. What was available on -- I used the information that  
9 was available on the SEC's website, that included Mr.  
10 Kenworthy's testimony, Mr. Raphael's testimony, the  
11 simulations that were submitted. I'm trying to think  
12 if there were -- and, eventually, I was able to see  
13 other people's testimony. But, obviously, when I filed  
14 mine, that was pretty much what I had available to me.

15 Q. And, you prepared a visual assessment in the former  
16 docket, that's correct?

17 A. That's correct.

18 Q. You haven't prepared a visual assessment in this  
19 docket, is that true?

20 A. No, I have not.

21 Q. Have you prepared any visual simulations for this  
22 docket?

23 A. No.

24 Q. Did you go back and revisit any of the resources in the

[WITNESS: Vissering]

1 Antrim area for this docket?

2 A. No.

3 Q. Do you have any sense of about how much time you've  
4 actually spent working on this new docket?

5 A. I probably spent, oh, gosh, way too much time. Let's  
6 see. I know I did a -- I did a cost proposal, which  
7 outlined my anticipated hours.

8 Q. Maybe I could --

9 A. Which I assume you probably have seen.

10 Q. I have.

11 A. And, that's -- it's definitely -- it has definitely  
12 been at the upper end of those hours. Though, as I  
13 said, I haven't had to, obviously, do a simulation.

14 Q. I'm not looking for a precise number.

15 A. Okay.

16 Q. But just some sense of the hours you spent actually  
17 doing substantive analysis here. Any idea?

18 A. So, probably, in terms of doing substantive analysis of  
19 this Project, that was, because I was very familiar  
20 with the former Project and its impacts, that I'm  
21 guessing might have been reading documents, maybe 30  
22 hours, something like that. And, then, in addition to  
23 that, was preparation for today. I don't know if you  
24 consider that "substantive" or not, you probably don't.

[WITNESS: Vissering]

1 Q. I don't know if I do or don't. Do you have a copy of  
2 your testimony in front of you?

3 A. Yes, I do.

4 Q. So, I want to go through that and just ask you some  
5 questions about particular areas. I'm looking at Page  
6 1, Line 13.

7 A. Yes.

8 Q. And, actually, focusing more broadly on Lines 11  
9 through 14, you say that your task here is to do "an  
10 independent assessment of whether the project meets the  
11 threshold of "substantially different"." Am I correct  
12 that your assessment is exclusively focused on  
13 aesthetics?

14 A. Yes.

15 Q. And, with respect to the analysis that you're doing as  
16 to whether it's "substantially different", when you use  
17 that term, I assume you're quoting it because you're  
18 quoting the SEC order, is that right?

19 A. Yes.

20 Q. So, in your mind, is there any term of art in visual  
21 impact assessment like "substantially different"?

22 A. "Substantially different"? I think it would -- it  
23 would probably -- it would probably be, I might equate  
24 it to the question -- the ultimate question of



[WITNESS: Vissering]

1 "unreasonable" versus "reasonable", that threshold  
2 issue. I mean, that's a word that is legally used in  
3 New Hampshire, of course. But that's, in a way, where  
4 I would see this as being, and that, of course, is in  
5 terms of visual impact assessment, that's what I'm  
6 always ultimately trying to determine, is "does the  
7 project pass a threshold that -- where it has, in  
8 Vermont, "undue adverse", or, in Maine -- in New  
9 Hampshire, an "unreasonable adverse impact".

10 Q. Let me try it a different way, because we're not  
11 focused on getting to the ultimate conclusion here.

12 A. Okay.

13 Q. We're focused on the idea of "substantial difference"  
14 between projects. In visual impact assessment or in  
15 any of the recognized visual impact methodologies, does  
16 the phrase "substantially different" appear anywhere?

17 A. Not that I can think of.

18 Q. So, when you say you're doing that analysis, it's not  
19 with respect to your particular area of expertise, it's  
20 more in the context of the legal standard that the SEC  
21 has set here, is that correct?

22 A. I would say that the -- that, in this context, because  
23 it has to do with aesthetics, it's inescapable to need  
24 to look at what are -- what are the impacts, and,

[WITNESS: Vissering]

1           therefore, is it substantially different? Does it make  
2           a substantial difference? Have there been sufficient  
3           changes that have been made to make it -- to change the  
4           outcome?

5   Q.   On Page 2 of your testimony, at Lines 10 and 11, you  
6       say, referring to your prior assessment, "it also  
7       discussed the project's overall effects on numerous  
8       resources throughout the surrounding area." Were all  
9       of the resources that you're referring to there scenic  
10      resources?

11   A.   They were all resources, certainly, that were  
12      identified in the original report. And, I would  
13      consider them to be, yes, I would consider them all to  
14      be scenic resources.

15   Q.   So, those were the 11 resources you identified in your  
16      original report that you're referring to there?

17   A.   Those were -- there were, in the Saratoga Associate  
18      report, there were 50 sites identified that were  
19      considered to be scenic resources. I only focused on  
20      the ones -- I didn't feel like that I needed to focus  
21      on ones that I considered to have more minimal impacts  
22      individually, I needed to focus on the ones that would  
23      have more substantial impacts. So, that -- yes, that  
24      was the focus of the ones that I looked at in my

[WITNESS: Vissering]

1 report.

2 Q. On Page 4, and I'll start out on Lines 4 and 5, you say  
3 "As was demonstrated by extensive testimony, this  
4 resource in and its natural surroundings were the  
5 result of considerable public investment." And, you're  
6 referring above, I think, to Willard Pond and the  
7 DePierrefeu, and I won't pronounce that correctly,  
8 Wildlife Sanctuary, is that correct?

9 A. And the surrounding conservation land, yes. I think  
10 that was certainly in its a decision, that the  
11 Committee noted both the investment in the DePierrefeu  
12 Wildlife Sanctuary, but also the surrounding and  
13 contiguous conservation lands.

14 Q. In your experience, as someone who has done visual  
15 impact assessment, is there always a correlation  
16 between public investment in land and scenic value?

17 A. No.

18 Q. How do you, as a visual impact assessor, make a  
19 determination about whether such a correlation exists?

20 A. Visibility. There are a lot of wildlife management  
21 areas throughout most states. There are forest areas.  
22 There are -- there were some wetland areas that I  
23 didn't assess that were part of this 10-mile radius  
24 study area, because there was no visibility. And, so,

[WITNESS: Vissering]

1       that they -- they were not places where people went --  
2       well, they might go to recreate. But, if the Project  
3       was not going to be visible, it wasn't going to be of  
4       concern. And, some of them, for example, a wildlife  
5       life management area, those are often areas that really  
6       are -- there is no resource like a pond or a hiking  
7       trail or a mountaintop, where people are specifically  
8       going. There can be. And, if there were, with  
9       visibility, I would assess it, because it would have  
10      recreational value.

11   Q.   So, hypothetically, you could have, for example, a  
12       wildlife refuge that was established entirely with  
13       public money that was entirely wooded --

14   A.   Yes.

15   Q.   -- and had no scenic views at all, and that would have  
16       no scenic value associated with it, is that right?

17   A.   And, if there were no trails, no sort of recreational  
18       focus to it, because a lot of the wildlife management  
19       areas do not have trails. But, when you add a trail,  
20       it becomes a recreational -- a resource.

21   Q.   But, as I understand it, the trail still needs to  
22       provide some sort of vista. For example, if it were a  
23       trail through a spruce forest, where you couldn't see  
24       anything through the forest even in the winter, there

[WITNESS: Vissering]

1 would be no scenic value associated with that trail, is  
2 that right?

3 A. Well, there would be scenic value associated with it.  
4 There wouldn't be impact associated with it.

5 Q. Okay. Thank you. Page 4, Lines 10 and 11. You say  
6 "Adding to the project's unreasonable aesthetic impacts  
7 were its high visibility to a number of other scenic  
8 and recreational resources". Do you distinguish in  
9 your mind between "scenic resources" and "recreational  
10 resources"?

11 A. There are two -- to some extent, but not entirely.  
12 Because recreational resources are not -- not always  
13 scenic, but -- and, so, there are scenic -- there are  
14 designated scenic areas. Those are few and far  
15 between. We don't -- we have very few of those as  
16 examples. And, perhaps one of the -- there would be  
17 sort of particular scenic roads that are designated.  
18 But we don't see many places that are specifically  
19 designated as a "scenic resource". So, generally, and  
20 recreational resources will have what the -- what the  
21 U.S. Forest Service uses in its methodology for  
22 evaluating impacts, is they use a recreational  
23 opportunity spectrum. So, you have a range of  
24 experiences. Some of them are very primitive and some

[WITNESS: Vissering]

1 of them are very developed. And, those will all have  
2 effects on the scenic or visual impacts, because of the  
3 expectations for what types -- what sort of experience  
4 people are expecting in that, in that particular  
5 resource.

6 Q. So, if, hypothetically, you were evaluating the scenic  
7 value of a state park in Vermont, one method of  
8 determining that scenic value would be to look at the  
9 promotional literature for the park, wouldn't it?

10 A. That would, certainly, you might identify what is it  
11 people are attracted to, and it might be a lake or a  
12 pond, or it might be a hike up on a mountain. You get  
13 an idea of what are the major features of that, of that  
14 particular resource, from looking at literature.

15 Q. In fact, in visual impact assessment, a review of the  
16 literature with respect to specific resources is one of  
17 the tools that people in your trade use to make a  
18 determination about the scenic value of resources,  
19 isn't it?

20 A. Just -- yes, to some extent.

21 Q. Again, on that same paragraph, did you do any analysis  
22 with respect to these resources regarding the context  
23 of their view?

24 A. Yes. That is the basis of the -- oh. Well, I did that

1 in my previous report.

2 Q. Right.

3 A. I didn't, in terms of this one, I made the assumption  
4 that all those things were still true, and I was only  
5 looking at the difference in terms of the two. Because  
6 the context -- the context is -- the context is what I  
7 had identified before in my previous report. But the  
8 difference was in the Project, not in the context.

9 Q. Does context of view at a particular scenic resource  
10 change based on the visibility of the object you're  
11 analyzing?

12 A. No. That has to do with project. The context is still  
13 the resource. It does change, to the extent that you  
14 have the resource, you have the kind of characteristic  
15 of the resource, and then you look at the project and  
16 determine "well, how does this" -- "to what degree does  
17 this contrast with the existing context or have some  
18 kind of either negative or potentially positive  
19 impact?" But, certainly, in terms of the impacts, the  
20 visibility does make a difference.

21 Q. On Line 23 of that same page, I say "Visibility of  
22 clearing around Turbine 9 will also result in  
23 significant visual impacts." Can you describe all of  
24 the places, in your opinion, that will experience those

[WITNESS: Vissering]

1 significant visual impacts?

2 A. That would be from Goodhue Hill.

3 Q. Anyplace else?

4 A. Well, I haven't seen those clearing studies anywhere  
5 else, for any -- because that was the only one that I  
6 did, because it hadn't been done by the previous -- in  
7 the previous application. And, so, we don't know what  
8 the -- from where these, the road grading/clearing,  
9 that's a piece of information that I don't have access  
10 to.

11 Q. So, you can't identify specific locations on Goodhue  
12 Hill where you believe these significant impacts would  
13 be experienced?

14 A. Well, it was from the clearing at the top.

15 Q. Is that the only location?

16 A. Yes.

17 Q. And, is that based on the prior work you did or is that  
18 based on new work you've done?

19 A. That's based on the prior work that I did.

20 Q. So, you actually haven't done new work regarding the  
21 proposed Project to reach that conclusion?

22 A. Well, my understanding is there was no difference in  
23 Turbine Number 9, in terms of its location or the road  
24 clearing. So, it seems logical to me that those --



[WITNESS: Vissering]

1       that that visibility would continue to be there.

2       Q.   Let's turn to Page 8 please.  And, I'm looking at Line  
3       22.  And, it says, and it carries over to the next  
4       page, "View of roads and clearings would be visible  
5       along the project ridge and visible from off-site  
6       viewpoints including those within the Sanctuary."  So,  
7       it seems to me that this point relates to the one we  
8       were just talking about, though I'm not sure.  Can you  
9       explain that to me?  What "off-site viewpoints" do you  
10      mean?

11      A.   Well, I had been thinking about Goodhue Hill in that  
12      particular case.  But I had raised, in my last  
13      assessment, questions, because of looking in detail at  
14      the grading plans, whether there would be the potential  
15      for off-site visibility from other locations as well.  
16      But I don't -- I didn't -- I don't know of any.

17      Q.   Okay.  Looking at Page 10 now.  And, I'm looking at the  
18      table that you've got on Page 10.  And, the first  
19      complete entry on that page says, and I guess the  
20      heading is "Project Characteristic", and then the  
21      characteristic you list is "Visibility of Road and  
22      Clearing at Turbine 9 and between Turbines 5 and 6".  
23      You see where I am?

24      A.   Yes.

[WITNESS: Vissering]

1 Q. Again, does that relate to anything beyond the clearing  
2 of Goodhue Hill?

3 A. Not from -- not from my own assessment. I would add  
4 that another possible viewpoint would be Pitcher  
5 Mountain, would be another possible place where there  
6 could be some visibility. But that was only  
7 speculation. So, yes, this does relate to that.

8 Q. So, only to Goodhue Hill?

9 A. Yes.

10 Q. Page 10, Lines 2 through 4, you say "Removal of one  
11 turbine and a slight lowering of a second turbine would  
12 not materially change the proposed project's impact,  
13 especially given the substantial aesthetic impacts  
14 noted by the SEC in the previous decision." What is  
15 your view regarding the impact at the boat launch at  
16 Willard Pond with respect to the new Project?

17 A. I think it's the same as the former Project, which is  
18 that there isn't -- there isn't -- the visibility is  
19 somewhat limited from that point of view.

20 Q. So, it's your view that there's no material change  
21 between the old Project and the new Project from the  
22 boat launch?

23 A. So, from the boat launch -- may I ask a sort of  
24 clarifying question?

[WITNESS: Vissering]

1 Q. If you don't understand my question, please tell me.

2 A. Well, it's more of a technical question. The  
3 simulations that Mr. Raphael did, was one of those from  
4 the boat launch?

5 Q. I'm actually not certain as I sit here.

6 A. Okay. So, my recollection is that both of them --

7 MR. NEEDLEMAN: Give me one -- give us  
8 one minute.

9 MS. VISSERING: Yes. Thanks.

10 MR. NEEDLEMAN: We'll get the right  
11 information for you.

12 BY MR. NEEDLEMAN:

13 Q. So, I'm told that the simulations included with  
14 Mr. Raphael's prefiled testimony are not from the boat  
15 launch.

16 A. That's -- yes, that's what I thought. So, there is no  
17 difference from that point of view.

18 Q. And, you say that based on what?

19 A. I don't think it was visible before.

20 Q. Any of the turbines?

21 A. Correct.

22 Q. On Page 10, you define "visual dominance", and you  
23 provide your understanding for us of that. Is that  
24 your definition or is that a standard definition in the

1 field?

2 A. Well, evidently, that's a -- that's a term that  
3 Mr. Raphael uses. And, I suspect from his testimony  
4 that we probably have -- we may have some slight -- I'm  
5 guessing that we probably are using the same -- looking  
6 at many of the same variables. And, certainly, it is  
7 one that is in many methodologies, that term, because  
8 it's a term that gets to the issue of exceeding the  
9 threshold. And, it's what we need to look at. And, I  
10 think we would tend to use many of the same variables.  
11 Obviously, we come to different conclusions.

12 Q. So, you don't use the term "visual dominance" in your  
13 work?

14 A. Yes, I did.

15 Q. And, where does that come from? Does it come from an  
16 established methodology?

17 A. Yes. It is certainly one that came out of the U.S.  
18 Forest Service methodologies, that was -- those were  
19 sort of the original ones that were adopted by many  
20 other organizations. So, yes.

21 Q. And, in the methodologies where that term may come from  
22 as you use it, are there defined ratios of measuring  
23 the Project to the landscape for determining what is  
24 and is not visually dominant?

[WITNESS: Vissering]

1 A. I have -- I have never -- I haven't seen, there may be  
2 some that have been developed by -- for some particular  
3 situations. But, for example, the Bureau of Land  
4 Management may have developed something. If there is,  
5 I haven't seen it. And, I think that there may be some  
6 guidelines with regard to sort of ratios that are  
7 low/high -- low/moderate/high. And, I haven't -- I'm  
8 not aware of those ratios. I know that that's sort of  
9 something everybody would like to see, except that it  
10 doesn't work very well, because every -- whether you're  
11 talking about the West, Midwest, or New England,  
12 they're completely different landscapes. So, it would  
13 be very hard to have something that very neatly put  
14 everything into a mathematical threshold that would  
15 come out, pop at the end with a "this is going to have  
16 a dominant effect."

17 Q. I'm trying to figure out if there's any place you can  
18 point me to in the world of accepted VIA methodologies  
19 that defines this in terms of acceptable ratios,  
20 depending on a particular circumstance. And, it sounds  
21 to me like you're saying that there isn't?

22 A. There is not. And, it's one of the -- one of the  
23 reasons that many of the methodologies I've seen have  
24 lots of purported ratios, but there's never a -- there

[WITNESS: Vissering]

1 is never something that really gives -- provides  
2 guidance for "how do you determine whether this is  
3 acceptable or unacceptable?" So, those -- they  
4 probably exist for certain types of projects in certain  
5 situations. But I've never seen -- I haven't seen  
6 anything that provides meaningful data.

7 Q. Looking at Page 12 now, and now we're getting into the  
8 portion of your testimony that offers commentary on  
9 Mr. Raphael's testimony. And, at the top of Page 12,  
10 you say "Because they are designed at a national  
11 scale", and I think you're referring to the BLM and  
12 Forest Service methodologies, "it is important to  
13 recognize the particular characteristics of the state  
14 and region in which the evaluation occurs." Do you see  
15 where I'm reading?

16 A. This was on Page 12, at the top?

17 Q. Right at the top, yes.

18 A. Yes.

19 Q. For the work that you have done on this particular  
20 Project, have you reached an understanding of the  
21 characteristics and significance of this particular  
22 region, the 10-mile area around the proposed Project?  
23 In other words, is it your opinion that this area is  
24 one of national significance?

[WITNESS: Vissering]

1 A. No.

2 Q. Is it your opinion that this 10-mile area around the  
3 Project is one of statewide significance?

4 A. No.

5 Q. So, is it your opinion that the 10-mile area in total  
6 is one of just local significance?

7 A. I would say "regional significance".

8 Q. Okay. I'm sorry. I jumped from state to local. So,  
9 regional significance?

10 A. Yes, regional, definitely.

11 Q. And, how do you define the "region" in this context?

12 A. It seems to me that the southern part of New Hampshire,  
13 a little bit like, I mean, New Hampshire is very  
14 different from Vermont, but I would say that the  
15 southern part of New Hampshire has some characteristics  
16 that are slightly different from perhaps the portions  
17 of the state that are central with the White Mountains.  
18 It's a very different kind of context. And, so, it  
19 is -- it is a part of the state that has its own set of  
20 particular visual characteristics that are, as I said,  
21 a little bit -- a little bit different from other parts  
22 of the state, and, certainly -- and I'm quite familiar  
23 with the northern part. I've done work on wind  
24 projects up in the northern part. So, I know that area

[WITNESS: Vissering]

1       pretty well. And, that's somewhat also a very -- a  
2       distinctive part of the state.

3   Q.   So, it sounds to me like you're focusing on physical  
4       characteristics?

5   A.   Largely, yes.

6   Q.   So, let me focus for a minute on things other than  
7       physical characteristics. Would you consider this  
8       particular region around the Project to be one of  
9       statewide importance from a visitation perspective, a  
10      tourism perspective, that type of thing?

11   A.   I am guessing that the State of New Hampshire probably  
12      would like to encourage tourism in all parts of the  
13      state. And that, because it's not the grand scenery of  
14      the White Mountains, that that doesn't make it less of  
15      a tourist destination. So, if -- in terms of  
16      "statewide significance"? That's hard to say, because,  
17      at least in most states, there are certainly some  
18      resources that are considered absolutely spectacular,  
19      and probably the White Mountains would be one of those  
20      in New Hampshire. But I'm not sure that makes this  
21      region necessarily not having some kind of statewide  
22      significance.

23   Q.   Well, did you look at, for example, the State Tourism  
24      website to determine whether there was any support



[WITNESS: Vissering]

1       there for characterizing it as one of "regional  
2       significance"?

3   A.   I don't think I did look at that.

4   Q.   Did you look at any tourist guides for the State of New  
5       Hampshire, like a Fodor's type guide or things like  
6       that to help in your determination?

7   A.   Like the Gazetteers or something like that?

8   Q.   Yes. I mean, --

9   A.   I'm guessing that there would be -- there are many  
10       resources noted in the Gazetteers. And, I don't recall  
11       right now what I -- I remember looking at some of  
12       those, but I don't recall what I found.

13   Q.   Do you recall anything you may have found looking at  
14       any resources to help make this determination about  
15       "regional significance" from a visitation or tourist  
16       perspective?

17   A.   I think that one of the significant -- there were a  
18       number things that struck me as being somewhat  
19       significant about the area. And, it was largely my own  
20       observation about the number of recreational areas, the  
21       number of lakes and ponds, the number of the -- the  
22       amount of land that had been -- there had been  
23       considerable effort for protection of the natural  
24       values of the landscape. But I do think that -- and

[WITNESS: Vissering]

1       some of the resources clearly were local resources,  
2       like Gregg Pond -- Gregg Lake, excuse me, that I --  
3       I'll stop there.

4   Q.   On Page 12, at Lines 6 through 8, you say "In assessing  
5       visual impact factors" -- "impacts, factors such as  
6       proximity, dominance, degree of contrast and viewer  
7       expectations are more important than the absolute  
8       amount of visibility." How do you make a determination  
9       with respect to a specific resource about what the  
10      viewer expectations are?

11  A.   Can you go back to the part you were reading? Which --

12  Q.   Sure. I'm at Page 12, Lines 6 through 8.

13  A.   Okay. Yes.

14  Q.   So, my question is, how do you, when you're doing these  
15       types of assessments, come to an understanding about  
16       what a viewer expectation is at a particular resource?

17  A.   I use the -- as I mentioned, the concept of the  
18       recreational opportunity spectrum. That there are  
19       resources that are valued because of their primitive  
20       character, their natural character. And, then, there  
21       are recreational resources that have a very different  
22       level of -- different kinds of things that are valued.  
23       And, so, that was -- that was one of the things that  
24       I -- that I looked at, in terms of -- actually, do you

[WITNESS: Vissering]

1 mind repeating that question? I'm sort of -- sorry,  
2 it's afternoon, the mind is starting to waiver.

3 MR. NEEDLEMAN: I understand. Maybe it  
4 would be easier if we had the court reporter just read the  
5 question back.

6 (Whereupon the court reporter read back  
7 the last question asked.)

8 **BY THE WITNESS:**

9 A. Okay. So, we were talking strictly about viewer  
10 expectation, that piece of the analysis.

11 BY MR. NEEDLEMAN:

12 Q. At that point, yes.

13 A. Okay. Yes. So, I think that that is, to me, an  
14 important -- the expectation, in this particular case,  
15 for a natural environment, is one that is something  
16 that is clearly defined in the fact that it is a  
17 wildlife refuge. And, there is no -- and there has  
18 been considerable effort to prevent development from  
19 being at least very -- a dominant part of the  
20 experience there.

21 Q. That's not quite what I was asking you.

22 A. Okay.

23 Q. So, let me try differently, and let's focus on the  
24 wildlife refuge. How did you gain a specific

[WITNESS: Vissering]

1 understanding here of what the expectations are of  
2 viewers that visit that refuge?

3 A. So, we're talking about just the viewers that visit the  
4 refuge?

5 Q. Yes.

6 A. I think I explained that. Part of the methodology that  
7 is used by the U.S. Forest Service is the expectation  
8 of certain types of resources are -- have a particular  
9 purpose. Sometimes it's to provide -- sometimes it's  
10 to provide downhill skiing, sometimes it's to provide  
11 something that is a situation where there is almost --  
12 where the natural environment is the predominant  
13 resource. And, that's the case. That's the case here.

14 Q. With respect to this list of factors that you cite on  
15 Lines 7 and 8, did you complete an analysis of various  
16 resources here with those factors in mind for the new  
17 Project? Like, for example, let's take Franklin Pierre  
18 [Pierce?] Lake, did you analyze the visual effects from  
19 that area with these factors in mind looking at the new  
20 Project?

21 A. Which factors are you speaking of?

22 Q. The ones you list on Line 7, on Page 12: "Proximity,  
23 dominance, degree of contrast and viewer expectations".

24 A. There was never a simulation that was done for Franklin

[WITNESS: Vissering]

1 Pierce Lake, which was, I think, unfortunate. The  
2 viewshed analysis indicated that there was quite a bit  
3 of visibility from that, from that lake. It was a  
4 recreational lake. It's, obviously, a lake with a very  
5 different kind of experience level than Willard Pond.  
6 But, nevertheless, it was yet another resource. And, I  
7 think that was one that I looked at, looked at its  
8 proximity to the Project, looked at its -- the  
9 potential number of turbines that were going to be  
10 visible from that recreational resource. And, those  
11 were two -- those were two, the important  
12 considerations. That it was yet another recreational  
13 resource that would be impacted, and that it was -- I  
14 considered it significant, because of its close  
15 proximity to the Project.

16 Q. And, have you done a new analysis at that resource  
17 considering the revised Project?

18 A. No.

19 Q. So, you can't offer any opinion about what the impacts  
20 at that resource would be for the revised Project?

21 A. I -- for the revised Project, no, I cannot.

22 Q. And, I guess I would ask the same question about Robb  
23 Reservoir. Did you do a new analysis there that would  
24 enable you to offer an opinion about the impacts there

[WITNESS: Vissering]

1 to the revised Project?

2 A. I have not seen -- if I had access to a viewshed  
3 analysis, I probably could do the same kind of analysis  
4 I did in the previous docket. I did not do a detailed  
5 analysis from any of these points, but at least I had  
6 access to a new viewshed -- a viewshed analysis, which  
7 I don't have. So, I'm working with limited -- limited  
8 information.

9 Q. And, you didn't do your own viewshed analysis, right?

10 A. That's correct. I relied last time on the Applicant's  
11 viewshed analysis, because I had no reason to duplicate  
12 it. I had no reason to doubt that it was accurate.

13 Q. And, so, the same, I suppose, would be true for Island  
14 Pond, Nubanusit Pond, and Black Bond. You have no  
15 basis to offer an opinion about impacts at those  
16 resources or a change in impacts with regard to the new  
17 Project, as you sit here today?

18 A. Well, I haven't seen anything, any other analysis of  
19 the impacts to those resources to react to from the  
20 Applicant.

21 Q. I understand. But I --

22 A. But I have -- no, I have not done --

23 Q. You have --

24 A. I have not done a study.

[WITNESS: Vissering]

1 Q. That was my question. Thank you. On Page -- bottom of  
2 Page 12, over to Page 13, you talk about "scale of  
3 structures" and the importance of that. Do you see  
4 where I am?

5 A. Yes.

6 Q. Is there some accepted standard for evaluating that?

7 A. For the scale of structures?

8 Q. Yes.

9 A. There is -- I think the -- the evaluating scale has to  
10 do with a combination, is there -- I guess your  
11 question is really, is there a -- I think that, again,  
12 you're looking at those, the characteristics,  
13 proximity, the actual size of the structure. The  
14 scale, of course, has to do with two things. It has to  
15 do with the horizontal scale and the vertical scale,  
16 and both of those come into play. So, those are the --  
17 those are the data points that we can work with to look  
18 at.

19 Q. I understand. I just am trying to get more specific  
20 here. You've provided a list of things that you  
21 consider to be important variables. "Scale of  
22 structure" is one. And, I just want to understand, is  
23 there a particular accepted standard in the visual  
24 impact assessment community for evaluating that?

[WITNESS: Vissering]

1 A. With wind turbines? The idea of scale I think has --  
2 with something that was with the kinds of developments  
3 that we would see in the landscape, shopping centers,  
4 housing projects, you have a sense of what the scale of  
5 those are going to be in relation to what is around.

6 With wind turbines, the scale issue has  
7 become -- has become more difficult, because of the  
8 extreme heights. So, what we have to work with is a --  
9 the known variable is existing projects, and looking at  
10 those, and the effects of those projects, but also  
11 within the particular context. Because scale has to  
12 do, in part, with what's -- with what's around it.  
13 And, again, with wind projects, you have a -- there's a  
14 difficulty, because you have -- you have a scale of  
15 landscape that sometimes there are grand landscapes,  
16 bigger mountains, sometimes there are much smaller  
17 landscapes. So, scale is always a relative thing.  
18 It's always relative to the surroundings. Scale is, by  
19 itself, cannot be really determined. It has no  
20 meaning. It's only -- scale is only in relation to  
21 what is its context.

22 Q. So, I think we're probably in the same place, let me  
23 just be sure. If you were to look at the Forest  
24 Service visual assessment methodology, there would be



[WITNESS: Vissering]

1 nothing in there that says "when evaluating scale of  
2 structures, do the following:"?

3 A. That's correct.

4 Q. And, if you were to look at the BLM methodology, the  
5 same answer?

6 A. Yes. I think that that's correct.

7 Q. And, for any other methodologies you can think of, same  
8 answer?

9 A. Yes.

10 MR. NEEDLEMAN: I have nothing further.

11 Thank you.

12 MR. IACOPINO: Justin.

13 MR. RICHARDSON: Thank you. Good  
14 afternoon.

15 MS. VISSERING: Good afternoon.

16 MR. RICHARDSON: I'm Justin Richardson,  
17 we met earlier today, for the Town of Antrim.

18 BY MR. RICHARDSON:

19 Q. I want to go back to a point that Attorney Needleman  
20 raised early on. And, I just wasn't sure that I  
21 understood your answer correctly. And, to characterize  
22 it, I think what he was asking was, "is there a  
23 difference between deciding what the -- whether the  
24 visual impact is different and whether the Project is

[WITNESS: Vissering]

1 different?" Do you remember that?

2 A. Yes.

3 Q. Okay. So, my question is, setting aside the -- setting  
4 aside whether or not the visual impact is different,  
5 how did you set about to evaluate whether the Project  
6 was different? What did you consider important to look  
7 at?

8 A. So, I think that the differences, in terms of the  
9 Project, were -- I think the thing that I looked at was  
10 "how much of a difference visually, in terms of  
11 impact?" I mean, "visibility" does not necessarily  
12 mean "impact".

13 Q. Uh-huh.

14 A. But those factors that we've been talking about, the  
15 proximity, the number of turbines visible, --

16 Q. Sure.

17 A. -- those kinds of things were the ones that --

18 Q. So, am I correct then in saying that the purpose of  
19 your report was really to get -- I'm sorry, I keep  
20 losing you, I'm going to move over here -- to get to  
21 the second question, which is "how is the visual impact  
22 the same or different?" And, the answer to that  
23 question really controls whether or not the Project is  
24 different.

[WITNESS: Vissering]

1 A. So, I think the question in my mind is whether, yes,  
2 whether the Project would make a meaningful difference  
3 in the impacts to the various -- and, of course, those  
4 were partly to individual resources, partly to the  
5 region as a whole. So, that's what I was looking at.

6 Q. So, the basis of your report and would it be fair to  
7 characterize your report as saying "the Project is not  
8 substantially different", for the purpose of your  
9 testimony, "because the visually" -- "visual impacts  
10 are not substantially different"? Is that what you're  
11 saying?

12 A. Well, --

13 MS. MALONEY: I'm going to object. I  
14 don't really understand the question here. I mean, I  
15 think that Ms. Vissering testified what she was asked to  
16 do at the outset. I don't know if -- and she certainly  
17 wasn't asked to identify whether the Project was  
18 different.

19 MR. IACOPINO: Yes. But I think his  
20 question goes to how she drew her conclusions, as opposed  
21 to --

22 MS. MALONEY: Well, I'm not clear. So,  
23 is that then your question?

24 MR. RICHARDSON: And, I just want to

[WITNESS: Vissering]

1 know the witness's understanding, obviously. Because,  
2 once we know that, then we can move on.

3 BY MR. RICHARDSON:

4 Q. So, I guess my question is this. Let me restate it  
5 this way. Is it fair to say that your report or the  
6 conclusion that you reached is that the Project is not  
7 substantially different, because the visual impact is  
8 not substantially different, from the Project as  
9 proposed, when compared to what was proposed  
10 previously?

11 A. I think I might perhaps phrase it a little bit  
12 differently in my mind. Which is, did the changes,  
13 which I felt were pretty small changes, and it is  
14 possible that those small changes could, as Mr. Raphael  
15 asserts, make a big difference. And, so, the question  
16 for me was, what -- were those changes significant  
17 enough that they would really ameliorate the impacts  
18 that were there in the first place? Yes. So, I think  
19 I'm agreeing with your conclusion.

20 Q. Okay. Thank you. Is there any other way that you --  
21 or methodology that you used to assess the significance  
22 of the changes, as opposed to the significance of the  
23 visual impact?

24 A. I think I was focused on the impacts that had been

[WITNESS: Vissering]

1 identified before, that were also part of the decision.  
2 And, so, I guess my answer would be that I was -- I  
3 think that the real issue here is whether there is a  
4 sufficient reduction in the impacts to -- such that the  
5 Project would go below that threshold.

6 Q. And, you really can't think of any other major factors  
7 that you applied in your analysis? That was --

8 A. Well, --

9 Q. That was the primary factor?

10 A. Yes. I mean, I do -- yes, I do visual impact  
11 assessments.

12 Q. Sure. So, let me ask you a sort of related question,  
13 but I'm going to change gears a little bit. If you  
14 have Page 8 of your testimony in front of you, I'll get  
15 it as well. The last question on the page asks you  
16 about -- or, you respond about Turbine 9. And, you  
17 state "Turbine 9 would be slightly less visual due to  
18 its lower height, but its height would still be 50 feet  
19 taller than the Lempster turbines." And, that's what I  
20 want to ask you about. So, you found that --

21 A. Yes.

22 Q. So, when you say "the height of the Lempster turbines",  
23 what did you mean exactly? Was it the height from the  
24 ground to the tip of the turbine blade at its highest

1 point?

2 A. Yes. Or -- yes.

3 Q. And, what was the height of the Lempster turbines that  
4 you were using, do you remember?

5 A. They were compared with the 488.9 there, and I made an  
6 incorrect statement in here, they're 93 feet lower.  
7 So, I think it's somewhere around 396, something like  
8 that.

9 Q. Yes. Yes. So, that's my understanding.

10 A. Yes.

11 Q. I had 396 for the height of the Lempster turbines.  
12 And, since we're talking about Turbine Number 9, I  
13 believe that was 446 feet to the tip of the blade at  
14 its highest point. So, does that sound right?

15 A. Yes.

16 Q. And, is that a significant number, in your view? Or,  
17 is that a significant difference, I should say, not a  
18 "significant number"?

19 A. Is what a "significant difference"?

20 Q. Is that difference in height significant? I mean, I  
21 saw that you mentioned it in your report, and I assumed  
22 that the reason for mentioning that is is you found  
23 that the fact that Turbine 9 was still higher than  
24 50 feet was of some significance?

[WITNESS: Vissering]

1 A. Yes. And, that reason for the -- I mean, it's partly  
2 the comparison with Lempster, and -- I think I'm going  
3 to go into something that's totally off your question.  
4 So, I think I better focus on your question. But, yes,  
5 I did feel that that would be significant.

6 Q. Uh-huh. And, is that -- that was due to, basically, I  
7 mean, by my math, and I just took, and so correct me if  
8 I'm wrong, I took 446, and I divided that by 396, and I  
9 came up with the fact that this Turbine Number 9 would  
10 be about 12.6 percent higher than the Lempster  
11 turbines. Is that really what you were getting at? Is  
12 that it's just -- it's significantly higher than what  
13 Lempster was?

14 A. My concern in the comparison with Lempster is not just  
15 Turbine Number 9, it's the eight -- nine turbines.

16 Q. Uh-huh. Yes. I understand.

17 A. Okay? So, -- yes.

18 Q. But we're talking about Turbine 9 here, and you're  
19 saying -- I mean, the first thing you say about Turbine  
20 9 is it "would be slightly less visible due to its  
21 lower height, but its height would still be 50 feet  
22 taller than the Lempster turbines." And, that was  
23 significant, in your view?

24 A. Yes.

[WITNESS: Vissering]

1 Q. Okay. And, is it significant because the height is  
2 approximately, do you agree with me it's 12.6 percent  
3 higher than the Lempster turbines?

4 A. With Turbine Number -- Turbine Number 9 is kind of an  
5 odd one, because of the reduction in height on Turbine  
6 Number 9. And, of course, I had recommended that  
7 Turbine Number 9 be eliminated. So, there are a number  
8 of factors in my thinking about why that one should be  
9 eliminated, but -- and height was certainly one of  
10 them. It is one of the more proximate turbines to the  
11 refuge itself, looking at only from that point of view.

12 Q. But you didn't mention "proximity" in your testimony  
13 here about Turbine 9. I guess my question is, is what  
14 is significant about the 50 feet? How do you -- what  
15 was the basis for concluding that that was significant  
16 and putting it in your report?

17 A. I don't think the 50 feet was necessarily --  
18 necessarily significant to Turbine Number 9, other than  
19 that there is -- there is -- let me just -- let me read  
20 this.

21 So, I think that the -- we're still  
22 looking from a number of different vantage points.  
23 And, so, Turbine -- the 50 feet is probably not  
24 specifically relevant to necessarily the view, but it's



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1 a more general statement, about the overall -- the  
2 overall height and scale of these turbines in  
3 relationship to the various viewpoints within the  
4 DePierre -- the wildlife sanctuary.

5 Q. And, I guess, is it -- is it fair to say that a 50-foot  
6 change or a change of 12 -- you agree that it's a  
7 change of about 12.6 percent?

8 A. I assume so.

9 Q. The methodology you'd look to see if it was larger or  
10 smaller is you would take the 396 -- excuse me, you  
11 take the 446 of these towers, and you divide that by  
12 396. And, assuming I've done the math right, that  
13 would show it's about 12.6 percent taller.

14 A. So, I don't think the percentages are particularly  
15 helpful, because what we're -- the issue --

16 Q. I'm sorry. I just want to make sure --

17 MS. MALONEY: Would you let her finish  
18 the question please -- the answer please.

19 MR. IACOPINO: Let's let her finish, and  
20 then go ahead.

21 **CONTINUED BY THE WITNESS:**

22 A. And, yes, maybe I'm going in a different direction than  
23 you intended. But I think that the height here is --  
24 the height is an issue, because, and it's not just --

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1       it's because of the proximity. And, I think it's --  
2       the reason for noting the 50 feet is that we're dealing  
3       with an increasing scale of turbine in some of these  
4       projects, which, when you have a landscape that is a  
5       sort of small, intimate landscape, it does begin to  
6       make a difference. And, I wanted to put a number to  
7       that difference, in terms of how large --

8 BY MR. RICHARDSON:

9 Q.   Uh-huh.

10 A.   -- how large these are getting, in relationship to this  
11       particular context.

12 Q.   And, so, a change from the Lempster height at 396, to  
13       446, that can be a significant change? That's  
14       effectively what I understood you were saying. Not  
15       that it always is, but it can be?

16 A.   That the -- that the 50 feet --

17 Q.   Adding 50 feet can be a significant change?

18 A.   That they're higher? But you're comparing -- you're  
19       comparing, so --

20 Q.   Well, let me start with this. I didn't make the  
21       comparison. I looked at your report, and I found the  
22       comparison. I mean, what you did is you compared the  
23       height of Turbine 9 to the height of the proposed --  
24       excuse me, the height of the proposed Turbine 9 to the

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1 height of the Lempster turbine. And, that was the  
2 comparison. You would agree that was the comparison,  
3 right?

4 A. Okay. I see where -- what you're getting at. So, I  
5 think we're starting to focus on one little factor of  
6 one little turbine. And, I don't -- I don't think that  
7 it's fair to do a visual impact assessment, where we're  
8 looking at -- the issue here is the scale, both in  
9 terms of numbers of turbines, it's the issue in terms  
10 of overall scale of the turbines. And, a 50 --  
11 clearly, a 50-foot reduction in that Turbine Number 9,  
12 it's my contention that that turbine should not be  
13 there, because of its proximity. So, we're talking  
14 height, we're talking about a number of different  
15 variables. The issue -- and, then, of course, we're  
16 talking a much greater difference in terms of the rest  
17 of the turbines.

18 And, it's those views, it's both -- the  
19 issue here is both the proximity to the wildlife refuge  
20 and the views from various other resources, like Gregg  
21 Lake, where that kind of height is significant.

22 Q. But I think, and I apologize for interrupting, but I'm  
23 trying to ask a much simpler question that doesn't  
24 really focus on all of the components of a visual

[WITNESS: Vissering]

1 impacts analysis. And, I'm really just trying to  
2 ask --

3 MS. MALONEY: I'm going to object,  
4 because I believe she's answered his question.

5 MR. IACOPINO: Why don't you finish the  
6 question that you're asking.

7 MR. RICHARDSON: Sure.

8 MS. MALONEY: It's the same question.

9 BY MR. RICHARDSON:

10 Q. It's that a 50-foot increase in height, or a decrease,  
11 can have a significant effect on the analysis? Whether  
12 it does or not, you have to look at other factors. But  
13 a 50-foot change can have a significant effect?  
14 Understand, I'm not asking you whether it does or  
15 doesn't in this case. I'm just trying to -- I'm trying  
16 to identify not what changes the overall analysis or  
17 not what changes your conclusion about whether this has  
18 a significant adverse impact or not. But just that a  
19 change in 50 feet could be a significant one in the  
20 analysis?

21 A. I don't think that that leads to that conclusion. This  
22 is -- this happens to be 50 feet taller. Does that  
23 mean that the reduction of 45 feet is a significant  
24 change? I don't think it's a significant change. It

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1 is a change -- it is certainly a change.

2 Q. So, then, --

3 A. But I don't think that it is a significant change.

4 Q. So, then, the fact that the Lempster turbines were  
5 50 feet lower might not even matter at all?

6 A. But we're talking about one turbine versus -- that's  
7 what I'm trying to explain. That we're not -- I'm not  
8 talking about changing one turbine, I'm talking about  
9 changing all the turbines. And, that has to do with --  
10 and from different perspectives. So, I don't -- I  
11 don't think that a change in one turbine equates to  
12 necessarily something that is significant for when  
13 you're looking at a whole project of turbines.

14 Q. At what point do changes in height start to become  
15 significant in your analysis?

16 A. I have said that I think that the turbines -- the  
17 height of the Lempster turbines would -- I think they  
18 would be very large in scale. But I think I've made  
19 this statement that I think that they are something  
20 that we have been used to seeing, that they seem to  
21 relate well to the scale of the ridgeline.

22 Q. Would you agree --

23 A. So, whether it's significant or not, I don't -- I  
24 can't.

[WITNESS: Vissering]

1 Q. So, you can't say then, is that what you're saying?

2 A. Well, I can't say that -- I do believe that the  
3 100-foot difference would make a difference, in terms  
4 of the relationship in this particular setting.

5 Q. Okay. I'd like to get to the conclusions in your  
6 testimony. If you -- excuse me, I've lost my page.  
7 You have the bullets where you discuss the  
8 recommendations that you made in the prior proceeding.  
9 And, I found those in your testimony.

10 A. They were near the beginning.

11 Q. Yes. Is it on Page 5, is that where they start?

12 A. Yes.

13 MR. IACOPINO: They start on Page 4.

14 MR. RICHARDSON: On Page 4, okay.

15 MS. VISSERING: Yes.

16 BY MR. RICHARDSON:

17 Q. So, let's look at Page 4, the first bullet, I'm at Line  
18 21. And, the first recommendation was "eliminating  
19 Turbines 9 and 10". And, before I ask you about that,  
20 just because I don't know the answer, I assume the text  
21 in these recommendations should be the same as was in  
22 your report in the last proceeding, is that right?

23 A. That's correct.

24 Q. Okay. Why did you list this, of the seven

[WITNESS: Vissering]

1 recommendations I saw, you listed this one first?

2 A. Because those are the two turbines that were closest to  
3 the -- well, clearly, Number 10 was the most egregious.  
4 Turbine Number 9 was not particularly -- not  
5 particularly, it was lower in view, --

6 Q. Uh-huh.

7 A. -- as we know, and probably not as tall as some other  
8 turbines that were viewed. But this seemed to me, and  
9 the main reason I put in "Turbines 9 and 10" in my  
10 recommendations is because, if -- it seemed like it  
11 would be a lot easier to eliminate Turbines 9 and 10,  
12 in terms of changing the Project, than it would be in  
13 terms of eliminating 10 and 7.

14 Q. Uh-huh. And, I guess the question, I mean, there's  
15 always a danger in trying to read too much into it.  
16 What I was really trying to find out, without asking  
17 you a leading question, was did you put this  
18 recommendation first because it was the most important  
19 of the recommendations? Or, are they all equally  
20 important? Or, how -- what was your thought in putting  
21 this recommendation first, both in your testimony here  
22 and in your report in the last case?

23 A. So, if you read my report, the Visual Impact Assessment  
24 Report, you will see that I very clearly state that

[WITNESS: Vissering]

1       these are all significant.

2   Q.   Uh-huh.

3   A.   And, so, there was no reason for putting this one  
4       first.  It's probably the most -- the most obvious one.  
5       But I think that it's -- but I was very clear in  
6       stating that I thought these all needed to go in --

7                       (Court reporter interruption.)

8   **CONTINUED BY THE WITNESS:**

9   A.   Needed to go, I said, "be done in combination".

10  BY MR. RICHARDSON:

11  Q.   Understood.  So, in your -- with that caveat that you  
12       just explained, would this recommendation that you  
13       listed first provide the greatest benefit to the  
14       visual -- or, to reducing visual impacts, of all seven  
15       recommendations that you made?

16  A.   I would say that there -- the first three probably have  
17       been the ones that provided the most meaningful  
18       benefit.

19  Q.   Okay.  So, then, after the first three, the benefits,  
20       in terms of reducing visual impacts, drop off, although  
21       it would not quantifying it, but, in general, you think  
22       that the first three big ones are the most critical?

23  A.   I would say, yes, those are the most critical.

24  Q.   And, I almost, to go back where we started, and as I



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1       went away from this a little bit, because I wanted to  
2       touch base on this point before we went back to it, but  
3       it almost seems to me that part of your testimony is  
4       saying that, because this changed Project didn't adopt  
5       all of your recommendations, it therefore continues to  
6       have a visual impact, and, therefore, it's not  
7       substantially different. I mean, is that another way?  
8       So, you could look at the fact or you looked at the  
9       fact that not all of these changes had been implemented  
10      as a basis for concluding that it's really the same  
11      project?

12    A. I think that the Project is -- the changes have been  
13      small, they have ignored some of the major impacts of  
14      the Project. So, I think that would -- that would be  
15      my answer.

16    Q. Uh-huh. So, when the changes are small, though, I mean  
17      we just kind of went over -- I believe you ultimately  
18      reached the conclusion that we can't use just height.  
19      So, we have to look at the "total visual impact" you  
20      said?

21    A. So, eliminating Turbines 9 and 10 had to do with  
22      proximity to the refuge, had to do with the  
23      visibility -- the particular visibility around Turbine  
24      9, of some of the clearings that were associated with

[WITNESS: Vissering]

1       that. The other part of the concern were the  
2       visibility from Gregg Lake, in particular, because of  
3       the height, the overall height of these turbines.

4   Q.   So, but let me -- I think the crux of where I'm getting  
5       at is, is when you said that "the changes were small",  
6       the only -- well, do you agree or disagree that the  
7       only reliable way to determine that is to do a visual  
8       impacts analysis, and that will tell you, assuming you  
9       do it correctly, whether the changes are small or  
10      large?

11                   I can rephrase the question, if you'd  
12      like? I'm not trying to confuse you.

13   A.   The only reliable way is to do a visual impact  
14      assessment.

15   Q.   Uh-huh. In other words, in order to -- you said that  
16       "the changes were small", and that's the basis for  
17       determining that this Project isn't "substantially  
18       different". I think that was the standard you  
19       referenced in your testimony. And, do you agree with  
20       me if I say that it's your position that, in order to  
21       determine whether the changes are small or whether they  
22       are substantial, you have to measure that by doing a  
23       visual impacts assessment?

24   A.   Which I did. I did it last time. And, I did a lot

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1 of -- and, another visual impact assessment was done  
2 with extensive -- we had a lot of simulations from many  
3 different points, we can see what the turbines look  
4 like. We can see, in those simulations that were done  
5 previously, where Turbine -- where Turbine 10 is,  
6 what -- how they look.

7 Q. I understand.

8 A. So, I guess I'm not -- when you say -- are you saying  
9 that I didn't do a visual impact assessment?

10 Q. No, no, no. I was actually just trying to get a "yes"  
11 or "no" answer. And, I think you were trying to say  
12 "yes", but in --

13 A. Okay.

14 Q. -- in numerous words. So, my question was, is did you  
15 agree with me that, in order to determine whether the  
16 changes are substantial or not substantial, "small" as  
17 you described them, the way to make that determination  
18 is to do a visual impacts assessment. Is that right?

19 A. Yes.

20 Q. Okay. And, that's -- thank you. Let me just look over  
21 my notes. Oh. Let's go to your resumé for a minute,  
22 if we may. And, I have some items I want to walk  
23 through. And, that's, I think, Exhibit B to your  
24 testimony.

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1 A. Okay.

2 Q. I saw a lot of projects here, but I couldn't figure out  
3 which ones of these were for wind turbine projects.

4 Could you, starting on, I guess, the first page of  
5 Exhibit B, identify those for me?

6 A. Sure. It might be easier for me just to tell you  
7 which -- what wind projects I've been involved with.  
8 Would that be helpful? Or --

9 Q. It would, if you thought you could get them all. And,  
10 then, what I wanted to do was ask you about who your  
11 client was, and then --

12 A. Yes.

13 Q. -- what the outcome was.

14 A. I can tell you that as well. Okay. So, the Deerfield  
15 Wind Project, working for the developer. The Georgia  
16 Wind -- sorry, that's Vermont. I'm going to start with  
17 Vermont. Geographically, it helps me to kind of get  
18 them all.

19 Q. And, was that approved or not approved?

20 A. That was approved. It was a two-step process, because  
21 it's in the Green Mountain National Forest.

22 Q. Okay.

23 A. And, let's see, the Georgia Wind Project, that was on  
24 behalf of the -- the first one was on behalf of the

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1 applicant, the Deerfield. Georgia was on behalf of the  
2 Vermont Department of Public Service. That one I  
3 testified in favor of, it was a five-turbine project;  
4 it was approved. Let me think what else in Vermont?  
5 There were some of them that have never gone anywhere.  
6 Let's see.

7 In New Hampshire, the Granite Reliable  
8 Project, on behalf of the applicant. Antrim, of  
9 course.

10 In Maine, the Redington/Black Nubble,  
11 that was on behalf of the Appalachian Trail  
12 Conservancy. That one was defeated, it was turned  
13 down. The Kibby Project, Kibby 1 and Kibby 2, that was  
14 on behalf of TransCanada, the applicant.

15 Q. And, where was that?

16 A. That was in Maine, north, northern, northeastern --  
17 sorry, northwestern Maine, way up near the Canadian  
18 border. And, I'm trying to think if there -- seems  
19 like there -- let me just look through this and see if  
20 there's anything I missed.

21 There was a small one I reviewed, on  
22 behalf of the Department of Public Service, but it  
23 never went anywhere. It was a three -- a two-turbine  
24 project.

[WITNESS: Vissering]

1 Q. And, can you say why that never went anywhere?

2 A. Oh, that was the -- the applicant withdrew, because  
3 there was an issue with not having contacted the  
4 neighbors on the Canadian side, and --

5 Q. Okay.

6 A. -- everything -- all hell broke loose. You got that  
7 word? I did do some work in Manchester, Vermont, the  
8 Equinox Project. That was on behalf of a -- trying to  
9 remember the name of the group, it was an independent  
10 group that was interested in -- interested in the  
11 project, had me take a look at it. I will say, on that  
12 one, I was trying to just sort of not provide an  
13 opinion, although I thought it was actually a good  
14 project, but it never went anywhere. And, I know  
15 Mr. Raphael worked on that. And, yes, I also worked on  
16 behalf of the -- I think the local regional planning --  
17 "local" -- the Regional Planning Commission had me do  
18 an assessment on that project. And, they didn't like  
19 the answer I came up with on that one. But that one  
20 never went anywhere.

21 Q. Okay. So, did you prepare a report in each of these  
22 cases?

23 A. Yes.

24 Q. Okay. And, are you aware -- are any of these reports

[WITNESS: Vissering]

1 not public information?

2 A. As far as I know, they should be public information.

3 Q. Okay. I'd like to request that we get those reports.

4 Would that be something you think you could do?

5 A. I think so.

6 MS. MALONEY: If they're public, they're  
7 equally available to counsel to obtain.

8 MR. IACOPINO: They may be. But we'll  
9 deal with that. So, you're making a request for the  
10 reports?

11 MR. RICHARDSON: Yes, please.

12 MR. IACOPINO: I just have one  
13 clarification. You also have in your list the Lowell?

14 MS. VISSERING: Oh, yes. I worked  
15 for --

16 MR. IACOPINO: Lowell Wind?

17 MS. VISSERING: That's right. Thank  
18 you. The Lowell Wind Project, that was on behalf of the  
19 Green Mountain Club. We were not opposed to the project.  
20 We were looking for mitigation measures.

21 MR. RICHARDSON: I have no further  
22 questions.

23 MR. IACOPINO: Okay. We're going to  
24 take a ten-minute break, come back at quarter of 3:00, for

[WITNESS: Vissering]

1 the next questioner is Ms. Linowes.

2 (Recess taken at 2:34 p.m. and the  
3 technical session resumed at 2:48 p.m.)

4 MR. IACOPINO: Okay, folks. We're going  
5 to get going. The next questioner is Lisa Linowes, on  
6 behalf of the Windaction Group.

7 MS. LINOWES: Thanks, Mike. Hi.

8 BY MS. LINOWES:

9 Q. Ms. Vissering, I wanted to follow up quickly on a  
10 question that you were asked, and your answer, by  
11 Attorney Richardson. You were asked "whether or not it  
12 was necessary to do a full visual impacts assessment to  
13 determine whether or not the changes that were made  
14 from the prior Project and this Project were  
15 substantial?" And, I wanted to make sure I understood  
16 your answer. And, are you saying that you would have  
17 to recreate the full assessment that you did back on  
18 the prior docket in order to verify in your own mind or  
19 come to a conclusion that the new Project is  
20 substantially different?

21 A. No. Certainly not.

22 Q. So, it was sufficient for you to review the changes,  
23 and perhaps the information that was given to you by  
24 Mr. Raphael, or provided -- brought by Mr. Raphael, to



[WITNESS: Vissering]

1        assess the amount of change and whether it was  
2        substantial?

3    A.    Yes.    There was a reasonable, not as much information  
4        as I would have liked there, but it's not my role to  
5        provide the information.    It's the Applicant's role.

6    Q.    Okay.    So, can you just talk a little bit about your  
7        thought process when you went through that assessment,  
8        when you compared the prior Project to the new Project?

9    A.    So, the -- what I looked at was what the physical  
10       changes were, which were pretty -- pretty simple,  
11       pretty small.    But, then, of course, it was looking at,  
12       based on that, would there be changes in the way that  
13       the Project would appear from different viewpoints.  
14       So, that's -- I looked at those.    And, I also, not  
15       having -- not having any other viewpoints to refer to,  
16       I looked at the viewpoints, this Project that was done  
17       in the former application, and you -- it's pretty easy  
18       to see what the elimination of Turbine 10 and the  
19       reduction in the height of 9, what effect it would  
20       have.

21   Q.    Okay.    Great.    Thank you.    Now, in Mr. Raphael's  
22       testimony, he states that, and I'll just read it  
23       directly, it says "Turbine Number 9's height has been  
24       reduced so much so that the hub now sits below the

[WITNESS: Vissering]

1 treeline virtually eliminating its visual presence at  
2 these locations", and "these locations" were Willard  
3 Pond and the Wildlife Sanctuary. And, I gave you his  
4 simulations of the -- and it was before the reduction  
5 of Turbine Number 9, and then after the reduction of  
6 Turbine Number 9. And, could you see, I'm just curious  
7 if there, in your mind, in looking at that, how much of  
8 a difference did the height really make?

9 A. Of Turbine 9?

10 Q. Correct.

11 A. Yes. When you look -- well, there were two viewpoints  
12 in the Wildlife Sanctuary, they didn't do the third  
13 viewpoint.

14 Q. Uh-huh.

15 A. So, the reduction makes, from the Willard Pond, it's  
16 slightly lower, the blade is still visible. And, in  
17 the -- that was pretty consistent with the -- when you  
18 look at -- have to look and see, hold on just a second.

19 So, in the other -- from the other  
20 viewpoint, it's fairly -- sort of similar. There's  
21 a -- there's the nacelle, in the earlier one, it's near  
22 the ridgeline, and then it goes slightly below. And,  
23 then, from Bald Hill, not sure I have all the Bald Hill  
24 ones, I can more or less remember it. But I think I

[WITNESS: Vissering]

1       might be missing one of the Bald Hill ones here. Just  
2       a second.

3                   MR. RICHARDSON: I'm sorry. Could we  
4       identify the document that's being provided?

5                   MS. VISSERING: Okay.

6                   MR. RICHARDSON: Or maybe even mark it  
7       as an exhibit, just because I don't know what it is or  
8       where it came from.

9                   MS. LINOWES: I'm sorry. That is  
10      Mr. Raphael's testimony. The images that were included  
11      with his testimony.

12                  MR. RICHARDSON: Okay. All right.  
13      Thank you.

14      **CONTINUED BY THE WITNESS:**

15      A.    Okay. So, from Bald Hill, Turbine Number 9 was --  
16            there was a fairly small part of the turbine visible to  
17            begin with, and there's less of that turbine visible.

18                  MR. IACOPINO: Ms. Vissering, I'm going  
19      to ask that you just --

20                  MS. VISSERING: Yes.

21                  MR. IACOPINO: -- if you could just look  
22      on those pictures, there is a designation I believe at the  
23      top right corner, so that everybody else can look at the  
24      same picture that you're looking at.

[WITNESS: Vissering]

1 MS. VISSERING: Okay. So, Turbine  
2 Number -- I'm sorry, Bald Hill, DR-4(c). And, would you  
3 like me to do that for the other two?

4 MR. IACOPINO: It's Ms. Linowes's  
5 question.

6 BY MS. LINOWES:

7 Q. You know, if you were making a point of Bald Hill as  
8 well as the -- the other location was from where,  
9 Willard Pond?

10 A. Yes. The other location was Willard Pond.

11 Q. Yes.

12 A. And, that's I think DR-2 -- or, DR-3(c) and DR-2(a).  
13 Oh, well, I don't know. Some of these are existing  
14 conditions, and some of them are proposed, some of them  
15 are.

16 Q. Okay. So, now, in Mr. Raphael's, and also obviously  
17 Mr. Kenworthy repeats in their testimony, that what  
18 matters is the turbine height itself -- the turbine  
19 tower and the nacelle, the blade is, because it's  
20 moving, I believe, or changing its position that it's  
21 not consequential. I mean, I may be misunderstanding  
22 what they're saying in their testimony. Can you help  
23 me understand that a little bit?

24 A. So, I think the concern is that, certainly, the nacelle

[WITNESS: Vissering]

1 does have some mass, the blade does as well, and it is  
2 moving. And, it is true that blades at some distances  
3 are more difficult to see. But, at these distances,  
4 they're going to be much more visible. So, --

5 Q. Okay. Now, the other question I had related to that  
6 was the focus seems to be on Number 9 and Number 10 in  
7 their testimony, but the other -- Turbine Number 9,  
8 other than from Bald Hill and from Willard Pond, is it  
9 visible from any other location that you recall on your  
10 Visual Impact Assessment?

11 A. I believe, well, it's visible from Goodhue Hill, within  
12 the Wildlife Sanctuary. I don't know if you're  
13 referring to other -- it's also visible in other  
14 locations.

15 Q. Yes. I'm just talking about just anywhere within the  
16 ten-mile radius, is it visible?

17 A. Yes.

18 Q. As are all of the other --

19 A. Yes. It depends on -- each site is a little bit  
20 different, in terms of which turbines are visible,  
21 obviously.

22 Q. Okay.

23 A. But, so, as you move around, different turbines are  
24 visible. And, it may be the 1 through 8 or it might be

[WITNESS: Vissering]

1 the Number 9.

2 Q. Okay. Okay. So, at any point in time, you may -- it  
3 may be difficult to see all nine turbines or all ten  
4 turbines at any point in time, but you will see 6, 7,  
5 8, 3, 5, depending on where you are, it will change?

6 A. Yes.

7 Q. And, that was the case prior to -- in the prior  
8 application and it's the case today?

9 A. Yes. And, I think, other than the reduction in -- the  
10 removal of Turbine 10 and a little bit of a reduction  
11 in Turbine 9, that everything else is the same.

12 Q. Thank you. Now, Mr. Raphael seemed was -- stated that  
13 the assessments that were done on the prior Project,  
14 and I'm not sure if he was talking about your  
15 assessments or Saratoga Associates' assessments or  
16 assessments in general, but he seemed to think that  
17 they were not complete, that the information -- that  
18 more information could have been provided to the Site  
19 Evaluation Committee, so they could make a more  
20 informed decision. And, do you have an understanding  
21 or sense of what he was referring to, what the  
22 differences were that -- based on what he said today,  
23 in his own testimony today?

24 A. So, my sense is that we both use more or less the same

[WITNESS: Vissering]

1 variables. I did, on my assessment, rely on Saratoga  
2 Associates, some of the data they provide, because I  
3 don't need to -- my role is not to provide the data,  
4 it's just to sort of, if I thought there was some  
5 reason to doubt their data, but to analyze it and using  
6 the variables that I use. And, it's true that they  
7 relied on a pretty "only quantitative", numerical  
8 assessment.

9 Q. I'm sorry, who is "they"?

10 A. Oh. Sorry. Saratoga Associates. And, they only  
11 looked at a -- considered a few kinds of resources to  
12 have any value. They also -- they also relied on very  
13 heavily on the fact that 95 percent of the area, it  
14 would only be visible from 95 percent of the area.  
15 And, I think that's where one of the differences I had  
16 with them was that it's -- the question is what's in  
17 the 5 percent or the 4 percent that, where it is  
18 visible, what are the resources? Because that's going  
19 to be true of almost any project in New England. We're  
20 a forested landscape. So, therefore, we value our open  
21 spaces. But I think -- so, I don't know, we'll see,  
22 when we -- when I have a chance to review Mr. Raphael's  
23 report, what the differences -- the differences are,  
24 because all of the variables he mentions are the ones

[WITNESS: Vissering]

1       that I use as well.

2   Q.   Okay.  That's helpful.  Then, in your testimony from  
3       the prior docket, of course, you had said, and you  
4       repeated today, that you would eliminate two turbines,  
5       and making the -- and also make the others, remaining  
6       eight, substantially smaller.  And, I'm just asking the  
7       question, I guess, to hear your answer.  Is a 38-inch  
8       reduction in the remaining turbines, does that qualify  
9       as "substantially smaller"?

10  A.   No.

11  Q.   Okay.  Would bringing them all down to 47 feet get  
12       closer?

13  A.   I don't think so.

14  Q.   Okay.  And -- can't read my own handwriting.  Okay.  
15       Now, in terms of mitigating the visual impacts, that  
16       the discussion -- there was some discussion today about  
17       the conservation easement that will be placed on the  
18       100 acres.  That 100 acres is up at the top of the  
19       ridge.  Does that mitigate the visual impacts of the  
20       Project?

21  A.   I don't think so, because it also comes -- the  
22       ridgeline will be developed.  So, it's -- yes, I think  
23       it's not a meaningful difference.

24  Q.   And, does setting aside money to possibly purchase an



[WITNESS: Vissering]

1        easement elsewhere mitigate the visual impacts of this  
2        Project?

3        A.    I guess I don't have an -- I don't have a particular  
4        opinion about that. It certainly sounded like the  
5        Committee disagreed with me on them. It would -- I  
6        don't think it's going to be a meaningful difference,  
7        because we don't know exactly what it -- we don't know  
8        what it is. We don't know how it will be used. And,  
9        it's something that will be very -- doesn't really  
10       change the Project.

11       Q.    Okay. And, in the transcript from one of the hearings  
12       when the Committee was deliberating amongst the  
13       members, so this was after the public hearing had  
14       closed, Chairman Ignatius stated that, and I'm  
15       paraphrasing here, but others agreed, that "removing  
16       one turbine would not be enough to mitigate for the  
17       enormous scale of the project", that's an exact --  
18       those are the exact words, "the enormous scale of the  
19       project". And, so, she seemed at that time to be  
20       agreeing with your sense, that taking away the one  
21       turbine, that was not an option at that time, but that  
22       was what was stated, "removing one turbine would not be  
23       enough". And, that seems to be in concert with what  
24       you're saying as well?

[WITNESS: Vissering]

1 A. I think that's true.

2 Q. Now, both Attorneys Richardson and Needleman asked if  
3 there were thresholds related to scale in the world  
4 that you live in and work in, where you could determine  
5 whether or not something is a "dominant presence" in an  
6 area versus not. And, you know, that the testimony or  
7 the testimony that came up during the prior docket, and  
8 it was also mentioned in the decision put out by the  
9 Committee, that Tuttle Hill has a vertical rise of  
10 650 feet from the valley, and you're siting on top of  
11 that a turbine that stands almost 500 feet tall, and  
12 that's where we come up with the "75 percent rise",  
13 that, you know, "75 percent of the rise". Is that an  
14 irrelevant factor?

15 A. I think it is relevant, which is one of the reasons  
16 that I express concern about the size of the turbines.  
17 Because they're -- and, of course, it does depend on  
18 how it's seen. But, for example, at Gregg Lake, it's  
19 right there, in very close proximity. That ridgeline  
20 is the ridgeline that you pretty much see.

21 Q. Uh-huh.

22 A. And so, it's -- and there's a window there looking  
23 towards that ridgeline. And, so, it's inevitably a  
24 direct comparison in scale. And, the hillsides are

[WITNESS: Vissering]

1 something that I think we now relate to, in terms of  
2 their feeling of scale in the landscape. And this, as  
3 I said before, is a smaller scale landscape than some  
4 others where I have been involved.

5 Q. Uh-huh.

6 A. And, it doesn't mean that it's -- it doesn't mean that  
7 it's a -- that the project, in my mind, is -- that some  
8 project is going to be inappropriate, but I do think,  
9 in this particular case, these are particularly large  
10 turbines.

11 Q. And, then, one last question, if I may. Mr. Raphael's  
12 testimony, and he -- multiple times he talked about the  
13 percent reduction in the overall view, in almost every  
14 answer talks -- he brings into play percent differences  
15 between the visual impact from the prior Project to  
16 this current Project. But we also, when we talk about  
17 those numbers, or he also spent a lot of time talking  
18 about the context and the perceptions of the viewer and  
19 how they view turbines, and all sorts of other factors  
20 are coming into play. So, how -- and I guess I'm  
21 struggling with, if we are going to try to quantify the  
22 visual impact or not, you know, how much weight can you  
23 put on those numbers? If it appears that that's the  
24 data point, then how much weight do we put on that data

[WITNESS: Vissering]

1 point?

2 A. I think that concepts like "angle of view" are useful  
3 to understand. But they also need to be looked at in  
4 terms of the particular context. Because, for example,  
5 on angle of view, when you're looking at a situation  
6 this -- as close as this one is, it's going to change  
7 very dramatically when you move a turbine a few feet  
8 over. So, it depends. I mean, that would make -- be  
9 much less of a difference if it were being viewed  
10 five miles away.

11 So, to that extent, it's a useful data  
12 point. But it's one of a number of different things  
13 that I think are important to look at.

14 Q. So, when, in his testimony, and I'm not looking at it  
15 right now, but where he said "there's a 12 percent  
16 reduction", or we went -- or a "50 percent reduction",  
17 there were various points where he talked about that  
18 and things that he was comparing to. It sounds like a  
19 lot, it sounds like a big number. But, in that,  
20 context is important is what you're saying?

21 A. So, yes. I mean, I think that it's -- what it means,  
22 in terms of the actual visual experience, is -- I don't  
23 think you could -- that it's hard to say that exactly  
24 what it means, because it's -- every site is a

[WITNESS: Vissering]

1       little -- is different. And, so, I mean, I would agree  
2       that there has been a reduction in -- there's certainly  
3       been a reduction in angle of view, but it doesn't  
4       convince me at least that this is a meaningful  
5       difference in terms of the overall effect of the  
6       Project.

7                   MS. LINOWES: Okay. All right. Thank  
8       you. Thanks, Mike.

9                   MR. IACOPINO: Mr. Newsom? You're done,  
10      right, Lisa?

11                  MS. LINOWES: I am.

12                  MR. IACOPINO: Mr. Howe, any questions?

13                  MR. HOWE: No questions.

14                  MR. IACOPINO: Okay. Ms. Schaefer?

15                  MS. SCHAEFER: No questions.

16                  MR. IACOPINO: Mr. Block?

17                  MR. BLOCK: Actually, I have one brief  
18      question.

19      BY MR. BLOCK:

20      Q.    I was just looking, it's Mr. Kenworthy, in his  
21            testimony, on Page 6, if you're reading along, Lines 16  
22            through 20, states "AWE has also committed to make a  
23            one-time payment of \$40,000 to the Town of Antrim for  
24            the enhancement of the recreational activities and

[WITNESS: Vissering]

1 aesthetic experience at the Gregg Lake recreational  
2 area, which the Town of Antrim agreed was "full and  
3 acceptable compensation for any perceived visual impact  
4 to the Gregg Lake area".

5 As a visual impact expert, and I assume  
6 sometimes adviser, can you think of anything that can  
7 be done by the Town with \$40,000 that would totally  
8 mitigate the visual impact at the Gregg Lake area?

9 A. I can't think of anything. But, I mean, it's hard for  
10 me to comment, in terms of what -- what could possibly  
11 be done.

12 Q. So, regardless of money, can you think of anything that  
13 could, as they say "totally, fully compensate for the  
14 impact at Gregg Lake", in either -- in the new  
15 configuration, the changed configuration?

16 A. Probably not, from my perspective of my analysis, let  
17 me --

18 (Court reporter interruption.)

19 **CONTINUED BY THE WITNESS:**

20 A. -- of my analysis.

21 MR. BLOCK: Thank you. That's all.

22 MR. IACOPINO: Dr. Ward.

23 MR. NEEDLEMAN: The same objection.

24 BY MR. WARD:

[WITNESS: Vissering]

1 Q. You heard the little verbal jousting that I had with  
2 Mr. Raphael. And, I just want to go back to the  
3 issues, and ask you about some things, whether any of  
4 the following that I'll read to you would have a visual  
5 impact. I'm not concerned a lot, a little, or  
6 whatever; would it have a visual impact? Now, we'll  
7 take elevation to start with. Would something elevated  
8 likely to have substantial, significant visual impact?

9 A. So, let me start to state from the outset that I had  
10 some of the same concerns that Mr. Raphael had.

11 Q. I'll read this list, if you'd like to start with that?

12 A. Because it's very hard to be -- with visual assessment,  
13 you can't be hypothetical. It has no meaning, really,  
14 because it's all about how you see the project in its  
15 context. And, I think that's sort of what he said,  
16 too. But, elevation? So, I can answer them, but I'm  
17 not sure it says a whole lot.

18 Q. Well, I'm merely asking, would those go into the  
19 assessment of a visual impact? Would elevation be part  
20 of the assessment?

21 A. Elevation, as in land, like as in the topographic  
22 elevation --

23 Q. Just the apparent --

24 A. -- or the elevation --

[WITNESS: Vissering]

1 (Court reporter interruption - multiple  
2 speakers at the same time.)

3 BY MR. WARD:

4 Q. The apparent elevation.

5 A. Yes.

6 Q. How about whether the area was isolated or not? Its  
7 apparent isolation?

8 A. Hmm. These are hard. I will answer that,  
9 hypothetically, it could make a difference.

10 Q. I didn't hear your answer.

11 A. I would answer that, hypothetically, it could make a  
12 difference.

13 Q. That's all I wanted. How about whether it was moving  
14 or not, would that make a difference?

15 A. Yes.

16 Q. How about if it had flashing red lights on it, would  
17 that make a difference?

18 A. Yes.

19 Q. How about if it made a little noise?

20 A. Yes.

21 Q. How about if there were ten of them? Would that be  
22 more interesting and more visual impact than one?

23 A. Well, I mean, again, I would -- it would depend on how  
24 they were seen. But, in theory, potentially, yes. It



[WITNESS: Vissering]

1 would be a larger scale.

2 Q. Okay. Then, I just ask one change. And supposing  
3 there were nine of them, would that make a difference  
4 from ten?

5 A. Not necessarily.

6 Q. I'm not asking you the amount. I'm just saying,  
7 comparatively speaking, would the change from ten to  
8 nine, would that have as much of an impact as any of  
9 the first five? Not asking for numbers or anything,  
10 comparing the weight of the first five, and then  
11 comparing the weight of this change from ten to nine?

12 A. So, I think that, would it have less impact, and not  
13 saying how much less, but would it have less impact, --

14 Q. Well, I'm --

15 A. -- assuming that they were all equally visible?

16 Q. Well, it would -- I'm sort of just drawing -- trying to  
17 draw a comparative weight. I had listed those five  
18 things, the "elevation", "isolation", the "motion", the  
19 "lights", and the "noise", and then they'd have some  
20 impact, you agreed with that. I think even Mr. Raphael  
21 would agree, some impact. And, so, I'm asking, how  
22 does that compare to changing from ten to nine?

23 A. Oh, you mean the other impacts, in comparison from ten  
24 to nine?

[WITNESSES: Webber ~ Robertson ~ Condon]

1 Q. Yes, in comparison to that.

2 A. I don't know how to answer that question, I have to  
3 say.

4 MR. WARD: That's all I had.

5 MR. IACOPINO: Thank you. Thank you,  
6 Ms. Vissering. Next witnesses are from the Town. You  
7 want to come on up?

8 MR. RICHARDSON: I didn't think we'd  
9 make it.

10 MR. IACOPINO: Well, we may not. You  
11 have 45 minutes.

12 MS. VISSERING: That's not bad.

13 MR. IACOPINO: Okay. We have the  
14 witnesses from the Board of Selectmen and the Planning  
15 Board at the front table. With the -- the order will be  
16 the same. Counsel for the Public, any questions for these  
17 witnesses?

18 MS. MALONEY: Just a couple.

19 **WITNESS: GORDON WEBBER**

20 **WITNESS: JOHN ROBERTSON**

21 **WITNESS: CHRISTOPHER CONDON**

22 BY MS. MALONEY:

23 Q. I guess, Mr. Condon, you're here for the Planning  
24 Board. And, your testimony didn't relate to the visual

[WITNESSES: Webber ~ Robertson ~ Condon]

1 impacts of the proposed Project. And, with respect to  
2 the Town, I'm not going to ask you about the 40,000,  
3 because I imagine there's some people from the Town  
4 here that are going to ask you about that. But did you  
5 hire a visual impact expert to make an analysis as to  
6 whether or not there was any difference between the  
7 past Project and the current Project?

8 A. (Webber) No.

9 Q. And, did you agree with the SEC's determination in the  
10 past Project that this would have an unreasonable  
11 impact on aesthetics?

12 A. (Webber) No.

13 MS. MALONEY: Okay. I have nothing  
14 further.

15 MR. IACOPINO: The Applicant?

16 MR. NEEDLEMAN: No questions.

17 MR. IACOPINO: Justin, we skipped you.

18 MR. RICHARDSON: Yes. No, no. If I  
19 may?

20 MR. IACOPINO: Oh, you wanted to correct  
21 something.

22 MR. RICHARDSON: Yes, I want to make a  
23 clarification.

24 BY MR. RICHARDSON:

1 Q. And, maybe Mr. Webber or one of the selectmen could  
2 turn to BOS-3, and just explain what the -- what is  
3 stated on the last line -- second to last line about  
4 Cochran Mills on the table, because there is a minor  
5 error there.

6 A. (Webber) All right. The second to last line, "Cochran  
7 Mills", --

8 MS. MALONEY: I'm sorry, what page are  
9 we on?

10 MR. WEBBER: It's BOS-3.

11 MR. IACOPINO: Page 166 on the bottom  
12 right-hand.

13 MR. WEBBER: Page 166.

14 MS. MALONEY: Oh. Okay. All right.

15 **CONTINUED BY THE WITNESS:**

16 A. (Webber) This -- well, Justin, ours -- it used to be  
17 Frameworks, and now it's Cochran Mills.

18 BY MR. RICHARDSON:

19 Q. That's right. So, is that -- is the description of the  
20 "Sign Design Company" still accurate?

21 A. (Webber) Oh, that. Okay. No. The Cochran Mills is a  
22 sign design company. It's not an "automotive lighting  
23 inspection company", which -- Frameworks used to be in  
24 that building and was an automotive lighting inspection

[WITNESSES: Webber ~ Robertson ~ Condon]

1 company. They sold the building to Cochran Mills.

2 They are a sign design company.

3 MR. RICHARDSON: Okay. Thank you.

4 MR. WEBBER: So, it's a slight technical  
5 correction, but --

6 MR. RICHARDSON: Yes. You know, and I  
7 just wanted to make that on the record in case, so the  
8 parties were aware of that.

9 MR. IACOPINO: Thank you. Ms. Linowes,  
10 do you have questions for this panel?

11 MS. LINOWES: I do. Thank you.

12 BY MS. LINOWES:

13 Q. With regard to agreements between Antrim Wind and the  
14 Town of Antrim, what are the agreements that are in  
15 place right now?

16 A. (Webber) We have a operating contract agreement and a  
17 PILOT Agreement. We have an LOI for conservation land  
18 and an LOI for \$40,000 for visual impact at Gregg Lake.

19 Q. Okay. So, I'm sorry, what is the "operating contract"?  
20 What is that?

21 A. (Webber) I don't have it in front of me. It would be  
22 comparable to a zoning ordinance, I think it reads  
23 similar. Although, it's not. It's an agreement with  
24 the Board of Selectmen and Antrim Wind.

1 Q. And, when was that signed?

2 A. (Webber) I'm not sure. Probably two --

3 Q. More than a year ago? I'm sorry.

4 A. (Webber) More than a year ago, yes.

5 Q. Was it during --

6 A. (Webber) I've been on the board for two years, and then

7 I was off for two years, and then I was on for three.

8 So, it was in between, I believe it was in between

9 that. So, it must have been between two and four years

10 ago.

11 Q. Okay. And, that was -- that agreement did not require  
12 a Town vote, is that correct?

13 A. (Webber) That's correct.

14 Q. Okay. And, the PILOT Agreement, when was that  
15 executed?

16 A. (Webber) I believe two years ago, approximately.

17 Q. After the proceeding -- or, the decision by the Site  
18 Evaluation Committee was in early 2013, and finalized  
19 in mid 2013. Would it have been prior to that?

20 A. (Webber) Well, let me -- the answer is "I don't know".

21 I don't have it in front of me. So, I don't know the  
22 date. There was a PILOT Agreement signed probably

23 three or four years ago. The proceedings leading up to

24 it were cause for a lawsuit. The judge found the PILOT

1 Agreement to be void. So, we met again and re-signed,  
2 basically, the same PILOT. So, the PILOT that is in  
3 existence now I think was signed, I want to say, about  
4 two years ago.

5 Q. Okay. And, are those two agreements conditioned on the  
6 Project going into operation? I guess --

7 A. (Webber) Yes.

8 Q. Okay. Though, the operating contract, does that  
9 take -- is that in place prior, during the construction  
10 phase, too? Does it cover the construction phase?

11 A. (Webber) Yes.

12 Q. And, the LOI for the 100 acres, we heard from Mr.  
13 Kenworthy earlier today, that does go before a Town  
14 vote?

15 A. (Webber) Correct.

16 Q. Okay. And, then, also the 40,000 would have to go for  
17 a Town vote or not?

18 A. (Webber) I think so. But I'm not positive.

19 Q. Okay. So, and I want to ask you this question, I don't  
20 want anyone to take offense, it's just that it would be  
21 useful to know. And, I've seen it elsewhere, okay?  
22 So, just a "yes" or "no" answer, without thinking  
23 anything behind it. But do any of these agreements  
24 that have been signed between the Board of Selectmen

1           and Antrim Wind require or encourage the Board of  
2           Selectmen to publicly support the Project?

3   A.   (Webber) Yes.

4   Q.   Can you tell me which one?

5   A.   (Webber) I want to say the contract.

6   Q.   And, is that a public document?

7   A.   (Webber) Yes.

8   Q.   It is. Is that something that's in the record already,  
9           from the prior docket?

10   A.   (Webber) Yes.

11   Q.   Okay. So, could we verify that? And, if it's not, can  
12           we get a copy, if it's not?

13   A.   (Webber) I know it's in the record.

14   Q.   Okay.

15                   MR. RICHARDSON: We can produce it. I  
16           thought about putting it in the testimony, but I just  
17           didn't see how I could make it relevant to the  
18           jurisdictional issues.

19                   MR. IACOPINO: Am I correct in  
20           understanding that that was attached to the original  
21           Application as one of the appendices?

22                   MR. RICHARDSON: I wasn't -- I don't  
23           have knowledge of that docket, because I wasn't --

24                   MR. KENWORTHY: It was -- I'm sorry,



1 Justin.

2 MR. RICHARDSON: Go ahead.

3 MR. KENWORTHY: It was filed in draft  
4 form as part of the original Application, then later  
5 supplemented with an executed copy in June of 2012.

6 MS. LINOWES: Okay. Great. Thank you.

7 MR. IACOPINO: So, we probably -- you  
8 probably already have it. I don't think they referred to  
9 it as an "operating contract" at the time. It was just a  
10 Town -- an "Agreement with the Town of Antrim" is what it  
11 was referred to in that docket.

12 MS. LINOWES: That sounds familiar.

13 BY MS. LINOWES:

14 Q. Okay. Then, I just have a couple of questions for Mr.  
15 Condon, is that how you pronounce it?

16 A. (Webber) "Condon".

17 A. (Robertson) "Condon".

18 Q. Con --

19 A. (Condon) "Condon".

20 Q. "Condon". Oh, I'm sorry. Okay. In your prefiled  
21 testimony, you state that the Site Plan Review List has  
22 not been updated to accommodate development for the  
23 Project. Can you tell me what that "Site Plan Review  
24 List" is?

1 A. (Condon) Not off the top of my head. But we can  
2 certainly provide that.

3 Q. It was in your testimony. So, can you tell me  
4 conceptually what it is?

5 A. (Condon) Honestly, it's so extensive, I'd have to have  
6 it in front of me. I mean, it has to do -- it's  
7 basically a rather long checklist, that has to do with  
8 things like setbacks, wetlands. I'm trying to think  
9 what else is on there. Road access, things associated  
10 with subdivisions, things like that.

11 Q. Is much of what you're talking about already detailed  
12 in the operating contract?

13 A. (Condon) I don't have knowledge of the operating  
14 contract.

15 Q. So, you've never seen it?

16 A. (Condon) No.

17 Q. Is there -- I am not sure if this was in your  
18 testimony, but I'll ask the question. Is it your sense  
19 that there is no method through the current town  
20 procedures for this Project to be considered by the  
21 Planning Board?

22 A. (Condon) I wouldn't say that there is "no method". I  
23 think the method would be laborious. My -- to the best  
24 of my knowledge, it would have to go site-by-site

1 through site plan review, through site plan --  
2 basically, the entire checklist for each parcel  
3 involved, and basically subject to our existing zoning  
4 regulations.

5 Q. Now, you said that the Town has no wind ordinance?

6 A. (Condon) Correct.

7 Q. Although, you do have a small wind ordinance, do you  
8 not?

9 A. (Webber) Large-scale wind.

10 A. (Condon) We have no large-scale wind ordinance.

11 Q. Okay. So, it is possible that the Project can be  
12 considered?

13 A. (Condon) It's possible.

14 Q. Does the site plan review require that only one parcel  
15 be involved?

16 A. (Condon) I don't know.

17 Q. And, presumably, there will be some variances that are  
18 required?

19 A. (Condon) I would assume so, yes.

20 Q. Okay. And, this land is still all Rural Conservation  
21 District?

22 A. (Condon) To my knowledge, yes.

23 Q. Okay. Then, you also state in your testimony that the  
24 Town -- there have been three efforts to pass a wind

1 ordinance in the Town, and two by the Planning Board?

2 A. (Condon) Yes.

3 Q. Were you on the Planning Board when those went  
4 through -- were considered?

5 A. (Condon) I was not.

6 Q. Okay. So, you're new to the Planning Board?

7 A. (Condon) This would be my third year on the Planning  
8 Board.

9 Q. Have you been elected to it before?

10 A. (Condon) Prior to that, no.

11 Q. Okay. Okay. So, then, the third time was a citizen  
12 petition you had stated?

13 A. (Condon) Correct.

14 Q. And, who brought that citizen petition?

15 A. (Condon) I believe it was spearheaded by Wes Enman. I  
16 believe he went out and got the signatures.

17 Q. I'm sorry, was that an individual's name?

18 A. (Condon) Yes. Wesley Enman.

19 Q. Okay. And, now, it was reported in the Union Leader  
20 that it was drafted largely by Eolian, is that true?

21 A. (Condon) I don't know who drafted it. I know Wes  
22 submitted it.

23 Q. Okay. Do the other members -- other people on the  
24 panel know?

[WITNESSES: Webber ~ Robertson ~ Condon]

1 A. (Webber) No.

2 A. (Robertson) No.

3 Q. You don't know or it was not?

4 A. (Robertson) Don't know.

5 A. (Webber) I don't know.

6 Q. You don't know. Okay. So, Mr. Condon, apparently, at  
7 least according to the Union Leader, the Planning Board  
8 voted not to recommend the citizen petition?

9 A. (Condon) That is correct.

10 Q. Okay. Do you know why?

11 A. (Condon) I think the Planning Board membership at that  
12 time, and, again, the minutes are online, but I think  
13 that the membership at the time felt it was too  
14 favorable to Eolian.

15 Q. So, you felt that -- are you saying that the Planning  
16 Board was bias?

17 A. (Condon) I think, in their opinion, they felt it was --  
18 it was too favorable to Eolian, that's all I can really  
19 say. I happened to vote against that.

20 Q. Okay. So, I'm clear. Your sense today, is that the  
21 Planning Board would be less favorable or balanced, is  
22 that, I'm just asking for your words?

23 A. (Condon) I can't speak to the other members.

24 MS. LINOWES: Okay. I'm all set.

1 Thanks.

2 MR. IACOPINO: Thank you. David?

3 MR. HOWE: No questions.

4 MR. IACOPINO: Okay. Ms. Schaefer, any  
5 questions?

6 MS. SCHAEFER: No questions.

7 MR. IACOPINO: Mr. Block?

8 MR. BLOCK: Yes. In case it wasn't  
9 asked before, I would like to request that the recent  
10 letter of intent regarding the easement be included in  
11 information supplied. Okay.

12 BY MR. BLOCK:

13 Q. Also, Mr. Webber, in your testimony you talk about one  
14 of the benefits of having the SEC consider this Project  
15 is so that the "goals of new -- of renewable energy can  
16 be addressed by the Town and the State". And, you  
17 conclude at the bottom of Page 6, "It is not clear how  
18 these goals would be considered, if the Project were  
19 reviewed outside of RSA 162-H." Isn't the Town  
20 involved in a fairly major solar project right now?

21 A. (Webber) No.

22 Q. Is there a solar project being proposed or being  
23 installed in the town?

24 A. (Webber) Yes.

1 Q. Does that solar project have anything to do with the  
2 goals stated in the Master Plan of renewable energy in  
3 town?

4 A. (Webber) I would assume so. But all the Town of Antrim  
5 is doing is leasing land to a company who's going to  
6 install and run them. So, we don't have -- we don't --  
7 all we're doing is leasing land.

8 Q. And, what is the power on that project going to be used  
9 for?

10 A. (Webber) It goes into the grid.

11 Q. Okay. Mr. Condon, I just have a brief question here.  
12 Again, on your testimony, you say "the Planning Board  
13 does not have the technical expertise or resources to  
14 address a project of this magnitude, nor has a Site  
15 Plan Review List been updated to accommodate it." This  
16 is sort of speculation. Can you envision any other  
17 kind of potential development proposal that might be  
18 brought to town by some entity that is -- and brought  
19 to the Planning Board that would not be covered by  
20 either the Board's expertise or zoning? Is it possible  
21 that somebody could bring a project to town?

22 A. (Condon) I have quite a vivid imagination, but I  
23 suppose anything is possible.

24 Q. Okay. Can you speculate what the Planning Board would

[WITNESS: Linowes]

1 do in that situation, if a project came to town that is  
2 not covered by our site plan reviews or the zoning, and  
3 you do not have in that case an entity like the SEC to  
4 fall back on?

5 A. (Condon) I imagine we would lean heavily on  
6 consultants.

7 Q. Can you please repeat that?

8 A. (Webber) I imagine we'd lean heavily on consultants.

9 Q. Okay. Does that -- wouldn't that be possible to do in  
10 this situation, if the SEC were not involved?

11 A. (Condon) In theory, yes.

12 MR. BLOCK: Okay. No further questions.

13 Thank you.

14 MR. IACOPINO: Okay.

15 MR. WARD: I'm content.

16 MR. IACOPINO: Thank you. All right. I  
17 guess we're done with this panel. I just want to go over  
18 the things that were requested of Ms. Vissering, and then  
19 with this panel, before we move onto the next witness.  
20 There has been a request to Ms. Vissering for a copy of  
21 those visual impact reports that you had provided in those  
22 other cases. And, I understand you're going to make an  
23 effort to do that and communicate through Ms. Maloney.

24 And, then, for the Town, there's been a



[WITNESS: Linowes]

1 request that you provide a copy of the Site Plan Review  
2 List, and the Letter of Intent regarding the easements.

3 So, I think I've got all of the  
4 requests. Did you have another request than that, Mr.  
5 Block?

6 (Mr. Block indicating in the negative.)

7 MR. IACOPINO: Okay. We've got 25  
8 minutes. The next witness up would be Ms. Linowes. Okay.  
9 The batting order is Counsel for the Public first?

10 MS. MALONEY: I don't have any  
11 questions, actually.

12 MR. IACOPINO: Applicant.

13 **WITNESS: LISA LINOWES**

14 MR. TAYLOR: Ms. Linowes, now I know you  
15 may have covered some of these things -- Is it not on?

16 MR. PATNAUDE: Red light good.

17 MR. TAYLOR: I know you may have covered  
18 some of these things in prior dockets, but I hope you'll  
19 indulge me some foundational questions.

20 BY MR. TAYLOR:

21 Q. First, what is your educational background?

22 A. I have a degree in Software Science and a Master's  
23 degree in Business Administration, MBA.

24 Q. And, could you -- well, I guess let me ask you first.

[WITNESS: Linowes]

1 Did you get your MBA directly after getting your degree  
2 in Computer Science?

3 A. I did not.

4 Q. Could you describe your professional background for me?

5 A. How far back do I go? I worked a number of years as a  
6 software engineer, went into sales. And, then,  
7 eventually started my own company, where I -- we  
8 developed software products in the CAD industry. And,  
9 then, after that, I am now involved in the energy  
10 issues.

11 Q. Okay. And, you said in the -- "software for the CAD  
12 industry"?

13 A. Correct.

14 Q. Okay. Just for the record, what is the acronym "CAD"?

15 A. Oh, Commuter-Added Design. I'm sorry.

16 Q. And, when you say you're "involved in energy issues"  
17 now, when did you first become involved in energy  
18 issues?

19 A. In 2004.

20 Q. Okay. And, what was your involvement in 2004?

21 A. It was related to a wind energy facility that was  
22 proposed in the town that I live in now. I wasn't  
23 living there at the time. And, as I became involved  
24 with some of the issues related to wind energy siting,

[WITNESS: Linowes]

1 and then, from that, it grew into a much more extensive  
2 involvement.

3 Q. So, given that you didn't -- what town?

4 A. Lyman, New Hampshire.

5 Q. Lyman. And, given that you weren't living there at the  
6 time, how did you become involved in the project?

7 A. I own property in the town. And, I had just purchased  
8 it, two years prior, I had just purchased an old farm  
9 that we were going to be moving to. I was living in  
10 Windham, New Hampshire, at the time.

11 Q. And, what role did you play in that docket or in --  
12 with respect to that project?

13 A. In that case, the applicant, which was First Wind, was  
14 seeking to erect a met tower in the town, and they  
15 needed a variance. There was a maximum height limit in  
16 the town for all structures, including towers, of  
17 35 feet. And, this was going to be 150 feet, I  
18 believe, in height. So, they needed a variance. And,  
19 I became -- we became engaged in that process.

20 Q. I assume you opposed the met tower?

21 A. (Nodding in the affirmative) And, eventually was --  
22 they could not reach the -- they could not make the  
23 arguments for a variance, need them and get an  
24 approval.

[WITNESS: Linowes]

1 Q. And, do you presently live in Lyman?

2 A. I do.

3 Q. And, I'll confess I'm not a native of New Hampshire.

4 So, my geography isn't great. Where is Lyman with  
5 respect to Antrim?

6 A. It's about two hours north. I am located -- I live  
7 just outside of Littleton, New Hampshire, which is two  
8 hours north of here.

9 Q. Uh-huh.

10 A. And, Antrim is west. So, I'm on the west side of the  
11 state as well.

12 Q. Okay. And, is Windaction also based out of Lyman?

13 A. Correct.

14 Q. When did Windaction start as an entity?

15 A. As an entity, in 2006.

16 Q. And, you qualified that a bit. Did it exist in some  
17 other form before that?

18 A. No. I was involved with another organization called  
19 "National Wind Watch", helped found that organization  
20 in 2005. And, then went onto form Windaction.

21 Q. Is Windaction a nonprofit organization?

22 A. It is not. Well, let me qualify that. It is not a  
23 non -- a 501(c)(3) under the IRS, okay? But it is  
24 certainly nonprofit.

[WITNESS: Linowes]

1 Q. Where does -- where does Windaction's funding come from  
2 then?

3 A. Donations.

4 Q. Donations?

5 A. To the extent there are any. Donations from people who  
6 share our thoughts, share our concerns, take advantage  
7 of the information we put out there, choose -- if they  
8 choose to give. It's like any other entity that  
9 operates on donations. We're not Koch-funded, Koch  
10 brother-funded, in case that was coming.

11 Q. Well, I wasn't going to ask if you were. But thanks  
12 for clarifying that. So, do you not draw a salary?

13 A. I do not.

14 Q. Are you paid at all in connection with your efforts for  
15 Windaction?

16 A. On occasion, if I'm asked to speak, my expenses may be  
17 covered. But, generally not. I am not paid -- I do  
18 not accept money to do what I do.

19 Q. About how much do you get in donations per year?

20 A. It varies year-to-year. Very little.

21 Q. And, are these from individuals or from organizations?

22 A. Generally, from individuals. If we were a 501(c)(3),  
23 we may see donations from organizations. But,  
24 generally, they're from individuals.

[WITNESS: Linowes]

1 Q. These are people in New Hampshire or from other  
2 locations?

3 A. All over, including New Hampshire.

4 Q. Did anyone assist you when you were preparing your  
5 testimony?

6 A. No.

7 Q. Did you share your testimony with anyone before filing  
8 it?

9 A. I did not.

10 Q. What did you review when you were preparing your  
11 testimony?

12 A. I reviewed the prior docket, in particular, the  
13 transcripts, the Application that was submitted. I  
14 matched -- I was, as you can see, I was looking at the  
15 testimony that Mr. Kenworthy and Mr. Raphael prepared  
16 and matched it against what the prior docket had said.  
17 And, I looked back to see what other things Mr. Raphael  
18 had said in other dockets.

19 Q. In your testimony, on Page 2 -- or, I'm sorry, Page 3,  
20 Lines 14 to 15 -- 13 to 15, actually, you say that your  
21 "testimony explores four key elements of the  
22 application in determining whether the proposed project  
23 is sufficiently different to warrant a new review by  
24 the Committee."

1 A. Uh-huh.

2 Q. Where did the term "sufficiently different" come from?

3 A. I don't know. It may have been used, I mean, any of  
4 the words "substantially different", it was not -- it  
5 was not a technical term -- not a legal term. It was  
6 not a term to mean -- it was trying to evaluate what --  
7 how much of a difference there was between the prior  
8 Project and the current one, and that identified the  
9 differences versus the similarities.

10 Q. In your -- in your petition to intervene -- actually,  
11 I'll get back to that later. Getting back to the four  
12 elements that are part of your testimony here, you say  
13 that they include "Project layout, Aesthetics, Noise,  
14 Pilot and Other Mitigation", is that correct?

15 A. That's correct.

16 Q. Now, earlier you had said that your educational  
17 background is in Software Science, and you have an MBA.  
18 Do you have any sort of landscape engineering  
19 backgrounds?

20 A. No, I am -- no.

21 Q. Do you have any sort of environmental engineering  
22 backgrounds?

23 A. I served on the planning board for three years,  
24 conservation commission, in both the Towns of Lyman and

[WITNESS: Linowes]

1 the Town of Windham. I have served as a board of  
2 director member in the New Hampshire Association of  
3 Conservation Commissions. I've been involved in  
4 environmental issues for a long time.

5 Q. But not specifically any engineering experience, either  
6 in training or professional experience?

7 A. Only what I did as a volunteer.

8 Q. Okay. Do you have any educational or professional  
9 experience in preparing visual impact analyses?

10 A. No.

11 Q. Do you have any professional or educational experience  
12 in sound engineering?

13 A. I have been working closely -- no, not educational.  
14 I've been working closely with acousticians for eight  
15 years, particularly on noise produced by wind turbines.

16 Q. And, when you say you've "worked closely with  
17 acousticians", what does that mean? You've retained  
18 consultants?

19 A. No. I have -- no, I haven't. I've worked closely with  
20 them. It's not a situation where I have to pay them to  
21 work with them. We have a shared relationship.

22 Q. Could you elaborate on that, some of the things? What  
23 would your "shared relationship" with an acoustician  
24 look like?



[WITNESS: Linowes]

1 A. We've just worked closely with at least four  
2 acousticians in the business. And, all -- and, there's  
3 been a lot of information that has been developed over  
4 the last ten years measuring the sound emitted from  
5 turbines, and evaluating that sound. And, so, I know a  
6 lot about wind energy, they know a lot about sound, and  
7 we work together.

8 Q. Have you consulted with an acoustician in regards to  
9 the present docket?

10 A. Only in this -- I did actually ask -- okay, to your  
11 other question, "did I consult anyone?" I did ask my  
12 colleagues what they -- if they knew what the sound  
13 power level was coming out of the Siemens turbine. As  
14 it turns out, I found it on my own.

15 Q. Who did you consult with?

16 A. Rick James, Rob Rand, and Steven Ambrose.

17 Q. I'm sorry, Steven Ambrose?

18 A. Correct.

19 Q. Did they provide you with any information that you  
20 utilized in putting your testimony together?

21 A. No. At the time -- I had already found the docket in  
22 Minnesota that I referenced where they -- where it  
23 states that the sound power level was 107.5. Which,  
24 apparently, Mr. Kenworthy said it was "106". So, they

[WITNESS: Linowes]

1 added in the 1.5. Not "they", whoever put that  
2 testimony together added in the 1.5.

3 Q. Okay. And, that was taken from another application in  
4 another docket, correct?

5 A. Correct.

6 Q. Okay. But you haven't reviewed any documents relative  
7 to the turbines in this case, correct?

8 A. I guess I -- you did ask me that. I did look up the  
9 Siemens turbine. I did look up the documentation on  
10 that, the manufacturer's documentation on the Siemens.

11 Q. Right. But the specific turbines in this case, that  
12 information hasn't been provided yet, correct?

13 A. Has already been provided?

14 Q. Has not. You have not reviewed a sound report or any  
15 sort of information relative to sound in this case?  
16 Your conclusions in your -- sorry, let me -- I'm asking  
17 you a lot of questions there. So, I'll make it simple.  
18 Your conclusions in this testimony are based on the  
19 information from the Minnesota docket, correct?

20 A. Yes. And, I did -- I did Google Siemens to find their  
21 manufacturing information, the manufacturer's  
22 information on this particular model. I was looking  
23 for the size of it and other things. You know, you  
24 asked me "what documents", I don't -- you know, when

[WITNESS: Linowes]

1       you're asking, I may remember them as I go through.

2       But I don't remember what else I might have accessed.

3   Q.   Does Windaction oppose utility-scale wind power  
4       generation as a general matter?

5   A.   We're involved in the siting concerns about it, related  
6       to it.

7   Q.   Siting only?

8   A.   Siting, and also the costs related to it, and the  
9       policies that drive wind energy and renewable energy.

10   Q.   Have you ever -- has Windaction ever supported a wind  
11       power project?

12   A.   Do we publicly go out and support projects? No, we  
13       only engage in the siting issues and the policy issues.  
14       So, -- I've been asked that question before. And, in  
15       general, like the applicants do a very good job of  
16       advocating for their own projects, and there is no need  
17       for me to go out and do that. So, we don't -- we have  
18       enough on our plate to engage on just the siting  
19       concerns. We're not going to take on projects where  
20       the applicant is fully capable of advocating for  
21       himself.

22   Q.   So, you say that Windaction's interested only in the  
23       siting issues?

24   A.   And the costs.

[WITNESS: Linowes]

1 Q. I'm sorry?

2 A. And the costs.

3 Q. Okay. You say in your testimony that you're a  
4 "principal and a contributor" to something called the  
5 "MasterResource blog"?

6 A. Correct.

7 Q. And, that bills itself as a "free market energy blog",  
8 correct?

9 A. That's true.

10 Q. What does that mean?

11 A. You know what, I mainly participate on MasterResource,  
12 because there are a lot of Congressional members that  
13 go out to MasterResource. So, it widens my -- that,  
14 when I write my essays, I have a wider readership, and  
15 I'm able to reach people that are trying to understand  
16 all sides of the issue. And, that's mainly why I'm  
17 there.

18 Q. And, so, your essays that would be posted on that  
19 website are related to siting issues?

20 A. And policy-related issues. So, in that case, you'll  
21 see a lot about the Production Tax Credit and subsidies  
22 that are driving renewable energy, and the costs  
23 associated with it.

24 Q. So, is it fair to say that you have a philosophical

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1 opposition to wind energy, to the extent it uses tax  
2 credits or subsidies, things along those lines?

3 A. I don't put a value judgment on it. I'm talking -- I  
4 mean, so, we're looking for a cost/benefit analysis  
5 there. Does wind energy produce enough to cover its  
6 cost to taxpayers? Is that a philosophical question?  
7 I don't think that's a philosophical question. And,  
8 that's what I talk about. I talk about the costs  
9 associated with wind energy, the impacts associated  
10 with wind energy, and try to broaden -- or, rather  
11 balance the debate surrounding wind energy.

12 Q. So, what specifically would your opposition to the  
13 Production Tax Credit be?

14 A. I write about it a lot. The bottom line is, we have an  
15 industry that has been receiving a substantial subsidy  
16 for 23 years. And, every year purports to say "we'll  
17 soon be off this Production Tax Credit", but every year  
18 advocates for it to be continued.

19 Q. Okay.

20 A. And, so, I talk about the cost relative to the benefit.

21 Q. You write that you're a "technical advisor" to a  
22 documentary called "Windfall"?

23 A. Correct.

24 Q. What did you do in your role as "technical advisor"?

[WITNESS: Linowes]

1 A. Initially, I was contacted by the director to appear in  
2 the film, to talk about the process. But which, in  
3 that time -- at that time, the film itself, it talks  
4 about how a community responded when a company like  
5 Antrim Wind would go in, and it would arrive at the  
6 town and look to site a project. So, we spent a lot of  
7 time talking about that process. And, then, as it  
8 turned out, it was better that I be on the outside  
9 talking and advising her, so that she could best  
10 understand what the process was. And, it was -- and, I  
11 basically answered all the questions having to do with  
12 wind energy and answered all the questions pertaining  
13 to siting that I could. And, she was getting a lot of  
14 information from other sources, and I just clarified  
15 whatever confusion she may have had. And, then, when  
16 the film was released, I went around the parts of the  
17 country with her. And, so, the direct -- so, the film  
18 will be shown, the director would be there, I would be  
19 there, and we would answer questions together, she  
20 about the film, I would answer about the policies and  
21 the issues.

22 Q. Is that a film that takes a favorable view of wind  
23 energy project siting?

24 A. I think if you were to ask the director, she said she

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1 did not -- she did not set out to say one thing or the  
2 other. It was more about the experience of what was  
3 going on with small communities.

4 Q. But, if I were to watch the film, would I feel that it  
5 took a favorable or left one with a favorable  
6 impression of wind energy projects?

7 A. Would you say that if you saw the movie "Gasland"?

8 Q. I haven't seen the movie "Gasland".

9 A. It was --

10 Q. I mean, it's just -- it's a question, it was a "yes" or  
11 "no" question.

12 A. It was a documentary to talk about what happened in one  
13 community.

14 Q. In your petition to intervene in Docket 2012-01, you  
15 stated that "subscribers to Industrial Windaction have  
16 a strong interest in ensuring wind energy proposals are  
17 considered in a deliberate and comprehensive manner,  
18 with a keen focus on the impacts and costs of such  
19 development."

20 A. Right.

21 Q. Is that still the case?

22 A. Absolutely.

23 Q. Okay. Do you think that the Site Evaluation Committee  
24 is capable of providing such a review?

[WITNESS: Linowes]

1 A. They have taken a -- I don't know. I don't know how to  
2 answer that question.

3 Q. They're capable or they're not. Do you feel that  
4 they're capable of providing the review that your  
5 constituents seek out and demand?

6 A. Okay. I think that the quality of that review is very  
7 much dependent on the people who intervene in the  
8 process. So, if no one intervenes, I'm not sure if  
9 that's a quality review, because it could be a very  
10 one-sided review. If multiple people intervene, with  
11 different perspectives, it would be a more robust  
12 review, I think. But, I think, in general, I think  
13 that, if everyone who intervened was in favor of the  
14 project or supporting the project, I don't know if you  
15 would get that. I think it's very -- this is a  
16 Committee that makes determinations based on the  
17 evidence in the record. And, if the evidence is all  
18 one-sided, I don't know if you would get that.

19 Q. Well, you intervened in the prior docket?

20 A. I did.

21 Q. Did you feel that that provided a review in a  
22 "deliberate and comprehensive manner, with a keen focus  
23 on the impacts and costs of development"?

24 A. I worked very hard to bring up the issues on the



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1 impacts and the costs. So, I would like to think that  
2 I contributed to the process.

3 Q. But the process, you said it depends on who intervenes?

4 A. Right. And, I was one of the intervenors. If I didn't  
5 intervene, is it possible that -- I mean, it's possible  
6 that that had an effect, that would have a different  
7 effect. I don't know. But that's why I intervened.

8 Q. Well, you've intervened in this case?

9 A. I did intervene in this.

10 Q. Right.

11 A. And, in each case, the Committee, they granted me  
12 intervenorship -- my petition, because I'm -- in the  
13 interest of justice. So, they perhaps see that I might  
14 bring value to the process.

15 Q. So, given that, your involvement in the process now, do  
16 you think that the SEC is capable of providing the  
17 review that you described in your petition from the  
18 previous docket?

19 A. I don't have a sense of ego like that. I'm only -- I'm  
20 stating very generically that the Committee has to rely  
21 on the information that's in the record. And, the  
22 information in the record is relying on the types of  
23 people, and the people that intervene, okay? So,  
24 that's my reason, I gave my reason for why I

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1       intervened, because I think I can contribute to that  
2       process. But do I think that they could -- now to your  
3       question, will it be a more deliberate process? If you  
4       could repeat your question? Sorry.

5   Q.   Sure. I'll go back to the beginning. In your prior  
6       petition, you stated that "your subscribers have a  
7       strong interest ensuring wind energy proposals" --

8   A.   Right.

9   Q.   -- "are considered in a deliberate and comprehensive  
10       manner, with a keen focus on the impacts and costs of  
11       such development." My question to you is a simple one.  
12       Is the Site Evaluation Committee capable of providing  
13       that kind of review?

14  A.   I answered that question. Okay, I answered that  
15       question, it -- the Committee is absolutely capable, if  
16       the information is in the record.

17  Q.   Okay.

18  A.   And, that's all they can rely on.

19  Q.   All right. Now, have you read the testimony of the  
20       Antrim Planning Board and the Board of Selectmen?

21  A.   I did.

22  Q.   Having read that testimony and having heard the  
23       testimony of representatives of the Town here today, do  
24       you think that the Town is capable of providing the

[WITNESS: Linowes]

1 kind of review that you seek out for your constituents?

2 A. I think that the Town is fully capable of it. I think

3 that the -- Antrim, what I have seen over the last X

4 number of years, is a very dynamic, active population

5 of people. They have opinions, very strong opinions.

6 And, there's no question that, if this process were to

7 be conducted by the Planning Board and the Zoning Board

8 of Adjustment, that the Town, it -- it absolutely could

9 handle it.

10 Q. Okay. So, a superior process to the Site Evaluation

11 Committee?

12 A. No. I didn't say that. You asked me if they could

13 handle it, and they could handle it. And, I think, if

14 it was a situation where you had a disengaged

15 population, the people did not have a -- they didn't

16 care, I mean, they were largely divorced from the area

17 and weren't that -- were not paying attention to the

18 various impacts that can arise from the project being

19 built, then, I would have concerns. And, I'd say

20 "okay, that project really should not be" -- "it should

21 be reviewed by another party", because it may not get a

22 full review. But Audubon is very active in this

23 process, and I'm sure it would be very active if it

24 were going through the Antrim process.

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1 Q. So, just to be clear, you have a better sense for what  
2 the Planning Board is capable of than the Planning  
3 Board itself?

4 A. I'm talking about the people of Antrim. The people of  
5 Antrim, ultimately, I mean, they are very active, and  
6 the boards in the Town are responsive to that. So, I  
7 don't think there's an issue. But, you know, this  
8 Project -- I think the Project is essentially the same  
9 as the prior Project. If you go to the Site Evaluation  
10 Committee, why would it be a different outcome? That's  
11 all I'm saying. And, that's really the argument that's  
12 put forward in my testimony. It's substantially the  
13 same, will go through a very -- you weren't part of the  
14 original process, Mr. Kenworthy was, it was a very long  
15 process, days and days. And, they came to an outcome.  
16 And, the Committee came --

17 (Multiple parties speaking at the same  
18 time.)

19 BY MR. TAYLOR:

20 Q. Let me ask you this.

21 A. -- we don't want a repeat of that.

22 Q. Given, I guess, the mission of Windaction -- so, you're  
23 not a resident of Antrim?

24 A. I am not.

[WITNESS: Linowes]

1 Q. Nor is Windaction.

2 A. Right.

3 Q. So, given the mission of the organization, what is your  
4 interest, in this jurisdictional docket, whether the  
5 SEC takes jurisdiction or whether the Town process is  
6 the one that's used, what is Windaction's interest  
7 specifically in the result of that?

8 A. Well, I certainly would not engage, if it was being  
9 handled by the Town of Antrim. But I'm a resident of  
10 the State of New Hampshire. And, you know, I think  
11 that I would engage. I have been involved with other  
12 wind projects that have gone through the process.

13 Q. But I guess my question is, what is Windaction's  
14 interest specifically in the result of this docket, the  
15 jurisdictional docket, whether the SEC takes  
16 jurisdiction or that the Town handles the Project? For  
17 Windaction's constituents, what is your interest?

18 A. Well, obviously, I know the Project pretty well. I  
19 went through the very laborious process that went  
20 through the Site Evaluation Committee. And, I think I  
21 could be useful.

22 Q. So, do you advocate for the SEC taking jurisdiction?

23 A. No.

24 Q. But you just said you "wouldn't engage if Antrim

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1           was" --

2   A.   No.  You asked me about why I'm engaged in the  
3       jurisdictional question, and that's why I'm here.  I  
4       think that I want to -- I wanted to make the point that  
5       this Project is not any different from the prior  
6       Project.

7   Q.   And, just to be clear -- well, when you said that you  
8       put your testimony in, it was based on the prior docket  
9       and testimony put in by Mr. Kenworthy and Mr. Raphael?

10  A.   (Nodding in the affirmative).

11  Q.   So, with respect to the --

12                   MR. IACOPINO:  Mr. Taylor, it's five --  
13       it's six past 4:00.  Do you have much longer to go?

14                   MR. TAYLOR:  Five, ten minutes.

15                   MR. IACOPINO:  You know, I mean, we're  
16       probably -- I know people in the room have to go somewhere  
17       else, one of them is the guy sitting next to you.

18                   MR. TAYLOR:  No, no, I understand that.  
19       I'll wrap it up.

20                   MR. IACOPINO:  But I don't mean to -- I  
21       mean, I'm just saying, you know, it sounds like you're  
22       about to go to another area, this may be a good place to  
23       stop.  And, we'll schedule another day, since we do have  
24       other witnesses anyway.

[WITNESS: Linowes]

1 MR. TAYLOR: If I can resume my  
2 discussion with Ms. Linowes at the next session, then I'm  
3 fine breaking now.

4 MR. IACOPINO: Yes. That's fine. I  
5 mean, we would expect that all the parties would be  
6 present.

7 MR. TAYLOR: Okay. Then, --

8 MR. IACOPINO: We're just going to --  
9 we're going to have to come up with a date.

10 MR. TAYLOR: Then, I'm fine with that.

11 MR. IACOPINO: Okay. All right. Well,  
12 why don't we break now then, because I do know that the  
13 most important person in the room has a place to be as  
14 well.

15 (Court reporter raising his hand.)

16 MR. IACOPINO: So, we will adjourn for  
17 today.

18 **(Whereupon the technical session was**  
19 **adjourned at 4:07 p.m., and the**  
20 **technical session to resume on May 4,**  
21 **2015, commencing at 9:00 a.m.)**

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