

STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

September 15, 2016 - 9:00 a.m.
Public Utilities Commission
21 South Fruit Street Suite 10
Concord, New Hampshire

DAY 2

Morning Session
ONLY

NHPUC SEP22'16 PM12:51

IN RE: SEC DOCKET NO. 2015-02
ANTRIM WIND ENERGY, LLC:
Application of Antrim Wind
Energy, LLC for a Certificate
of Site and Facility.
(Hearing on the merits)

PRESENT FOR
SUBCOMMITTEE:

SITE EVALUATION COMMITTEE:

Cmsr. Robert R. Scott Public Utilities Commission
(Presiding as Presiding Officer)

Cmsr. Jeffrey Rose	Dept. of Resources & Economic Development
Dr. Richard Boisvert (Designee)	Dept. of Cultural Resources/ Div. of Historical Resources
John S. Clifford (Designee)	Public Utilities Commission/ Legal Division
Dir. Eugene Forbes (Designee)	Dept. of Environ. Services/ Water Division
Patricia Weathersby	Public Member

Also Present for the SEC:

Michael J. Iacopino, Esq. (Brennan...
Marissa Schuetz, SEC Program Specialist

COURT REPORTER: Steven E. Patnaude, LCR No. 052



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2 **APPEARANCES:** *(as noted by the court reporter)*

3 **Reptg. Antrim Wind Energy (Applicant):**

4 Barry Needleman, Esq. (McLane...)
5 Rebecca S. Walkley, Esq. (McLane...)
6 Henry Weitzner (Antrim Wind Energy)
7 Jack Kenworthy (Antrim Wind Energy)

8 **Reptg. Counsel for the Public:**

9 Mary E. Maloney, Esq.
10 Asst. Atty. General
11 N.H. Attorney General's Office

12 **Reptg. the Town of Antrim:**

13 Justin C. Richardson, Esq. (Upton...)
14 Robert Edwards, Selectman

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

17 James Newsom, Esq.

18 **Reptg. Audubon Society:**

19 Jason Reimers, Esq. (BCM Env. & Land)
20 Francie Von Mertens
21 Carol Foss

22 **Reptg. Abutting Landowners Group:**

23 Barbara Berwick, *pro se*
24 Bruce Berwick, *pro se*

Reptg. Allen/Levesque Group:

Charles Levesque, *pro se*
Mary Allen, *pro se*

Reptg. Meteorologists Group:

Dr. Fred Ward

Reptg. the Wind Action Group:

Lisa Linowes

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APPEARANCES: (C o n t i n u e d)

Wes Enman, *pro se*

Reptg. Non-Abutting Landowners Group:

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Annie Law, *pro se*

Robert Cleland, *pro se*

Elsa Voelcker, *pro se*

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I N D E X

PAGE NO.

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E X H I B I T S

(Marked for ID during this hearing)

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NA-14	U.S. Dept. of Energy "New Hampshire Wind Resource Map and Potential Wind Capacity"	7
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WA-20x	Letter from Reed & Reed, by Mr. Cavanagh, to Mr. Soinen of Eolian Renewable Energy, LLC (04-01-16)	39
WA-21x	Document consisting of a listing of countries/states with description of incidents & dates	39
WA-22x	Article from Huron Daily Tribune "Fallen turbine's oil spill shouldn't be a problem" (04-20-16)	39
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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 MR. BLOCK: Okay. And I'm sensitive
2 to that, because I have hearing problems, too.
3 This would be NA-14.

4 (The document was herewith
5 marked as **Exhibit NA-14** for
6 identification.)

7 *[Mr. Block distributing*
8 *documents.]*

9 MR. BLOCK: Thank you.

10 BY MR. BLOCK:

11 Q. My first questions are for Mr. Kenworthy. And
12 I would like to start by referencing an article
13 that's in Exhibit NA-13, my supplemental
14 prefiled direct testimony. And it's in that
15 Exhibit NA-13 as Exhibit RB(Supp)-3, it's an
16 article entitled "Siting a Wind Farm in the
17 Most Challenging Place in the U.S." And I just
18 want to ask you about that. On Page 2 of the
19 article, according to the interview of Mr.
20 Kenworthy, in that article, under the section
21 called "Finding Good Sites", Mr. Kenworthy, you
22 call this "the best sited wind project in the
23 state and an excellent wind resource", is that
24 correct?

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) I'm trying to find the article, Mr.
2 Block.

3 Q. Okay. In the Supplemental Prefiled Direct
4 Testimony of Richard Block, which is Exhibit
5 NA-13, and within that exhibit, Attachment or
6 Exhibit RB(Supp)-3 of that. And that was
7 "Siting a Wind Farm in the Most Challenging
8 Place in the U.S." from Renewable Energy World
9 Magazine, March 2nd, 2016.

10 A. (Kenworthy) Okay. Yes, I found the article.
11 Thank you.

12 Q. Okay. On the second page of the article,
13 there's a section headed "Finding Good Sites".
14 And in there it just -- you call this "the best
15 sited wind project in the state", and then you
16 say "it is an excellent wind resource". You
17 recall that?

18 A. (Kenworthy) Yes. That sounds correct.

19 Q. Okay. In conjunction with this, if you would
20 take a look at the exhibit that I just passed
21 out, which will be NA-14, which is Wind
22 Resource Map and text from the website of the
23 U.S. Department of Energy, under "New Hampshire
24 Wind Resource Map and Potential Wind Capacity".

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 On the front of this, where the text is,
2 there's a highlighted paragraph that says
3 "Areas with annual average wind speeds around
4 6.5 meters per second and greater at 80-meter
5 height are generally considered to have a
6 resource suitable for wind development." Okay?
7 If you turn over to the wind map, on Page 2,
8 you'll see I've highlighted where the Antrim
9 Project site is. And it appears to be located
10 squarely in the zone with an annual average
11 wind speed in the range of 5.5 meters per
12 second to 6 meters per second. Which, if you
13 look at the chart, they're in the bottom third
14 of the wind resources in the state, and below
15 the minimum recommended average speed for
16 suitability -- suitability in development.
17 Given this, how can you characterize Antrim as
18 having an "excellent wind resource"?
19 A. (Kenworthy) Excuse me. This map doesn't have
20 any relevance to our Project at all.
21 Q. Can you explain that please?
22 A. (Kenworthy) Sure. We've collected four years
23 of on-site wind data, from a meteorological
24 tower at 60 meters, and from a LiDAR at three

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 different locations across the project site --
2 pardon me -- at elevations up to 200 meters.
3 That data, which is site-specific data from our
4 location, is what I use to make that statement.

5 We've submitted a detailed summary of the
6 meteorological campaign that was performed by
7 V-Bar, a nationally recognized meteorological
8 consultant, that describes our average wind
9 speeds. I believe, in that document, which was
10 provided together with our Application, I think
11 it was a supplement, we -- the average wind
12 speeds are well above six and a half meters a
13 second at this site.

14 Q. Can you tell me how far above?

15 A. (Kenworthy) I can check and tell you. But my
16 recollection is that our average hub height
17 wind speeds are about 7.7 meters per second.
18 So, considerably.

19 Q. I know we, in the past, have requested that
20 wind data information, and you would not
21 release it saying it's proprietary, is that
22 correct?

23 A. (Kenworthy) We have indicated that the actual
24 data, the raw data files that we've collected

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 at the site, are proprietary information.

2 Q. So, in other words, you're asking us to take
3 your word for it that what you're saying is
4 true?

5 A. (Kenworthy) Not just our word. We've provided
6 a detailed technical report from our
7 meteorological consultant that's been submitted
8 as part of this record, and I'm here testifying
9 to it.

10 Q. All right. Going back to this Renewable Energy
11 World Magazine, continuing on Page 2, in the
12 same section, the article there states that
13 "The Project was overwhelmingly supported by
14 the Town of Antrim." And, then, you're
15 directly quoted there, and I've highlighted
16 them on there. "The Town of Antrim has been
17 behind us for six years. The support has been
18 demonstrated in referendum." Can you give us a
19 date and the results of the specific referendum
20 regarding the Antrim Wind Project that you're
21 referring to there?

22 A. (Kenworthy) Sure, I can. I think all of this
23 is in the record, Mr. Block. I've provided
24 detailed answers about the basis for which we

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 make the statement that the Town of Antrim has
2 been strongly supportive of the Project.

3 Q. Can you give me the dates of the referendum
4 though?

5 A. (Kenworthy) I don't -- I don't specifically
6 know which particular vote this article is
7 referring to. I can tell you that we have
8 cited straw polls, two straw polls, a Planning
9 Board straw poll and a Selectboard straw poll.
10 We have cited a survey that was sent to every
11 household in the Town of Antrim, and which had
12 a very high response rate, which showed about a
13 77 percent support for the Project in town. We
14 have cited the defeat of two ordinances that we
15 would have considered to be anti-wind
16 ordinances that would have prohibited wind
17 development in the rural conservation, again,
18 by about the same margins.

19 So, for all those reasons, we formed my
20 statement that the Town of Antrim has been
21 consistently behind this Project.

22 Q. Are you misquoted in here saying that "the
23 support was demonstrated in a referendum"?

24 This is a direct quote to you.

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) Again, with respect to the word
2 "referendum", perhaps I am, I don't know. I
3 may have used the word, but I don't
4 specifically recall.

5 Q. A "referendum" is defined as a "direct vote in
6 which an entire electorate is asked to vote on
7 a particular proposal". Do you realize there's
8 never ever been a vote in the Town of Antrim on
9 your proposal?

10 A. (Kenworthy) Again, Mr. Block, I think the
11 record is clear on what our position is about
12 what informs the statements that I've made
13 about the Town of Antrim supporting this
14 Project.

15 Q. I understand your position, but your position
16 is hearsay, and you're making assumptions.
17 You're making assumptions based on inaccurate,
18 unscientific surveys. You're stating here that
19 there was a "referendum" and that you were
20 supported in that. There has never been a
21 referendum in the Town of Antrim.

22 PRESIDING OFCR. SCOTT: Mr. Block,
23 you need to ask questions please.

24 MR. BLOCK: Pardon?

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 PRESIDING OFCR. SCOTT: You need to
2 ask questions please.

3 MR. BLOCK: Okay. I'm sorry. All
4 right. I will continue.

5 BY MR. BLOCK:

6 Q. Continuing, I'd like to refer back to my
7 supplemental prefiled testimony, a further
8 exhibit in there, RB(Supp)-5, there's an
9 article in there, a different article, an
10 article called "Voters Kill Wind Petition" from
11 the Monadnock Ledger, which was published on
12 March 13th, 2014. Do you find that?

13 A. (Kenworthy) Yes, I see it.

14 Q. Okay. Continuing, since Antrim first came to
15 Antrim, there have been three votes to try and
16 amend the zoning ordinance to put in language
17 permitting the regulating industrial wind
18 development in town. I believe you've argued
19 that some of these proposals would have been
20 too restrictive to allow this Project to be
21 built, is that correct?

22 A. (Kenworthy) Yes, undoubtedly so.

23 Q. Okay. The March 2014 vote that this article
24 refers to was the third of these votes. This

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 amendment was submitted by a citizens'
2 petition, do you recall that?

3 A. (Kenworthy) I do.

4 Q. Okay. Do you feel that this amendment, if it
5 had passed, would have been too restrictive to
6 your Project?

7 A. (Kenworthy) No. This amendment was essentially
8 based around the terms and conditions that were
9 contained in the contract that Antrim Wind had
10 signed with the Town of Antrim.

11 Q. Okay. According to many people in Antrim, the
12 wording for this amendment was provided by
13 Antrim Wind. Can you tell us what was the
14 source of the language for this zoning
15 amendment?

16 A. (Kenworthy) The agreement with the Town of
17 Antrim and Antrim Wind.

18 Q. Okay. And you provided this to the citizens
19 who submitted this to the Town by petition?

20 A. (Kenworthy) Yes, we did.

21 Q. Okay.

22 MR. NEEDLEMAN: Mr. Chair, I would
23 just observe again, we're not on technical and
24 managerial capability. And, if that's what we

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 want to do, that's fine. I just hope we can
2 get through this panel. And I hope that, when
3 we get to orderly development, we're not going
4 to be duplicative of that.

5 MR. BLOCK: I understand.

6 PRESIDING OFCR. SCOTT: Okay.

7 MR. BLOCK: And I'm getting at
8 something here.

9 BY MR. BLOCK:

10 Q. Continuing, --

11 MR. RICHARDSON: Mr. Chairman, if I
12 could --

13 PRESIDING OFCR. SCOTT: Hold on.
14 Mr. Richardson.

15 MR. RICHARDSON: The other problem
16 this presents for me is there's a huge volume
17 of information in this case. And I don't
18 bring, you know, all of the orderly development
19 or all of the sound or all of the other issues
20 on days when we're here for technical and
21 managerial capabilities. So, it does present a
22 big problem for, you know, the other parties
23 who want to follow along, because I didn't have
24 Mr. Block's testimony and exhibits here with me

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 today.

2 And I'm not so much making an
3 objection, as registering a concern, that it
4 makes the following what's happening in the
5 testimony very difficult, when we jump out of
6 the assigned subjects for this panel.

7 PRESIDING OFCR. SCOTT: Well, as we
8 discussed, I was going to say yesterday, the
9 first day, which was Tuesday, I believe, you
10 know this is a little bit fuzzy, I get it, as
11 far as trying to group these. So, I'll give
12 Mr. Block a little bit of purview here. But,
13 again, if it's -- for a lot of reasons, they
14 have a lot of witnesses here, if it's better at
15 another block of time --

16 MR. BLOCK: Thank you. I don't have
17 that much more, so --

18 PRESIDING OFCR. SCOTT: Okay. And
19 Ms. Linowes.

20 MS. LINOWES: Mr. Chairman, if I may,
21 I believe that some of these questions or the
22 testimony in Mr. Kenworthy's supplemental
23 testimony talks about what Mr. Block is asking
24 questions about.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 PRESIDING OFCR. SCOTT: Uh-huh. Why
2 don't you proceed, Mr. Block.

3 BY MR. BLOCK:

4 Q. Let me just continue here. Further down in the
5 same article, I'd like to read one --
6 highlighted paragraphs. "An ongoing topic at
7 the polls Tuesday was the issue of
8 non-residents holding signs in favor of the
9 ordinance. Gorham has lived in Antrim for over
10 30 years and said she only recognized two of
11 the people outside of Town Hall campaigning for
12 the petition. Gorman said she went over to a
13 woman who was holding a pro-wind sign and asked
14 her where she was from. Gorman said the woman
15 told her she was from Hillsborough and that she
16 was paid by Antrim Wind to hold up the sign."

17 And, then, just below that, part of the
18 next paragraph, he went up to people that he
19 didn't recognize and also asked them where they
20 were from. Szehi said the responses included
21 Hillsborough and Concord."

22 So, if the support of your project from
23 the citizens of Antrim is as strong and
24 widespread as you have stated on numerous

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 occasions, why was it necessary for you to
2 bring in paid sign holders from other towns?

3 A. (Kenworthy) I don't have any knowledge of us
4 paying any sign holders from other towns.

5 Q. So, do you think the people were lying when
6 they said that Antrim Wind paid them?

7 A. (Kenworthy) That's not what I said.

8 Q. Oh. In other words, somebody from Antrim Wind
9 paid them to do this without your knowledge, is
10 that correct?

11 A. (Kenworthy) I don't know.

12 Q. All right. Somewhat different topic. Most of
13 the residences directly affected by the Project
14 are located in the North Branch area. In the
15 original proposal, that area had no visibility
16 of Turbines Number 9 or Number 10. So, the
17 change in those two turbines would have no
18 effect on those residences in the North Branch.
19 However, you claim the overall impact of this
20 Project is substantially diminished for all
21 areas, including the North Branch. Can you
22 explain that from the North Branch area?

23 A. (Kenworthy) I'm not sure how to answer that
24 question. I don't -- there's a lot of pieces

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 in there. I don't know what you mean by the
2 North Branch area or what specific impacts
3 you're talking about.

4 Q. Specifically, I'm talking about the area around
5 and north of the Project, around Route 9 and
6 north of the Project. And I know, and I'll
7 probably get back into this later when we get
8 into the area of about the visual impacts.
9 But, for now, I just wanted your impression on
10 this. The area north of Route 9, the area
11 where I live and the area where a lot of the
12 intervenors live, did not have a visibility of
13 Turbines Number 9 or Turbine Number 10. So,
14 the deletion of Turbine Number 10, the lowering
15 at Turbine Number 9 has no effect on the North
16 Branch. Yet, your -- and, generally, and in
17 your original testimony, you claim that there's
18 a significant or substantial improvement of the
19 overall impact, which would include the North
20 Branch area. So, without a change, without the
21 effects of the Turbine Number 9 and Number 10
22 changes, can you explain how the North Branch
23 area, Route -- north of Route 9, has -- how
24 that impact will have approved -- improved,

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 based on any changes you've done?

2 A. (Kenworthy) Well, it sounds to me as though
3 you're only considering aesthetic impacts. And
4 I'm not the expert to talk about the changes in
5 aesthetic impacts between 2012 and today. The
6 changes that we've made go, you know, well
7 beyond just changes in aesthetics. There's new
8 turbines that are used in this Project. Those
9 Siemens direct-drive turbines are quieter
10 machines, for one. So, this Project will meet
11 the strictest sound standards of any wind
12 project in the State of New Hampshire. It will
13 meet the strictest shadow flicker standards of
14 any project in New Hampshire. Those are two
15 significant reductions in impact from the 2012
16 project to today.

17 Generally, with respect to aesthetic
18 impacts, there is a reduction. This Committee
19 took up the issue as to whether or not there
20 was a material difference between 2012's
21 project and the Project that we've now proposed
22 and determined that there was.

23 And, so, I think that this is a -- that,
24 for all the reasons we've cited in our

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Application, this Project does have
2 substantially reduced impacts from 2012.

3 Q. All right. I'll get into more of that --

4 MS. MALONEY: I would just like to
5 object to that characterization that this
6 Committee determined that there was a
7 substantial difference between the 2012 project
8 and this Project. Actually, the decision on
9 jurisdiction said it was "immaterial".

10 PRESIDING OFCR. SCOTT: Why don't you
11 move on, Mr. Block.

12 BY MR. BLOCK:

13 Q. On Tuesday, you explained that Antrim Wind has
14 now submitted an application to the FAA for the
15 use of Aircraft-Detecting Lighting System,
16 ADLS, on the turbines. Is that true?

17 A. (Kenworthy) That is.

18 Q. Okay. Has the FAA yet issued an Advisory
19 Circular which approves and specifies the
20 details of the ADLS?

21 A. (Kenworthy) Yes, it has.

22 Q. Do you know when that was issued?

23 A. (Kenworthy) Yes. It's in my testimony. It's
24 December of 2015.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. So, that would be the copy that I received this
2 summer?

3 A. (Kenworthy) I do not know what copy you
4 received. We submitted it in response to data
5 requests.

6 Q. I believe that was in December. Okay. So, at
7 this point, what is the next step? Are you
8 waiting for approval of your specific
9 application?

10 A. (Kenworthy) Correct.

11 Q. Okay. Do you have any estimate of when the FAA
12 will issue that approval?

13 A. (Kenworthy) I would say, generally, it's our
14 expectation that we would receive an approval
15 in 45 to 60 days.

16 Q. And how long ago did you submit your
17 application?

18 A. (Kenworthy) I would have to check, but sometime
19 in the last two or three weeks or so.

20 Q. Okay. The agreement between Antrim Wind and
21 the Appalachian Mountain Club calls for you to
22 include installation of the ADLS in your
23 initial construction, if the FAA has issued its
24 Advisory Circular 60 days or more before the

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 commencement of the construction. So, it seems
2 to me, if that Circular was actually issued
3 last December, then you are already obligated
4 at this point, is that correct, to install the
5 ADLS during initial construction?

6 A. (Kenworthy) No. That's not my understanding.
7 But just give me a moment here to bring up that
8 agreement.

9 Q. Okay.

10 A. (Kenworthy) Does anybody happen to know what
11 appendix this was to our Application? I'm just
12 trying to find the AMC agreement. Oh, I found
13 it. It's Appendix 10a.

14 Q. Appendix 11, I believe.

15 A. (Kenworthy) So, Section (b), i, says "If the
16 FAA has issued the Advisory Circular 60 days or
17 more --

18 *[Court reporter interruption.]*

19 **CONTINUED BY THE WITNESS:**

20 A. (Kenworthy) "If the FAA has issued the Advisory
21 Circular 60 days or more before the
22 commencement of construction of the Project
23 that allows for the radar system to be
24 operated, then AWE shall install and operate

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 the radar system simultaneously with the
2 commissioning of the Project." So, it needs to
3 be allowed to be operated.

4 PRESIDING OFCR. SCOTT: And, just to
5 clarify, that's Appendix 10a, correct?

6 WITNESS KENWORTHY: That's correct.

7 BY MR. BLOCK:

8 Q. All right. I interpret that differently,
9 because it says -- to me, I read that "if the
10 FAA has issued the Circular which allows". It
11 doesn't say anything about a specific
12 application or a specific permit. And the
13 Circular, I have a copy, the Circular does list
14 the specifications. And, in other words, I
15 interpret that to say "the Circular says this
16 is an allowable system, this is what you need
17 for that system." And the way I read this, it
18 says "if that Circular has been issued, then
19 you are obligated to do this." All right.

20 So, you're saying that, your
21 interpretation, you still need to wait for
22 their approval?

23 A. (Kenworthy) Absolutely.

24 Q. Okay.

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) We can't install the system without
2 having an approval for the site.

3 Q. All right. If the FAA approval happens after
4 that 60-day period, the AMC agreement gives you
5 a year then to, after approval, to install the
6 ADLS, is that correct?

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

8 Q. Okay. Since you've been talking about and
9 promising that Antrim Wind will be using an
10 ADLS for four or five years, and it's obviously
11 taken a number of years for this to happen,
12 isn't it possible --

13 A. (Kenworthy) Excuse me.

14 Q. Yes.

15 A. (Kenworthy) Sorry to interrupt you, Mr. Block,
16 but I haven't been promising for four or five
17 years.

18 Q. And how long have you been promising it for? I
19 know that you started discussing it very early
20 on in Antrim, before you even came to the SEC.

21 A. (Kenworthy) Sure. It was part of a discussion.

22 Q. Yes.

23 A. (Kenworthy) We didn't make any commitments to
24 the system --

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Okay.

2 A. (Kenworthy) -- until we signed an agreement
3 with the AMC.

4 Q. Okay. I know your intent has always been to
5 use this system, when it was -- when and if it
6 became available. So -- but, based on
7 government red tape, isn't it possible that
8 final approval from the FAA, and then
9 eventually waiting for this, could take another
10 year or two to happen?

11 A. (Kenworthy) I suppose it's possible. I think
12 it's highly unlikely. Things have progressed
13 in a very positive manner with the ADLS here in
14 the United States. These systems have been
15 successfully tested by the FAA. They have, as
16 you know, issued a revised Advisory Circular,
17 which sets forward the standards that any ADLS
18 system needs to meet, in accordance with the
19 FAA Circular. There are technology vendors
20 that have been approved by the FAA, and we have
21 selected one of those vendors. And, on the
22 basis of that vendor's approval, the Advisory
23 Circular criteria that have been issued and our
24 project site-specifics, we've now submitted an

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1 application to the FAA for this site. The FAA
2 is obviously familiar with the site, having
3 already issued determinations of "no hazard"
4 for all of our turbine structures. And, so,
5 this is now what's called a "Lighting Study",
6 which goes back to the FAA to approve this
7 change to the determinations that have already
8 been made. Those pretty consistently happen in
9 about 45 to 60 days. So, that's our
10 expectation.

11 Q. So, what do you think are the chances that you
12 will actually be able to install this system
13 before the turbines are actually up and ready
14 to be commissioned?

15 A. (Kenworthy) I think it is highly likely.

16 Q. Okay. If that didn't happen, and it was
17 delayed, would those turbines have to have
18 lights on them that would simultaneously
19 flashing every two seconds, all night long, all
20 year long, until that time?

21 A. (Kenworthy) In the event that there were not an
22 approval prior to us commencing construction,
23 then, yes, there would need to be FAA required
24 obstruction lighting on six of the turbines.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Okay. If and when Antrim Wind is issued a
2 Certificate of Site and Facility, will you
3 personally continue to supervise the Antrim
4 operation or do your responsibilities for this
5 Project end at some point?

6 A. (Kenworthy) No, my responsibilities continue.

7 Q. So, you assume or the intention is you will
8 continue to be responsible for this Project
9 throughout its foreseeable future operating
10 life, is that correct?

11 A. (Kenworthy) I'm one of a member of a team that
12 is responsible for Antrim Wind.

13 Q. Okay.

14 A. (Kenworthy) Yes.

15 Q. And I know I've asked you this question before,
16 but, since you established Eolian Renewables in
17 2009, have you personally installed and
18 operated any industrial wind turbines anywhere?

19 A. (Kenworthy) I personally have not, no.

20 Q. All right. I have a couple of questions for
21 Mr. Cavanagh. I understand you will be
22 responsible for supervision of the physical
23 construction on the Project. Am I correct in
24 assuming that the first phase of on-site

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 construction will be for the staging area and
2 the access road?

3 A. (Cavanagh) Yes.

4 Q. Okay. In Antrim Wind's Application, in your
5 Appendix 7d, Preliminary Construction Schedule,
6 the start date for clearing and development for
7 the staging area and access roads are
8 October 3rd of this year. Is that accurate?

9 A. (Cavanagh) Yes.

10 Q. Okay. It's my belief that these adjudicatory
11 hearings are scheduled to continue at this
12 point past October 3rd. Is it standard
13 business practice to commence construction on
14 major projects before permits are approved?

15 A. (Cavanagh) No.

16 Q. So, --

17 A. (Kenworthy) Let me just, if I may, Mr. Block,
18 follow up on that.

19 Q. Sure.

20 A. (Kenworthy) As we've indicated in our
21 Application, the actual start of construction
22 is going to depend on when a permit is issued.
23 So, we're fully aware that we need to have a
24 certificate issued before we commence

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1 construction.

2 The schedule that was prepared by Reed &
3 Reed and submitted as part of our Application
4 is certainly an indicative schedule. And I
5 think it's clear at this point that we're not
6 going to start construction on October 3rd.

7 Q. Okay. So, if that -- and has that schedule
8 been updated or modified yet?

9 A. (Kenworthy) There is no reason to update or
10 modify it now, because we don't know what the
11 final timeline is going to be. But it
12 ultimately will be updated and modified, once
13 we know what the timeline will be.

14 Q. All right. So, once you know when the -- when
15 and if you receive approval, when do you
16 anticipate an updated and accurate construction
17 schedule will be issued?

18 A. (Kenworthy) Well, our expectation is that we
19 will negotiate, again, as we've stated, a final
20 BOP contract with Reed & Reed, roughly
21 commensurate with the timing of the close of
22 the financing for the Project. And, so, I
23 think we're talking about a matter of a couple
24 of months from the time the certificate is

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 issued.

2 Q. So, do you anticipate any actual groundbreaking
3 happening before the issuance of a certificate
4 and site?

5 A. (Kenworthy) No. Absolutely not.

6 Q. Okay. Mr. Cavanagh, have you personally
7 visited the entire ridge where the access road
8 will be built and the turbines will be erected?

9 A. (Cavanagh) Yes.

10 Q. Have you seen the extensive boulder formations
11 along the site of the proposed access road, I'm
12 not entirely certain, but I believe they're
13 between the sites of Turbines 6 and 7?

14 A. (Cavanagh) Yes.

15 Q. I'd like to call your attention, you don't have
16 to do this, if you don't want, but in my
17 supplemental prefiled testimony, which is
18 Exhibit NA-13, there are photographs of those
19 boulders, Exhibit RB(Supp)-7, the fifth and
20 sixth page of those photos. If you need to see
21 them, they are available. But, when I was up
22 there, I noticed that flagging, which marks the
23 location of the proposed road, runs right
24 through the middle of the boulders. How will

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 you be able to construct a road in that
2 terrain?

3 A. (Cavanagh) I'd have to look at your photos,
4 sir.

5 A. (Kenworthy) Mr. Block, I would also just
6 add, --

7 Q. Yes.

8 A. (Kenworthy) -- I'm not sure the basis on which
9 you're stating that the "flagging marks the
10 center of the road"?

11 Q. When we were -- when we hiked the ridge, there
12 were flagging marked -- we were following it on
13 a GPS and we were following the layout maps.
14 And there was surveyor's tape that followed
15 from the start, all the way through, followed
16 the course of where the proposed road would be.
17 The early part, the first few turbine sites,
18 had already been clear-cut along the road and
19 in the large circles where the pads would be.
20 Beyond that, it was not logged or anything, but
21 the flagging continued, following the road all
22 the way through. And every now and then we
23 found a stake marking WTG Number 6, WTG Number
24 7. So, we assumed that the flagging was

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1 indicating where, essentially, the access road
2 would be running.

3 A. (Kenworthy) And, again, I can't verify that.
4 That's your assumption. But it could have been
5 flagging for environmental purposes, there are
6 wetland delineations up there. There's --

7 Q. We saw those also. But the wetland --

8 A. (Kenworthy) There's clearing limit --

9 *[Court reporter interruption -*
10 *multiple parties speaking.]*

11 **CONTINUED BY THE WITNESS:**

12 A. (Kenworthy) I'm sorry. There's clearing limit
13 delineations. And, so, again, this is your
14 assumption, having gone up on the site without
15 any of our team to verify the location. And I
16 don't think Mr. Cavanagh can answer about your
17 hypothetical where the road may go.

18 BY MR. BLOCK:

19 Q. Well, if that road was to go right through
20 those boulder fields, and it appears to be on
21 your topographic maps, in your layouts,
22 Mr. Cavanagh, how would you construct a road
23 through those boulder fields?

24 A. (Cavanagh) We would have to, you know, demolish

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1 the boulder.

2 Q. All right. Decommissioning of the Project
3 calls for restoration of the ridge. Can you
4 describe any way that you feel that restoration
5 of those boulders could ever be achieved in
6 order to replace that 18,000 year old
7 significant wildlife and plant life habitat
8 area?

9 A. (Kenworthy) Well, we're not going to be able to
10 put the boulder back together. But what we
11 have committed to do is, when the Project is
12 decommissioned, we will remove the road, the
13 road will be broken up, all the way from
14 Turbine 9 back to -- Turbine 9, all the way
15 back to the edge of the property line between
16 Mr. Ott and Antrim Limited Partnership. Once
17 it's broken up, that area will all be spread
18 with organics and reseeded, so that it can
19 start to revegetate naturally. And I think
20 that that's what we've committed to do. It's
21 well beyond what any other wind project in New
22 Hampshire has ever committed to do before.

23 MR. BLOCK: All right. I have no
24 further questions. Thank you.

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1 PRESIDING OFCR. SCOTT: Thank you.

2 And I think next, at least for the record, is
3 anybody here for the Stoddard Conservation
4 Commission? Mr. Jones?

5 *[No verbal response.]*

6 PRESIDING OFCR. SCOTT: Okay. Then,
7 in that case, we'll move on to the
8 Levesque/Allen group?

9 MR. LEVESQUE: Mr. Chairman, we don't
10 have any questions right now, as long as we are
11 assured that there will be an orderly
12 development portion that we may question Mr.
13 Kenworthy at a later time. That's what I've
14 been hearing, and we'll hold those questions,
15 because we have a number of them regarding that
16 part of his testimony.

17 PRESIDING OFCR. SCOTT: That's
18 correct. Under the schedule we filed, that Mr.
19 Kenworthy will be a panelist for the orderly
20 development.

21 MR. LEVESQUE: We'll hold our
22 questions till later then. No further
23 questions for this panel then.

24 PRESIDING OFCR. SCOTT: Okay. In

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1 that case, Ms. Linowes.

2 MS. LINOWES: Thank you, Mr.
3 Chairman. Just to establish timing, I have
4 asked for an hour and a half. And I have three
5 categories of questions and I expect to be a
6 half hour for each.

7 PRESIDING OFCR. SCOTT: Okay. And,
8 as we discussed Tuesday, so this fits globally
9 within this category of technical and
10 managerial capability?

11 MS. LINOWES: Yes. The category --
12 well, and perhaps you should tell me. I am
13 responding to definitely technical/managerial,
14 but the hard -- the difficulty I have is that
15 I'm responding -- or, responding with questions
16 regarding Mr. Kenworthy's supplemental
17 testimony, which covers a wide range of topics,
18 from setbacks to decommissioning to other
19 things. And I don't know where else to put
20 these questions. So, if I'm not in the right
21 place, then I would like to be corrected.

22 PRESIDING OFCR. SCOTT: All right.
23 And, given Mr. Needleman's concerns about the
24 witnesses he has here, and the fact that Mr.

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Kenworthy is coming back, as we just discussed
2 with Mr. Levesque, for the orderly development.
3 So, as you progress, so, I guess I'll look to
4 Mr. Needleman, if it's better use of time to
5 have it in orderly development, again, the
6 caveat that you need to get your questions out,
7 and I want that to happen, we may ask you to
8 delay.

9 But why don't you go ahead.

10 MS. LINOWES: Okay. Thank you. And
11 I'd just say that it's -- orderly development
12 is kind of a different thing, so it's --
13 anyway, so it's difficult to put in there.
14 Okay.

15 BY MS. LINOWES:

16 Q. So, I want to talk about decommissioning first.
17 Good morning. Mr. Kenworthy, --

18 MS. LINOWES: Or, actually, if I may,
19 I have a number of exhibits I would like to
20 share with everyone. Could I just take a
21 second to distribute those?

22 PRESIDING OFCR. SCOTT: Sure. Why
23 don't we go off the record while you distribute
24 those.

1 MS. LINOWES: Thank you.

2 (The documents, as distributed,
3 were herewith marked as **Exhibit**
4 **WA-16x** through **Exhibit WA-24x**,
5 respectively, for
6 identification.)

7 *[Ms. Linowes distributing*
8 *documents.]*

9 PRESIDING OFCR. SCOTT: Okay. We'll
10 go back on the record.

11 MS. LINOWES: Thank you, Mr.
12 Chairman. Okay. Just so everyone knows, there
13 are a series of documents that I handed out. I
14 labeled them beginning with my Exhibit -- my
15 exhibits went up to WA-15, I believe, that were
16 part -- that were delivered as part of the
17 prehearing conference. This starts 16, but I
18 put an "X" after each one, so that it
19 references cross-examination. And I'm not sure
20 if these need to go into the ultimate record
21 for today's purposes.

22 BY MS. LINOWES:

23 Q. Okay. Mr. Kenworthy, in Exhibit 33, Appendix
24 22, that would be the Decommissioning Plan that

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 was submitted as part of the Application, you
2 articulate a plan and cost estimate for
3 removing all underground infrastructure to a
4 depth of 24 inches, is that correct?

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

6 Q. Okay. And, as you know, under New Hampshire
7 Site rule, this is a new rule, it's
8 301.08(a)(8), states that "All underground
9 infrastructure at depths less than four feet
10 below grade shall be removed from the site and
11 all underground infrastructure at depths
12 greater than four feet below finished grade
13 shall be abandoned in place." You're aware of
14 that?

15 A. (Kenworthy) Yes, I am.

16 Q. Okay. And, according to your supplemental
17 prefiled testimony, on Page -- this is App. 24,
18 on Page 25, Line 3, you confirm that "AWE will
19 now be removing all underground infrastructure
20 to depths of four feet below grade." Is that
21 correct?

22 A. (Kenworthy) I'm sorry. Where is that in my
23 supplemental testimony?

24 Q. That will be on Page 25, Line 3.

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

2 Q. That's correct. Okay. So that -- let me just
3 pull that up, I'll bring up your testimony as
4 well so I have it in front of me. Okay. So,
5 as part of the cost estimate, I include this in
6 the documents that I handed out, if you would
7 look at -- I have actually a hard -- well,
8 actually, let me check that. Or, actually, I
9 just want to make sure that everyone can get
10 access to App. 33, Appendix 21, if you have
11 that, because I'm going to be referring to
12 that, but I did not include that as part of my
13 packet of documents. So that will be the title
14 of the document is "Antrim Wind Energy Project
15 Decommissioning Plan".

16 And, in that Decommissioning Plan, there
17 is attached to that a letter from Reed & Reed
18 that has a cost estimate of \$2.525 million. Is
19 that correct?

20 A. (Kenworthy) Sure. Let me just get to that.

21 Q. Okay.

22 A. (Kenworthy) I'm jumping around between --

23 Q. It's attached to the --

24 A. (Kenworthy) -- multiple documents.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. It's attached to the Decommissioning Plan.

2 A. (Kenworthy) Yes. I see it now, \$2.525 million.

3 Q. Okay. And, then, also you state in your
4 testimony, again on Page 25, you express
5 concerns about potential environmental concerns
6 about going down to 4 feet. You say "Should
7 the Sub" -- and you make a statement here,
8 "Should the Subcommittee determine that all
9 facilities should be removed to 4 feet below
10 grade, Antrim Wind is confident that the
11 Committee" -- hold on a second, let me just --
12 bear with me. This is actually on Line 16, on
13 Page 25. I'll read directly from the
14 testimony, rather than from my notes. "Should
15 the Committee determine that all facilities
16 should be removed to 4 feet below grade, Antrim
17 Wind is confident that" --

18 MS. LINOWES: Okay. Mr. Chairman,
19 let me start the sentence before, because
20 otherwise it doesn't make sense.

21 PRESIDING OFCR. SCOTT: That's fine.

22 BY MS. LINOWES:

23 Q. Your testimony says "For example, it may be
24 more detrimental to remove an underground

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1 electrical line buried at a depth of 4 feet in
2 an area where there may be wetlands or stream
3 impacts associated with the removal." Do you
4 see that?

5 A. (Kenworthy) I do.

6 Q. Okay. And, then, the next sentence: "Should
7 the Subcommittee determine that all facilities
8 should be removed to 4 feet below grade despite
9 this, AWE is confident that the Committee will
10 include such a requirement as a condition of
11 any Certificate, and AWE will comply." Is that
12 correct? You see that?

13 A. (Kenworthy) I see it.

14 Q. Okay. Now, in general, did you have an
15 objection to that 4 feet?

16 A. (Kenworthy) No. In general, we amended our
17 plan to say that we would comply.

18 Q. Okay. So, during, and I now want to refer to a
19 letter that you had submitted to the Site
20 Evaluation Committee during the rulemaking
21 process. This would be WA-17x that I handed
22 out. This is two of your -- two pages of your
23 full letter. But do you recognize the letter?

24 A. (Kenworthy) Not particularly.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. You don't recognize your own letter?

2 MR. NEEDLEMAN: Well, Lisa, it's not
3 on letterhead and there's no signature page.

4 MS. LINOWES: This is how it was
5 presented to the -- this is how it's on the
6 Site Evaluation Committee website.

7 **BY THE WITNESS:**

8 A. (Kenworthy) Okay.

9 BY MS. LINOWES:

10 Q. Okay. On Page 2 of your letter, on the second
11 paragraph, about five lines from the bottom, it
12 states "removal of underground facilities up to
13 4 feet below grade is more common, unless a
14 component has the potential to cause
15 contamination of some kind". Okay. And then
16 you go on to say that, in general, your concern
17 appears to be more that that requirement of
18 4 feet is being imposed on wind projects and
19 not on other energy facilities. Do you
20 remember having that concern?

21 PRESIDING OFCR. SCOTT: Why don't you
22 hold on.

23 MS. LINOWES: Oh.

24 PRESIDING OFCR. SCOTT: We have a

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 question from the bench. Mr. Boisvert.

2 DR. BOISVERT: Ms. Linowes?

3 MS. LINOWES: Yes.

4 DR. BOISVERT: In what you've handed
5 out, I'm looking at the statement that you
6 referred to. And what I read is "removal of
7 underground facilities up to 2 feet below
8 grade".

9 MS. LINOWES: Oh, did I say "4"?

10 DR. BOISVERT: You said "4", yes.

11 MS. LINOWES: Oh, I'm -- thank you
12 for that correction.

13 DR. BOISVERT: That's quite a
14 difference.

15 MS. LINOWES: Yes. That is, yes. I
16 apologize.

17 PRESIDING OFCR. SCOTT: Okay. And,
18 Mr. Kenworthy, do you remember the question?

19 WITNESS KENWORTHY: I'm sorry?

20 PRESIDING OFCR. SCOTT: Do you
21 remember the question?

22 WITNESS KENWORTHY: No. I'm sorry.
23 Could you please repeat it?

24 MS. LINOWES: Okay.

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1 BY MS. LINOWES:

2 Q. All right. So, it says, in your statement in
3 the letter, it says "removal of underground
4 facilities up to 2 feet below grade is more
5 common, unless a component has the potential to
6 cause contamination of some kind." Do you see
7 that?

8 A. (Kenworthy) Yes. I see that language.

9 Q. And then you go on to say, "The rules should be
10 clarified to explain either why only wind
11 facilities are required to provide the
12 information, or, alternatively, all energy
13 generating facilities should be held to the
14 same standard." Is that -- do you see that?

15 A. (Kenworthy) I see it.

16 Q. Okay. Are you aware of that concern being
17 raised to the Committee?

18 A. (Kenworthy) I am aware.

19 Q. Okay. And are you aware that the Committee
20 did, in fact, change the rules and apply that
21 same 4-foot requirement to all energy
22 facilities?

23 A. (Kenworthy) I'm not aware of that.

24 Q. Okay. And that would be, for the record, New

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1 Hampshire Site 301.08(c)(2)d, has been changed
2 now to show that, "all energy facilities".
3 And, also, I would like to point to the WA-16x.

4 MR. NEEDLEMAN: Mr. Chair, I'm going
5 to object to the relevance of this. And it may
6 well be that Mr. Kenworthy took positions in
7 the rulemaking about what the rule should be.
8 But the rule is what it is, and they have
9 agreed to comply with it. So, I don't see why
10 this matters.

11 PRESIDING OFCR. SCOTT: Maybe you can
12 tell us where you're going with this?

13 MS. LINOWES: Yes, Mr. Chairman, I
14 am. I want to establish first where the rule
15 is, and Mr. Kenworthy's position at that point,
16 and then circle back to his statement in his
17 supplemental testimony, where he says "If the
18 Committee were to consider changing the
19 conditions on" -- "applying a condition on the
20 Certificate."

21 PRESIDING OFCR. SCOTT: And can you
22 help me with the relevance of where the
23 position he took on the rulemaking, compared to
24 where we are now?

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 MS. MALONEY: Well, actually, I
2 intend to ask possibly one question about that
3 as well. So, and I will address that relevance
4 of it at that time.

5 PRESIDING OFCR. SCOTT: Okay.

6 MS. MALONEY: But I think there is
7 some relevance here, in terms of the entire
8 Decommissioning Plan that he -- that's at
9 issue. And whether or not that Mr. Kenworthy
10 had an opportunity to address the Committee
11 regarding the rules. So, --

12 PRESIDING OFCR. SCOTT: So, Ms.
13 Linowes, --

14 MS. MALONEY: And apparently he did.

15 PRESIDING OFCR. SCOTT: Ms. Linowes,
16 it sounds like you'll get help later on from
17 Counsel for the Public, but can you tell me
18 what the -- how this is relevant?

19 MS. LINOWES: To this factor? Okay.
20 Well, the point is, he -- well, you're going to
21 ruin my surprise. It's coming back to the
22 suggestion that the Committee could apply a
23 condition on the permit, and no waiver has been
24 requested for that. And I want to talk about

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 the very wording of the deliberative session
2 that the Committee had when it discussed this
3 whole issue. And I think it's completely
4 relevant.

5 PRESIDING OFCR. SCOTT: So, maybe to
6 move along, maybe you can just ask Mr.
7 Kenworthy if this is, indeed, his document and
8 then --

9 MS. LINOWES: Well, actually, if he
10 doesn't want to say that today, because it was
11 delivered not on letterhead, I have a
12 transcript --

13 PRESIDING OFCR. SCOTT: Well, why
14 don't you ask him that.

15 MS. LINOWES: Okay.

16 BY MS. LINOWES:

17 Q. Is this --

18 MS. LINOWES: What should I ask? "If
19 this is his letter?"

20 BY MS. LINOWES:

21 Q. Is this your letter? You're not willing to --

22 A. (Kenworthy) Ms. Linowes, I just -- I don't
23 know. I'm not suggesting that it isn't, I just
24 can't confirm it. But, you know, maybe I can

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1 bring a conclusion to this a different way.

2 MS. LINOWES: No, that's okay. I'd
3 rather -- I'd rather ask the questions. And I
4 will get to it, because the transcript will
5 validate that this is your letter, okay? If I
6 could, Mr. Chairman?

7 PRESIDING OFCR. SCOTT: All right.

8 BY MS. LINOWES:

9 Q. If you could look at WA-16x? This is a
10 partial -- does anyone dispute that this is the
11 transcript from a hearing that the Committee
12 had on September 29th, the date is on the
13 bottom, regarding during the rulemaking
14 process? Have you seen this transcript before?

15 A. (Kenworthy) No.

16 MS. LINOWES: Okay. Mr. Chairman,
17 you were part of this discussion. Is anyone --
18 well, is anyone going to dispute that this is a
19 transcript from one of the SEC hearings?

20 MR. RICHARDSON: Mr. Chairman, could
21 maybe we just show the witness the rule that is
22 at issue? Because the issue is whether or not
23 this complies with the rules, not what happened
24 in the rulemaking.

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1 MS. LINOWES: No. That is not the
2 issue.

3 MR. RICHARDSON: Well, I submit that
4 it is, because we're here to review whether the
5 Project meets the requirements of the SEC, the
6 rules, and the statute.

7 PRESIDING OFCR. SCOTT: Why don't you
8 ask Mr. Kenworthy --

9 MS. LINOWES: Okay.

10 PRESIDING OFCR. SCOTT: -- if he
11 understands that, rather than the room.

12 MS. LINOWES: If he understands it.

13 BY MS. LINOWES:

14 Q. Do you understand -- do you recognize this?
15 Have you ever seen a transcript of the Site
16 Evaluation Committee?

17 A. (Kenworthy) I'm sorry, is your question "Have I
18 ever seen a transcript of the Site Evaluation
19 Committee?"

20 Q. This, do you recognize this -- do you recognize
21 this as a transcript from a Site Evaluation
22 Committee meeting?

23 A. (Kenworthy) It appears to be.

24 Q. Okay. Thank you. Now, on the first page

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 there, Mr. Wiesner was the attorney at the time
2 during the rulemaking, he's referencing a
3 letter that you sent to the Site Evaluation
4 Committee, and he goes: "We have very specific
5 provisions for the wind farm decommissioning.
6 And, in (8)(b), there's a requirement that "All
7 transformers shall be transported off-site."
8 Do you see that?

9 A. (Kenworthy) Yes.

10 Q. "And Eolian", would that be you?

11 A. (Kenworthy) Yes.

12 Q. -- "has raised the question, "Why should that
13 only apply to wind facilities? Why shouldn't
14 it apply to all" -- "to other types of
15 facilities as well?" Is that --

16 A. (Kenworthy) Yes, I see it.

17 Q. -- a portion of what you said?

18 A. (Kenworthy) I see it.

19 Q. Okay. And Mr. -- Chairman Honigberg stated "He
20 is a wind guy. His comment did not say "remove
21 this requirement for me"?" And to which
22 Mr. Wiesner said "I don't believe so", and it
23 goes on "why shouldn't that also apply to other
24 energy facilities?" Do you see that?

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) Yes.

2 Q. Okay. So, the concern at the time wasn't about
3 the removal of -- okay, in general, removing
4 off-site was a concern -- was not a concern,
5 the concern was that it apply to all projects,
6 energy facilities before the Site Evaluation
7 Committee, correct?

8 A. (Kenworthy) I'm not sure. Who's concerned?
9 The Committee's concern?

10 Q. No, you're concerned.

11 A. (Kenworthy) Well, this transcript is not my
12 transcript. So, I'd have to have the letter
13 that I wrote in full to tell you actually what
14 it was that I said.

15 Q. Okay. Well, let me go on to the next part.

16 PRESIDING OFCR. SCOTT: And, again,
17 you're -- I'm still lost on how this is
18 relevant.

19 MS. LINOWES: Yes. I will get there.

20 PRESIDING OFCR. SCOTT: This is not
21 Mr. Kenworthy's -- Kenworthy didn't say the
22 things in this transcript.

23 MS. LINOWES: Right.

24 PRESIDING OFCR. SCOTT: He wasn't

1 there.

2 BY MS. LINOWES:

3 Q. And, then, in the bottom last line of that
4 page, or on Line 22, "The question is", of
5 Chairman Honigberg "whether it gets added for
6 others?", these are wording, whether -- again,
7 continuing that thought, it's not -- and he
8 goes "And I believe there's also, with respect
9 to the underground issue, there's a question of
10 the 4 feet." And going down, so that -- so, in
11 the end, and I'll skip then to page -- the last
12 page, the question of the "4 feet" that we're
13 talking about. And this is Commissioner Scott,
14 said "I'm not particularly in love with this at
15 all, but I think it's really going to be
16 site-specific." And then says "Having said
17 that, and, again, with my earlier suggestion
18 that 302.05, the waiver provisions" of the
19 rules, "should be incorporated into the rules.
20 If that is done, I think we can leave with --
21 "could keep with 4 feet. And, then, to the
22 extent an applicant wants to make a case at the
23 time, I think that's very viable, and they
24 could come in for a waiver suggesting "2 feet"

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 or "1 feet" or "not dig up at all"." Do you
2 see that?

3 A. (Kenworthy) Yes, I do.

4 Q. Okay. So, the thinking of -- so, the Committee
5 then left the 4 feet, as you know, from the
6 rules, and left it open for an applicant to
7 request a waiver. Is that correct, from what
8 you just heard?

9 A. (Kenworthy) Yes.

10 Q. Okay. Thank you.

11 A. (Kenworthy) And that's -- that's fine with us.
12 I think, again, we have a Decommissioning Plan
13 that we've submitted. And we're happy to
14 stipulate here that we will remove all
15 underground facilities down to a depth of
16 4 feet. And, if we ever need to get a waiver
17 from that requirement, we'd be happy to come
18 back to the Committee and request one. The
19 cost estimate that --

20 Q. Okay. Can I --

21 A. (Kenworthy) The cost estimate that Mr. Cavanagh
22 and Reed & Reed --

23 Q. I will get to that.

24 A. (Kenworthy) -- prepared did not take into

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 account leaving any facilities at a depth less
2 than 4 feet. So, we're perfectly comfortable
3 with that.

4 Q. Okay. Then, getting back to your prefiled
5 testimony, you state that, and this is on Page
6 25 again, talking about, in Line 15, talking
7 about the depth, you say "Should the Committee
8 determine that all facilities should be removed
9 to 4 feet...AWE is confident the Committee
10 could put a condition on the Certificate." Is
11 that now an irrelevant statement?

12 A. (Kenworthy) I don't know that it's irrelevant.
13 I think what I'm saying is that we are -- the
14 language, as I explained, that we included was
15 intended to be sensitive to the fact that there
16 may be circumstances that could arise in which
17 it's not practical to remove facilities down to
18 4 feet and it would be better not to.

19 However, I understand your position, that
20 the rules are clear and a waiver can be
21 requested if necessary, and we're happy to
22 comply with that.

23 Q. Okay. So, you're not expecting the Committee,
24 during these proceedings, to ignore the plain

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 wording of the rule and apply a condition on
2 the Certificate that allows you to excavate
3 less than 4 feet "as practicable", as you put
4 in your wording? You're not expecting that?

5 A. (Kenworthy) I'm sorry. I'm not sure I
6 understand the question.

7 Q. Your Page 25 of your prefiled supplemental
8 testimony says "Should the Committee determine
9 that all facilities should be removed to 4 feet
10 below grade". Hasn't the Committee already
11 determined that?

12 A. (Kenworthy) It appears that they have.

13 Q. Okay. So, you're not expecting, and you have
14 not submitted a waiver asking for a change to
15 that?

16 A. (Kenworthy) Correct.

17 Q. Okay. Thank you. So, Mr. Kenworthy, I also
18 included, this would be WA-20x, this is a
19 letter that you had submitted to I believe in
20 response to a data request from Counsel for the
21 Public, with an updated dollar figure of
22 "\$2.775 million", to remove the materials down
23 to 4 feet, is that correct?

24 A. (Kenworthy) Yes.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Okay. What is the status of this letter?
2 Where is it? Is it in the record? Or is it
3 just out there as a response to a data request?

4 A. (Kenworthy) I'm not positive. But I think it
5 is, other than you marking it here today, it's
6 just been a response to a data request.

7 Q. Okay. So, it is your intent to make it part of
8 the record?

9 MR. NEEDLEMAN: We've included all of
10 our exhibits that we intend to include. If you
11 want to mark this and include it, we wouldn't
12 have an objection.

13 MS. LINOWES: No, I'm not intending
14 to do that. I'm asking you if it is your
15 intent to put this into the record?

16 MR. NEEDLEMAN: I think I just
17 answered that.

18 MS. LINOWES: So, no?

19 MR. NEEDLEMAN: We have everything in
20 the record that we've put in, and this
21 information is, I believe, in the record.

22 WITNESS KENWORTHY: Again, I'm not
23 positive if this document was provided in any
24 other manner than a response to a data request.

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1 I'm not sure. I would have to -- I would have
2 to check.

3 BY MS. LINOWES:

4 Q. Okay. But your intent is that it would be?
5 This will be replacing the Reed & Reed letter
6 that only went down to 24 inches? Or will it
7 change? Or will this number change?

8 A. (Kenworthy) I mean, this is the most up-to-date
9 accurate estimate we have for decommissioning
10 the facility in compliance with the new SEC
11 rules, which require 4 feet removal.

12 Q. Which one? The one dated April 1, 2016?

13 A. (Kenworthy) Correct.

14 MS. LINOWES: Okay. Well, then, I
15 will leave it. I will state here then, it's my
16 understanding that that is the number. But,
17 again, a question will remain open to you
18 whether you're going to update the record with
19 this information.

20 BY MS. LINOWES:

21 Q. Okay. Now, on New Hampshire Site Rule
22 301.08(a)(8), if I could call your attention to
23 that. This is the rule that has -- this is the
24 decommissioning rule. And it has -- I'm going

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 to read (c), (d), and (e) and (f).

2 A. (Kenworthy) Sorry, Ms. Linowes, was this --

3 Q. Oh, go ahead. I'm sorry?

4 A. (Kenworthy) Was this in one of the documents
5 you provided?

6 Q. This is -- I don't know if it's in any of the
7 documents. I don't believe so. But it is the
8 official record, the rules. And I'll read -- I
9 wanted to focus in on one of those items, but
10 just to establish that these are the rules for
11 decommissioning. It says what needs to be
12 removed and done as part of a decommissioning.
13 And Item (c) says "All turbines, including the
14 blades, nacelles, and towers shall be
15 disassembled and transported off-site." Does
16 that sound familiar to you?

17 PRESIDING OFCR. SCOTT: Ms. Linowes,
18 why don't you give us that cite one more time.

19 MS. LINOWES: Sure.

20 PRESIDING OFCR. SCOTT: So, everybody
21 can find this before we move on.

22 MS. LINOWES: Yes. It's Site
23 301.08(a)(8). This would be decommissioning
24 for wind energy facilities.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 MR. IACOPINO: Mr. Kenworthy, do you
2 have that up there?

3 WITNESS KENWORTHY: Yes, I see it.

4 MS. LINOWES: Okay. Great.

5 BY MS. LINOWES:

6 Q. So, letter (d) says -- I'm sorry, (c) says "All
7 turbines, including the blades, nacelles and
8 towers, shall be disassembled and transported
9 off-site."

10 *[Court reporter interruption.]*

11 **BY THE WITNESS:**

12 A. (Kenworthy) Yes, I see that.

13 BY MS. LINOWES:

14 Q. Okay. Thank you. (d) says "All transformers
15 shall be transported off-site." You see that?

16 A. (Kenworthy) Yes, I to.

17 Q. Okay. And (e), "overhead power collector" --
18 "collection conductors and the power poles
19 shall be removed from the site". You see that?

20 A. (Kenworthy) Yes.

21 Q. And, then, finally, (f), "All underground
22 infrastructure at depths less than 4 feet below
23 grade shall be removed from the site", which is
24 what we were just talking about a moment ago.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Do you see that?

2 A. (Kenworthy) Yes.

3 Q. Okay. The requirement that "all underground
4 infrastructure at depths less than four feet
5 below grade shall be removed from the site", is
6 part of the rules, but your Decommissioning
7 Plan, on Page 3, states, and this is App. 33,
8 Appendix 21, that the "Foundation removal will
9 start with the excavation of approximately" --
10 "of an approximately 8-foot deep trench around
11 the perimeter of the foundation adjacent to
12 each foundation to accept concrete rubble." It
13 then goes on to state "The concrete that is
14 removed from the foundation will be placed into
15 a trench and topped with the stockpiled
16 excavated material. The site will then be
17 reseeded" -- "re-graded and seeded." Is that
18 correct?

19 A. (Kenworthy) Yes.

20 Q. So, the four feet of foundation that will be
21 removed from the ground will not be transported
22 off-site. You're saying it would be reduced to
23 rubble and reburied on the site?

24 A. (Kenworthy) That's right.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Okay. Now, your testimony, supplemental
2 testimony, you state, this would be on the
3 bottom of Page 25, and beginning on Line 22,
4 you state "The SEC rule does not contain any
5 requirement to remove debris off site. It
6 requires the removal of all underground
7 structure to a depth of four feet." But you're
8 making a distinction between debris and
9 infrastructure. Is that -- am I understanding
10 that correctly?

11 A. (Kenworthy) Yes.

12 Q. And, then, on the next page, 26, you say "Ms.
13 Linowes misinterprets the rule, NH
14 301.08(a)(8)f." And, apparently -- and why am
15 I misinterpreting the rule?

16 A. (Kenworthy) If you keep reading my supplemental
17 testimony, it tells you right there.

18 Q. Okay. If you could tell us?

19 A. (Kenworthy) Sure. It says "The rule does not
20 require environmentally benign concrete rubble
21 to be removed. It requires infrastructure to
22 be removed. Using inert concrete rubble (that
23 has had all metal removed from it for disposal
24 and recycling offsite) for fill is a common

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 industry practice, it is environmentally
2 benign, it will limit the need to import any
3 new materials for fill and grading once
4 completed" -- "and once completed there will be
5 no project infrastructure remaining at depths
6 to 4 feet, which is consistent with the SEC
7 rule."

8 Q. Okay. There is another page that I included,
9 this would be WA-18x.

10 MR. NEEDLEMAN: Lisa, what's the
11 source of this?

12 MS. LINOWES: This is -- hold on a
13 second. I don't have that here. I think it's
14 the European Wind Energy Association. It's one
15 of many, many sites that has a similar kind of
16 information. This is just one.

17 BY MS. LINOWES:

18 Q. But, if you look at the -- this is "Wind Energy
19 The Facts". It lists infrastructure. Do you
20 see the section at the top, and then you see
21 the wind farm infrastructure consists of three
22 categories. Can you read categories under
23 "Civil Works", the second one?

24 MR. RICHARDSON: Mr. Chairman, we

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 really should identify what the exhibit is,
2 because this leaves parties, who haven't seen
3 this document, are unable to know who produced
4 it, where it came from. You know, I suppose I
5 could retype the words into a Google search and
6 try to find it, but I think that's unfair for
7 both the witnesses and the parties.

8 PRESIDING OFCR. SCOTT: Well, why
9 don't we see -- Ms. Linowes, first of all, yes,
10 there's a valid point here about where this
11 came from is a question. But where are you
12 going with this?

13 MS. LINOWES: Mr. Kenworthy is making
14 a distinction between the foundations, when
15 they're in the ground, and the foundations when
16 they're out of the ground, and calling one
17 "infrastructure", and then, when they're out of
18 the ground and crushed, and able to be
19 delivered off-site, he's calling that "debris",
20 and therefore does not fit the rule.

21 PRESIDING OFCR. SCOTT: So, why don't
22 you just ask that question.

23 MS. LINOWES: Okay.

24 BY MS. LINOWES:

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. So, it is -- in order to understand what you
2 are saying in your testimony, that, when the
3 turbine foundation, after being pulled from the
4 ground through the excavation process, and now
5 it is -- it is somehow transformed into debris,
6 it is no longer subject to the rule. Is that
7 what you're saying?

8 A. (Kenworthy) I'm not saying "it's no longer
9 subject to the rule". I think I'm stating what
10 is in my testimony. Which is, I wouldn't argue
11 with you that a wind turbine foundation in the
12 ground, with a whole huge rebar cage within it,
13 and anchor bolts and everything else, is
14 certainly part of a wind farm's infrastructure.

15 When that foundation is broken up and
16 demolished, and all of the steel is removed and
17 transported off-site, and you have rubble
18 that's left over, our position is that it's not
19 inconsistent with the rule to use that rubble
20 to backfill subterranean areas on the site.
21 That's our position with what the rule says.

22 Q. Okay. Mr. Kenworthy, if it's the case that
23 you're backfilling, why are you digging an
24 8-foot deep trench to hold it?

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) I'm not sure I understand the
2 question.

3 Q. Your Decommissioning Plan says that "an 8-foot
4 deep trench will be built around" -- "will be
5 dug around the foundation into which the
6 foundation that is excavated from the ground
7 will be buried?

8 A. (Kenworthy) Yes, some of that will.

9 Q. Why are you building the 8-foot deep ditch?

10 A. (Kenworthy) Well, it will accept some of the
11 concrete rubble.

12 Q. What is the purpose of the 8-foot deep ditch?

13 A. (Kenworthy) To accept some of the concrete
14 rubble.

15 Q. So, you're saying that -- okay. Then, let's
16 step back. You said it's "not uncommon to use
17 excavated concrete to fill in areas", and I
18 could agree with that.

19 A. (Kenworthy) Uh-huh.

20 Q. What I'm having difficulty with, is you're
21 creating a whole new area, you're excavating
22 something out that has to be filled. That
23 doesn't make -- that is -- where are you going
24 with that? Why would you dig another ditch?

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) Again, it is part of what will
2 be -- part of the concrete rubble would go into
3 that ditch that's around the turbine
4 foundation. And part of it will also go to
5 backfill where that foundation has been removed
6 down to four feet below grade, to avoid having
7 to import material from off-site to backfill
8 that area and then revegetate it.

9 Q. Perhaps, since -- is it Mr. Cavanagh that wrote
10 the Decommissioning Plan? Who wrote the
11 Decommissioning Plan?

12 A. (Kenworthy) It was written by TRC, with Antrim
13 Wind.

14 Q. Okay. Is someone from TRC here?

15 A. (Kenworthy) No, not today.

16 Q. So, there's no one here. So, will someone be
17 here at all? This week or next week or one of
18 the hearings, that we can talk about this, the
19 purpose, the "Foundation removal will start
20 with the excavation of an approximately 8-foot
21 deep trench"? I need to -- there is no
22 explanation for why that would happen, why
23 someone would build -- dig an 8-foot deep
24 ditch, except to accept the rubble out of that

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 foundation, when, in fact, the rules say

2 "transported off-site"?

3 A. (Kenworthy) Again, Ms. Linowes, we disagree
4 about what the rules say. And I think I've
5 been clear as to what our position is, and I
6 think I've also been clear as to what that
7 trench is for. The trench is for accepting
8 some of the concrete rubble that is broken up
9 from the foundation as it is demolished.

10 Q. Some or all?

11 A. (Kenworthy) Some.

12 Q. You're going to transport --

13 A. (Kenworthy) No. The remainder does not go into
14 the trench, it goes to backfill the area where
15 the foundation used to be.

16 Q. Okay.

17 A. (Kenworthy) Which is excavated to four feet
18 below grade.

19 Q. So, let me ask you this question, and then I'll
20 move on, because we, obviously, have different
21 positions. The rule says "All underground
22 infrastructure at depths less than 4-foot below
23 grade shall be removed from the site." My
24 question to you, if I poll everyone in this

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 room, including the Committee members, am I
2 going to get universal agreement the Committee
3 meant what you are saying today?

4 MR. NEEDLEMAN: I'll object to the
5 question.

6 PRESIDING OFCR. SCOTT: Sustained.

7 MS. LINOWES: Okay. Then, I'm done
8 on decommissioning. I'll go on to setbacks,
9 Mr. Chairman.

10 PRESIDING OFCR. SCOTT: Please do.

11 MS. LINOWES: Okay. Thank you.

12 BY MS. LINOWES:

13 Q. Mr. Kenworthy, in your supplemental testimony,
14 this is App. 24, Page 26, Line 19, you say that
15 "The new SEC rules do not contain specific
16 requirements with respect to setbacks and the
17 types of information an applicant is required
18 to provide under the new rules are the same
19 types of information that AWE provided in the
20 previous docket and in its current
21 Application." Is that -- do you see that?

22 A. (Kenworthy) Yes, I see it.

23 Q. Okay. Now, are you aware that Rule Number
24 301.08(a)(3) states, this is under addressing

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 the effects of public health and safety. The
2 SEC requires that each wind application to
3 provide a "description of planned setbacks that
4 include the distance between each wind turbine
5 and the nearest landowner's building and
6 property line, and between each wind turbine
7 and the nearest public road and overhead or
8 underground energy infrastructure or energy
9 transmission line within 2 miles of each
10 turbine." Do you see that?

11 A. (Kenworthy) Yes, I see it.

12 Q. Okay. Can you tell me where in the
13 Application, this would be Exhibit App. 33, or
14 anywhere in your exhibits, you state the
15 distance between each wind turbine and the
16 nearest landowner's existing building or
17 property line, not occupied, but existing
18 building or property line?

19 A. (Kenworthy) I would have to check the
20 Application to find where that information is.
21 I know we contained -- we submitted a
22 supplement on February 19th that contained some
23 of this information, and some of this
24 information I believe was already contained in

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1 our original Application filing. But, again,
2 there's a lot in there. I have to check
3 specifically where.

4 Q. So, you're saying it is in there, but you need
5 to check to where it is? Or it's not in there
6 or you don't know if it's in there and you want
7 to check?

8 A. (Kenworthy) I believe it is.

9 Q. I was not able to find it. So, I do not
10 believe it's in there. In the letter -- let me
11 ask you this then. In the letter that
12 accompanied the February 19th Application
13 Supplement, the letter referred the readers to
14 Section I.6 of the Application, which had to do
15 with icing. Have you looked at that? If you
16 could look at that, perhaps.

17 MR. IACOPINO: Just for the
18 Committee's sake, if you look at the letter
19 that accompanied the February Supplement to the
20 Application, it specifically addresses where to
21 find this information, on Page 4 of that
22 letter. That should be -- I believe that you
23 should have it with the Supplement of
24 February of 2015 [2016?]. It references

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Section I.6 of the Application, and also
2 contains a statement that there are no energy
3 transmission pipelines within two miles of the
4 facility.

5 **BY THE WITNESS:**

6 A. (Kenworthy) I do see Section I.6 of the
7 Application.

8 BY MS. LINOWES:

9 Q. Do you see in that section where it lists the
10 distance between each wind turbine and the
11 nearest landowner's existing building and
12 property line? Do you see any information that
13 looks like that delineated in that section?

14 A. (Kenworthy) No, I don't see that there. I
15 don't think that the requirement requires us to
16 have a single table that contains that
17 information. And I think perhaps the best
18 thing for me to do is to take a closer look
19 through all of the materials that we've
20 submitted with the Application to confirm where
21 that information is. Or, again, if any of it
22 has inadvertently been omitted, we're certainly
23 happy to provide it. But I believe it is in
24 the Application. I would just need to check it

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1 more closely.

2 MS. LINOWES: Okay. Mr. Chairman,
3 I'm not sure how to proceed with that, if
4 that's left -- whether we take a recess now or
5 we leave that open as an open requirement. But
6 that is in the rules as a requirement, whatever
7 form it takes, and I think it's important.

8 PRESIDING OFCR. SCOTT: Mr.
9 Needleman.

10 MR. NEEDLEMAN: I'm not sure what to
11 say. I mean, if Ms. Linowes had a question
12 about whether material should have been
13 included that wasn't, we've had, I think, ten
14 months to raise that. You know, we can't have
15 a perfect command of where everything is in the
16 Application at this point. We're happy to take
17 a look, but I think she should continue on with
18 her questioning.

19 MS. LINOWES: Mr. Chairman, I'm happy
20 to continue on with my questions. But the
21 point is, the Application is potentially out of
22 compliance with the rules.

23 PRESIDING OFCR. SCOTT: So, are you
24 willing to, once you do find it, provide that

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 to us, the site where it is?

2 MR. NEEDLEMAN: Sure.

3 MS. MALONEY: If I could just say, I
4 mean, I thought Mr. Kenworthy believes it's in
5 there. So, maybe this is the opportunity for
6 people to be asking questions and get answers.
7 So, if it's there, I mean, I think that
8 question should be answered. And, if he has to
9 take a moment to go through the Application and
10 the appropriate spots to do that, then I think
11 he should do that.

12 PRESIDING OFCR. SCOTT: How much time
13 would you need, Mr. Kenworthy?

14 WITNESS KENWORTHY: Gosh, I don't
15 know. I mean, I think, if it's in the main
16 Application, in a concise form, we'd probably
17 be able to find it in a ten-minute break. But,
18 also, we have a lot of supplements and
19 appendices and technical reports that may also
20 include some of that information. So, I
21 just -- I can't exactly say.

22 PRESIDING OFCR. SCOTT: Off the
23 record.

24 *[Brief off-the-record discussion*

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 *ensued.*]

2 PRESIDING OFCR. SCOTT: Go back on
3 the record. Why don't we try a ten-minute
4 break, and hopefully that time will be
5 productive for you.

6 WITNESS KENWORTHY: Okay.

7 MR. WIESNER:

8 (Recess taken at 10:17 a.m.

9 And the hearing resumed at

10 10:31 a.m.)

11 PRESIDING OFCR. SCOTT: Okay. We're
12 back on the record. We're back from break.
13 So, I think where we were, is the Applicant's
14 panel ready?

15 WITNESS KENWORTHY: Yes, we're ready.

16 MR. NEEDLEMAN: Where's Mr. --

17 Where's Art? Hey, Art.

18 PRESIDING OFCR. SCOTT: Okay. I
19 think, Mr. Kenworthy, you were responding, I
20 believe.

21 WITNESS KENWORTHY: Yes. Thank you,
22 Mr. Chairman, for the time there to find this.
23 The Application does contain information that
24 indicates distances between each wind turbine

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1 and the nearest landowner's building and
2 property line, as well as public roads. And
3 the public roads I think we called out in a
4 number of places. And that is found in Exhibit
5 C-1, which is in the main Application -- I'm
6 sorry, Figure C.3, I misspoke, it's Figure C.3,
7 in the main Application of Antrim Wind. It's a
8 map titled "Location of Structures". And it
9 shows the location of the turbines, the
10 location of the property lines that Antrim Wind
11 leases, which are the same property lines as
12 the closest abutting property lines, and then
13 it shows the location of all structures within
14 one mile.

15 PRESIDING OFCR. SCOTT: Mr.
16 Kenworthy, I think is that Page 8 of the
17 Application, is that correct?

18 WITNESS KENWORTHY: That is the
19 correct page, yes.

20 MS. LINOWES: I'm sorry. I'm having
21 trouble. Where is that? You're in the main
22 Application?

23 WITNESS KENWORTHY: Yes. Page 8 of
24 the main Application. It's Figure C.3. It's a

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 map.

2 MS. BERWICK: Can I ask where the
3 main Application is found? I'm on there, that
4 page, but the cover letter --

5 PRESIDING OFCR. SCOTT: Why don't we
6 go off the record while everybody is finding
7 this.

8 *[Brief off-the-record discussion*
9 *ensued.]*

10 PRESIDING OFCR. SCOTT: All right.
11 Back on the record. Mr. Kenworthy.

12 BY MS. LINOWES:

13 Q. So, Mr. Kenworthy, the rule does say "2 miles"?

14 A. (Kenworthy) I believe the rule says
15 "Description of the planned setbacks to
16 indicate the distance between each wind turbine
17 and the nearest landowner's existing building
18 and property line." There's no reference to
19 "2 miles". "And between each wind turbine and
20 the nearest public road and overhead or
21 underground energy infrastructure or energy
22 transmission pipeline within 2 miles". And
23 that information, as we've discussed before, I
24 think we've provided elsewhere. There are --

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 and it's also only providing information about
2 "the nearest infrastructure" within that range.

3 So, I think, as we stated in our
4 Supplement, there are no energy pipelines
5 within 2 miles. I think we've also stated that
6 the nearest transmission infrastructure is
7 L163, which is the Eversource transmission line
8 that the Project will interconnect to.

9 And, again, in terms of -- I thought your
10 original question was about "each wind turbine
11 and the nearest landowner's property line and
12 structure"?

13 Q. Yes. That's correct. Okay. So, let me ask
14 you this question. If I looked at this map,
15 and I was one of the property owners adjacent
16 to the Project, could I tell within feet how
17 close the turbine is to my home or to my
18 property line?

19 A. (Kenworthy) I don't know how specific you'd be
20 able to get. There is certainly a scale on
21 this map that you could use to get an
22 approximate distance from a property line to a
23 turbine or a structure to a turbine.

24 Q. And that scale is the closest being how many

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 feet?

2 A. (Kenworthy) I'm sorry?

3 Q. What is this scale to?

4 A. (Kenworthy) I'm not sure I understand the
5 question.

6 Q. Well, the scale that's there, that appears on
7 the map, what is the smallest unit?

8 A. (Kenworthy) Looks like it's about a thousand
9 feet.

10 Q. All right. So, that's as accurate as I can get
11 eyeballing this?

12 A. (Kenworthy) No, I think you can get more
13 accurate than a thousand feet. And there was a
14 number of data requests that we responded to
15 from parties here about specific distances.

16 Q. I'm talking about the Application itself,
17 though. A thousand feet, that's as close as I
18 can get accurate?

19 A. (Kenworthy) I believe I've already answered
20 that question.

21 Q. Okay. Okay. Now, in your supplemental
22 testimony on Page -- this App. 24, Page 27,
23 Line 15, you state, and this is something that
24 you had also said the other day, "In DNV GL's

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 experience, based on empirical data, the
2 furthest thrown ice detected at an operational
3 project is 250 meters." And that, according to
4 my calculation, is 820 feet.

5 So, by your own statement there, property
6 owners that are near the turbines may be
7 subject to ice throw on their property, is that
8 correct?

9 A. (Kenworthy) If a property owner has property
10 within 250 meters of a turbine, certainly, it's
11 possible there could be some ice shards that
12 land on their property.

13 Q. And are there any properties, property lines
14 that are within 820 feet of a turbine?

15 A. (Kenworthy) Yes.

16 Q. Okay. And I'm just asking a question to get
17 your sense of where this -- what you think.
18 What types of development, in general, would
19 the State of New Hampshire knowingly permit a
20 site to throw debris on an adjacent property?
21 Do you have a sense of that?

22 A. (Kenworthy) I think -- I'm not sure I
23 understand the question. I can tell you that
24 what the state has cited before with wind

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 projects --

2 Q. No. We're under new rules. We have new rules,
3 under new rules.

4 A. (Kenworthy) But the new rules do not impose any
5 different requirements than were previously
6 proposed. And, so, we certainly have precedent
7 to look at. And we have data around what is
8 safe. And I think that's the ultimate concern
9 here, is public safety.

10 Q. Okay.

11 A. (Kenworthy) So, as I stated in my prefiled
12 testimony, my supplemental prefiled testimony,
13 the precedent here in New Hampshire has been
14 about 1.1 times the tip height to the
15 closest --

16 Q. Okay. So, --

17 A. (Kenworthy) -- non-participating landowner. If
18 I can answer your question?

19 Q. That wasn't my question.

20 A. You asked what type of activity the state would
21 allow to be sited that could allow things like
22 ice throw to occur on an adjacent property, and
23 I'm answering that question.

24 Q. Okay.

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1 A. (Kenworthy) And, certainly, in other
2 jurisdictions, there are instances where
3 turbines are sited much closer to abutting
4 property owners than we have proposed here in
5 New Hampshire.

6 Q. And I do want to get into that.

7 A. (Kenworthy) Sure.

8 Q. So, let's talk about that. So, just in terms
9 of that one property owner, I believe that you
10 reference one person, Turbine -- this would be
11 on the next page, Page 28, says "Turbine 4 is
12 located 589 feet from the nearest
13 non-participating property owner". Do you see
14 that?

15 A. (Kenworthy) Yes, I do.

16 Q. Okay. So, have you --

17 MR. IACOPINO: How many feet?

18 MS. LINOWES: "580" -- did I -- "589
19 feet".

20 BY MS. LINOWES:

21 Q. Have you been in touch with that property owner
22 and are they aware that ice could throw onto
23 their property?

24 A. (Kenworthy) I believe we still know who the

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 current landowner is. We have had discussions
2 with them in the past.

3 Q. Have you informed them that ice might throw on
4 their property?

5 A. (Kenworthy) We have public data that's been out
6 there for years about where this Project is
7 sited. We have testimony here that's saying
8 ice fragments can travel as far as 250 meters.

9 Q. I know -- you're not answering my question.
10 Have you had a conversation with this property
11 owner to inform them ice may throw on their
12 property?

13 A. (Kenworthy) We have not had that specific
14 conversation, no.

15 Q. Thank you. Now -- okay. So, are you aware
16 that the project -- the Granite Reliable
17 Project has a 1,300 foot safety zone around its
18 turbines, that was imposed on by the Committee?

19 A. (Kenworthy) I'm not sure what that statement is
20 based on. I'm not aware of that.

21 Q. You're not aware that the Granite Reliable
22 Project has a 1,300 foot safety zone?

23 MR. NEEDLEMAN: Do you have a
24 reference for that, Lisa?

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 MS. LINOWES: I don't have it with
2 me. But it would be the docket for GRP,
3 Granite Reliable. If you don't know, that's
4 fine.

5 MR. NEEDLEMAN: I guess I'd like to
6 see a reference. That doesn't sound right to
7 me, but my memory is not perfect.

8 MS. LINOWES: But I think the
9 Committee members might be aware of it.

10 BY MS. LINOWES:

11 Q. Okay. Now, you point to a docket from the
12 State of Vermont, this would be Docket -- this
13 would be on Page 28, Line 11, where you state
14 that "The Vermont Public Service Board approved
15 a setback of 55 meters from a property line".
16 And, then, later you talk about -- you make a
17 reference to "GE turbines" and their setback
18 distances. Do you see that?

19 A. (Kenworthy) I'm sorry. Where "later" are you
20 talking about?

21 Q. That would be -- hold on a second. Let me
22 just -- unfortunately, I forgot to write the
23 actual page number down. That would be on Page
24 31, at Line 13, beginning on Line 12. You

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1 state from that -- also that same docket in
2 Vermont, the "GE" -- "For areas with remote
3 boundaries to property not owned by wind farm
4 participants, GE recommends the setbacks of 1.1
5 times blade length." You see that in your
6 testimony?

7 A. (Kenworthy) Yes. I was quoting the PSB.

8 Q. Yes. Okay. I wanted to talk to you about
9 that. Now, that -- have you seen that source
10 document from GE?

11 A. (Kenworthy) No, I have not.

12 Q. Okay. So, I happen to have a copy of it, I
13 didn't make a copy for everyone, but I just
14 want to read quickly from it.

15 MR. PATNAUDE: Not too quickly.

16 MS. LINOWES: And not too quickly.

17 BY MS. LINOWES:

18 Q. The document itself is a GE wind document, it's
19 titled "Setback Considerations for Wind Turbine
20 Siting", and it's dated 2009.

21 PRESIDING OFCR. SCOTT: Will you be
22 sharing that with the other attorneys here?

23 MS. LINOWES: I can bring in copies
24 tomorrow. I didn't bring copies with me,

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1 because I was just going to read one definition
2 out of here.

3 PRESIDING OFCR. SCOTT: Well, we'll
4 see where you go with this.

5 MS. LINOWES: Okay.

6 BY MS. LINOWES:

7 Q. Now, on Page 5 of 6 of the document, there is a
8 table that talks about setback considerations.
9 And it does have one section that says
10 "turbines can be sited 1.1 times blade length",
11 okay, which is what you cited from GE.

12 A. (Kenworthy) I cited that from the Public
13 Service Board.

14 Q. Correct. That was in a Public Service Board
15 order by Vermont, which talks about it. And
16 what was the purpose of your citing, though?
17 What was your intent?

18 A. (Kenworthy) The purpose of my citing it was
19 two-fold. To demonstrate that, in numerous
20 instances and situations similar to Antrim,
21 where you have vacant woodlots that are
22 adjacent to turbines, projects have been sited
23 at setback distances that are either 1.1 times
24 tip height or less. Two examples, one example

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 here is the Groton Wind Project --

2 Q. No, I --

3 A. (Kenworthy) I'm going to answer your question,
4 Ms. Linowes.

5 Q. I don't need to hear your whole testimony. I
6 don't need your whole testimony. I'm just
7 wanting to know why you're citing from the
8 Public Service Board report.

9 A. (Kenworthy) I would like to be able to answer
10 your question.

11 PRESIDING OFCR. SCOTT: Let him
12 answer his question, and, again, one at a time
13 please.

14 **CONTINUED BY THE WITNESS:**

15 A. (Kenworthy) The reason I cited the Public
16 Service Board case is because those are two
17 recent examples where setback distances were
18 substantially less than what Antrim Wind has
19 proposed here. And, in those cases, in fact,
20 the setback distances that were ultimately
21 approved by the Public Service Board of
22 55 meters or 60 meters, again, less than Antrim
23 Wind has proposed, were granted in part on the
24 basis of analysis that they had done around

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1 risk. And the default, had that analysis not
2 been done, which was being advocated by the
3 Department of Public Utilities in Vermont, was
4 1.1 times tip height.

5 Q. Mr. Kenworthy, you don't know the history of
6 that project, do you? You're not aware of the
7 fact that the project itself had -- was
8 approved before the turbines' locations were
9 identified. And that, when the company came in
10 and identified the locations, they realized the
11 only place they could put a turbine was
12 188 feet from the property line. They had no
13 choice. So, before you go in and talk about
14 the order --

15 MR. RICHARDSON: Objection.

16 MR. NEEDLEMAN: I'm going to object.

17 PRESIDING OFCR. SCOTT: Put this in a
18 question please.

19 MS. LINOWES: Okay. Well, he's just
20 going into a long discussion without
21 understanding the facts of that project, so --

22 BY MS. LINOWES:

23 Q. But I want to get back to the GE. You
24 reference a GE document, the Public Service

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1 Board, there's a reference to a GE claim that
2 you can site a turbine "within 1.1 times blade
3 length". According -- and it says, according
4 to your testimony, where you cite, says "For
5 areas with remote boundaries to property not
6 owned by wind farm participants". Now, what --
7 what does it mean? What does a "remote
8 property" -- what does a "remote boundary to
9 property" mean there? What are you saying it
10 means there?

11 A. (Kenworthy) I'm not saying it means anything.

12 Q. Okay. So, what do you think it means?

13 A. (Kenworthy) I think it means instances that are
14 similar types of circumstances to Antrim.
15 Where you have large tracts of land. I believe
16 the circumstance where we have roughly a
17 589-foot setback is adjacent to roughly a
18 300-acre woodlot that has no structures on it.
19 That property boundary is roughly -- I think
20 it's about a mile from Route 9 or any public
21 access. And, so, that would be something that
22 I would consider to be remote.

23 Q. Okay. Then, can I read you the definition of
24 GE's "remote"?

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1 MR. RICHARDSON: Mr. Chairman?

2 **BY THE WITNESS:**

3 A. (Kenworthy) I don't know how GE is particularly
4 relevant here. It's --

5 BY MS. LINOWES:

6 Q. Well, because you're citing GE?

7 A. (Kenworthy) No. I'm citing the Public Service
8 Board order that granted a setback --

9 Q. But the Public Service Board order --

10 MR. RICHARDSON: I would like to
11 object at this point, if I may. Because either
12 this witness has never seen this document, none
13 of the parties have seen this document. If the
14 document is relevant, then the parties ought to
15 see it, the Committee ought to be able to
16 review it, so that it's part of the record.
17 If --

18 MS. LINOWES: Then, Mr. Chairman, if
19 that's the --

20 *[Court reporter interruption -*
21 *multiple parties speaking at the*
22 *same time.]*

23 MR. RICHARDSON: If we're not allowed
24 to see it, then it's completely unfair.

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1 Because, you know, now we have to go and find
2 the document. I don't know where it is, where
3 I can find it. I don't suspect I can just call
4 up General Electric and have them hand it to
5 me.

6 So, we either need to be on one side
7 or the other. Either the document is
8 irrelevant, the witness hasn't even it, he
9 doesn't know about it. Or, it needs to be made
10 part of the record, so he can see it and the
11 parties can review it.

12 PRESIDING OFCR. SCOTT: And I don't
13 disagree that --

14 MS. LINOWES: Mr. Chairman, if I --
15 well, if I could say then that there is a
16 purpose here, but for the -- the same point
17 holds for the GE -- the reference to the Public
18 Service Board order. There is no document in
19 the record that references -- that looks like
20 that order. It's just a quote.

21 PRESIDING OFCR. SCOTT: Well, you'd
22 be better off to perhaps talk to him about what
23 he did quote, which is the Public Service Board
24 order, rather than something he hasn't seen, he

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1 said he hasn't seen it. So, maybe you should
2 try that.

3 MS. LINOWES: But we don't -- we
4 don't have any documentation to prove that this
5 order is real then. I mean, the same goes. If
6 we're going to allow his reference to an order
7 that is not in front of us, then we're going to
8 allow my document as well.

9 MS. MALONEY: I'd just like to say, I
10 agree. If the witness cited in his testimony
11 information from this particular docket from
12 the Vermont Public Service Board, then he
13 should be prepared to answer questions about
14 it. Otherwise, maybe we could strike all that
15 testimony.

16 MR. NEEDLEMAN: Well, --

17 PRESIDING OFCR. SCOTT: But I think
18 the questioning is about the GE document that
19 nobody else has, is that not correct?

20 MS. LINOWES: Well, I'm happy to
21 e-mail it to everyone right now. But the point
22 is, he is also referencing a document that no
23 one else has.

24 MR. NEEDLEMAN: Actually, there's a

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1 significant difference between referencing a
2 public document that is an order from an agency
3 proceeding and a private GE document. And I
4 would not be opposed to having questions about
5 the GE document, if we could see it.

6 MS. LINOWES: Mr. Chairman, I'm happy
7 to send the document to everyone. And, for the
8 record, the document was included at a public
9 proceeding in the State of Connecticut.

10 PRESIDING OFCR. SCOTT: But, again, I
11 think the point here is, they haven't seen it
12 yet, so you're asking questions now. That the
13 PSB document is mentioned in this supplemental
14 testimony here. It's been on record for a
15 while.

16 Again, if you're going to ask, ask
17 about that. But let's move on from the GE
18 document please.

19 MS. LINOWES: Well, I guess I would
20 have to object then because -- object to his
21 documentation because his definition of "remote
22 boundaries" here is a mischaracterization of
23 what GE is stating. And I have the official
24 document. I have the document in front of me

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1 as to their definition of "remote boundaries".
2 I don't see why it's a problem reading from
3 that document?

4 PRESIDING OFCR. SCOTT: Again, if
5 you'd like to ask him about the document he
6 quoted, please do so. Otherwise, move on
7 please.

8 BY MS. LINOWES:

9 Q. Okay. Then, let me ask the question this way,
10 and tell me if I'm out-of-line. Would it
11 surprise you if the GE reference to "property
12 boundaries" is referring to "vacant areas where
13 there is a remote chance of any future
14 development or inhabitation during the life of
15 the wind farm"?

16 A. (Kenworthy) Would it surprise me if that was
17 the definition in GE's document?

18 Q. Yes.

19 A. (Kenworthy) No, not necessarily.

20 Q. "During the life of the wind farm". Okay.
21 Then, do you -- well, is it your statement
22 today or your expectation that that property
23 that you reference it as 589 feet from the
24 turbine will never be developed during the life

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1 of the Project or the life of your Project?

2 A. (Kenworthy) I don't know. It's a 300 acre
3 vacant woodlot.

4 Q. Yes. And you're saying that, in the course of
5 25 years, that property will never be
6 developed?

7 MR. NEEDLEMAN: I think he just
8 answered that.

9 **BY THE WITNESS:**

10 A. (Kenworthy) I don't know.

11 BY MS. LINOWES:

12 Q. So, then it -- okay. So, it could be
13 developed, which would mean it would not meet
14 the GE definition that I just stated?

15 MR. RICHARDSON: We've already been
16 over this GE document.

17 MS. LINOWES: Okay.

18 MR. RICHARDSON: I think its improper
19 for a party to continue to be going back over
20 it after being ordered not to.

21 PRESIDING OFCR. SCOTT: Are you
22 moving on, Ms. Linowes?

23 MS. LINOWES: Yes, I am. Okay.

24 BY MS. LINOWES:

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Are you aware that the Georgia Mountain
2 Project, that is referenced in the Vermont
3 Public Service Board order, never used GE
4 turbines?

5 A. (Kenworthy) Sorry. Where is the reference to
6 the Georgia Mountain Project? Could you
7 just --

8 Q. That would be Docket 7628. It references the
9 docket from the Vermont Public Service Board,
10 that would be the Georgia Mountain Wind Farm.

11 A. (Kenworthy) I just want to make sure I have my
12 references clear, because there were two
13 different dockets that I referred to in my
14 supplemental testimony.

15 Q. Okay. So, --

16 A. (Kenworthy) So, 7628 was Georgia Mountain?

17 Q. Hold on. Let me just double check that. The
18 one that was the subject of the GE document?

19 A. (Kenworthy) Again, I don't know anything about
20 the GE document. What I have provided --

21 Q. The one that you cite from the Public Service
22 Board that there was a reference to a GE
23 document?

24 A. (Kenworthy) What is the question again, Ms.

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1 Linowes?

2 Q. It was Docket 7508, Georgia Mountain. This
3 would be Page 28 of your testimony, Line 12.

4 A. (Kenworthy) Okay.

5 Q. Are you aware that Georgia Mountain did not use
6 GE turbines?

7 A. (Kenworthy) I am aware that Georgia Mountain
8 did not use GE turbines.

9 Q. Okay. Thank you.

10 A. (Kenworthy) Again, this statement here does not
11 reference GE turbines.

12 Q. Which statement?

13 A. (Kenworthy) This testimony, with respect to
14 Docket 7508. It says "The Vermont Public
15 Service Board approved a setback of 55 meters
16 (180 feet) from a 448-foot tall wind turbines
17 to an adjacent property from Georgia Mountain."
18 In that case, the Department of Public
19 Utilities was arguing for a more conservative
20 setback. Their more conservative setback was
21 1.1 times the tip height. And Antrim Wind
22 exceeds that more conservative setback
23 recommendation.

24 Q. Okay.

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1 A. (Kenworthy) And I cite an analysis that the PSB
2 discussed with respect to the probability of an
3 ice fragment --

4 Q. Yes. And that was from the Georgia Mountain
5 Project.

6 A. (Kenworthy) Sure. But none of that says "GE".

7 Q. Oh, I understand. But do you want me to read
8 directly from the order? I can read from the
9 order and tell you that was -- that portion
10 that you're discussing is from the -- that
11 references the GE document is that same Public
12 Service Board docket. But we'll move on.

13 And, so, I also wanted to reference --
14 call attention to WA-19x, since we're talking
15 about industry standards and references to
16 different projects, and what setbacks would be.
17 WA-19x, the last column, the first -- the large
18 paragraph, it's the last large paragraph in
19 full on that page. Would it surprise you to
20 know that that is an explanation of GE actually
21 refusing to -- or, actually, a turbine
22 manufacturer refusing to site a wind turbine,
23 because the setback distances were not
24 sufficient due to ice shedding? Would that

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 surprise you?

2 A. (Kenworthy) Ms. Linowes, I don't have any
3 familiarity with this document or the
4 circumstances that you're referencing.
5 Obviously, I can tell you that, in this case,
6 Siemens has certainly not refused to site
7 turbines at the Antrim Wind Project. We have a
8 representative of Siemens here.

9 Q. Okay.

10 A. (Kenworthy) I've provided Siemens minimum
11 setback recommendations in my supplemental
12 testimony, and we exceed them by a great
13 margin. And I've also provided a number of
14 precedents for wind projects recently, both in
15 New Hampshire and in other jurisdictions, that
16 determine this is a very safe setback distance.

17 Q. I understand that. And I'm asking you -- let
18 me just read from here. This would be the last
19 paragraph, so the middle of the paragraph:
20 "According to the domestic manufacturer for
21 turbines, the town's proposed construction site
22 would not meet the manufacturer's internal
23 setback requirement distances to mitigate the
24 risks associated with potential ice throws from

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 the turbine blades. The domestic
2 manufacturer's internal siting considerations
3 recommended that for safety, in the event of
4 icing, a setback distance of 1.5 times hub
5 height and rotor diameter be maintained from
6 occupied structures, roads, property lines, and
7 public access areas."

8 So, there are -- when you talk about
9 "industry standard", it's not the same
10 everywhere, is it?

11 A. (Kenworthy) Well, I would first point out that
12 this is referencing setbacks -- well, I don't
13 know. Again, I don't have familiarity with
14 this.

15 Q. Okay. That's okay. I'm just -- now, --

16 PRESIDING OFCR. SCOTT: Hold on.
17 Mr. Boisvert?

18 DR. BOISVERT: Pardon me. You're
19 referring to WA-19x?

20 MS. LINOWES: Correct.

21 DR. BOISVERT: What I have in my hand
22 is something regarding wastewater treatment
23 plants.

24 MS. LINOWES: Yes. It was a

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 turbine -- the intent was a wind turbine to be
2 sited that would power the wastewater treatment
3 plants.

4 DR. BOISVERT: Okay. I was not
5 finding references to -- all right, I see it
6 now. Thank you.

7 MS. LINOWES: Okay.

8 PRESIDING OFCR. SCOTT: Go ahead.

9 MS. LINOWES: Thank you.

10 BY MS. LINOWES:

11 Q. Now, in your prefiled testimony, you also make
12 reference to "participating" versus
13 "non-participating landowners", is that true?
14 Do you recall that?

15 A. (Kenworthy) Sorry. Where in my testimony is
16 that?

17 Q. That would be on Page 29, Line 16. You say
18 "Turbine 8 is located 378 feet from the
19 property line of Lyle and Anne Micheli?

20 A. (Kenworthy) "Micheli", yes.

21 Q. "Micheli", thank you. And that they are
22 participating landowners?

23 A. (Kenworthy) Yes.

24 Q. Okay. And are they -- do they have turbines on

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 their land proposed or do they just have an
2 easement?

3 A. (Kenworthy) There are no --

4 Q. Okay.

5 A. (Kenworthy) There are no turbines proposed for
6 their land.

7 Q. Okay. Now, are you aware that the New
8 Hampshire Site rules do not make a distinction
9 between participating and non-participating
10 landowners?

11 A. (Kenworthy) In what respect?

12 Q. That the rules apply to all property owners,
13 whether they're participating or
14 non-participating.

15 A. (Kenworthy) That's not our interpretation of
16 the rules.

17 Q. It's not your interpretation of the rules?

18 A. (Kenworthy) Correct.

19 Q. Okay.

20 A. (Kenworthy) And, if that was correct, then we
21 couldn't site turbines on land that we have
22 leases with. Right? It would be impossible.

23 Q. Well, it wouldn't be impossible, but you could
24 ask for a waiver. Okay. And, lastly, let's

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1 see, I did want to -- I wanted to correct the
2 record on something that you have in your
3 prefiled testimony, that is -- this would be on
4 Page 30. And, beginning on Line 9, you state,
5 regarding my testimony -- rather, my commentary
6 sent to the Site Evaluation Committee having to
7 do with setbacks, you said "In her", Ms.
8 Linowes, "March 2015 letter you requested that
9 the Committee" -- "she requested that the
10 Committee adopt a setback requirement of 1.5
11 times the turbine tip height to
12 non-participating property owner's property
13 lines and 1.3 times the turbine height setback
14 to the edge of the right-of-way of public
15 roadways." And I left a copy of -- a portion
16 of that letter, which I will validate today,
17 this is my letter. This is on the Site
18 Evaluation Committee website. But, if you
19 would look at the bottom of that page that I
20 gave you, I did not make a copy for everyone,
21 and I would ask that you read -- do you see
22 that paragraph that says "Safety setback
23 standards"? I left it on here, this document
24 here. I left it in front of you.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 MR. IACOPINO: Could you tell us
2 again what the document is that you're
3 referencing?

4 MS. LINOWES: Yes. I did not make a
5 copy of it for everyone.

6 MR. IACOPINO: Just tell us what it
7 is.

8 MS. LINOWES: This is the New
9 Hampshire Wind Watch and WindAction letter
10 submitted to the Site Evaluation Committee on
11 March 23rd, 2015, where we made our
12 recommendations for the rulemaking.

13 MR. IACOPINO: It's in the rulemaking
14 docket?

15 MS. LINOWES: The rulemaking docket.

16 PRESIDING OFCR. SCOTT: And you will
17 have a question at the end of this, correct?

18 MS. LINOWES: Yes. Well -- yes.

19 BY MS. LINOWES:

20 Q. Do you have it in front of you?

21 A. (Witness Kenworthy showing document).

22 Q. Okay. Thank you. So, if you can just read the
23 highlighted portion, and you have to look past
24 the redlines.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) Yes. It says "The setback distance
2 between a wind turbine tower and a
3 non-participating landowner's property shall be
4 no less than 1.5 times the turbine tower height
5 as measured from the center of the wind turbine
6 base, and the setback distance between the wind
7 turbine tower and the nearest public road shall
8 be no less than 1.3 times the turbine tower
9 height as measured from the wind turbine base."

10 Q. Okay.

11 A. (Kenworthy) That's all that's highlighted.

12 Q. Okay. Now, can you look at that "1.5" and
13 "1.3" a little bit more closely, can you see
14 where the redlines are?

15 A. (Kenworthy) I'm sorry, what's the question?

16 Q. In fact, doesn't it say "5 times the turbine
17 tower height" and "3 times the turbine height"
18 in those two instances?

19 A. (Kenworthy) It appears that it does.

20 Q. Okay. So, not "1.5" and "1.3", but "5 times"
21 and "3 times". I just wanted to make that
22 correction, because you misquoted me in your
23 testimony.

24 A. (Kenworthy) I apologize. It appears I did. I

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1 think my conclusion is the same, which is that
2 there's no basis for those requests.

3 MS. LINOWES: Okay. All right.

4 Thank you. Mr. Chairman, I just have a couple
5 of questions on managerial, and then I'll be
6 done.

7 PRESIDING OFCR. SCOTT: Okay.

8 BY MS. LINOWES:

9 Q. And this may be for Mr. Weitzner or Mr.
10 Kenworthy. What is RWEST PI Holding, LLC --
11 Holding LLC?

12 A. (Weitzner) It is the LLC that RWE Principal
13 Investment set up for their ownership of Walden
14 Green Energy.

15 Q. So, what does that mean? Is it just a
16 pass-through or is it actually a real --
17 because I don't -- can't find any information
18 about what it is beyond that?

19 A. (Weitzner) I'm not -- I'm not entirely sure
20 what it is. I know it is the entity that
21 owns -- that Walden Green Energy has its
22 contractual agreements with. That's the entity
23 that owns it. And that it is fully owned by
24 RWE Principal Investments.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Is it expected to hold employees at some point?

2 According to BuzzFeed, it has one employee?

3 A. (Weitzner) I don't think that's expected to
4 change.

5 Q. Okay. Now, Mr. Weitzner, there are three
6 people that you list as Walden Green Energy.

7 There is yourself, Mr. Manahilov, --

8 A. (Weitzner) "Manahilov".

9 Q. Thank you. And Ms. Valdo --

10 A. (Weitzner) Valdovinos.

11 Q. Thank you. And I took the liberty of looking
12 them up on LinkedIn. And I just wanted to ask
13 you, from what I can tell, in LinkedIn, you
14 founded a company called "Walden Renewables",
15 is that correct, back in 2011?

16 A. (Weitzner) That's correct.

17 Q. Okay. Now, who was with you during -- when you
18 did Walden Renewables?

19 A. (Weitzner) That was just me.

20 Q. Okay. So, you're a sole proprietor?

21 A. (Weitzner) Yes.

22 Q. Okay. And, then, Ms. -- can I call them
23 "Sarah" and "George"?

24 A. (Weitzner) Sure.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Sarah and George joined you in 2013, is that
2 correct?

3 A. (Weitzner) In 2013, we -- they joined me and we
4 formed Walden Green Energy.

5 Q. Okay. And did you -- did Walden Renewables
6 just disappear or did it fold into Walden Green
7 Energy?

8 A. (Weitzner) It's still somewhat active, but not
9 very active.

10 Q. Okay. So, those projects that you had worked
11 on as Walden Renewables, did they fold into
12 Walden Green Energy?

13 A. (Weitzner) Those -- they did not fold into
14 Walden Green Energy. There was sort of a
15 gradual transition from Walden Renewables doing
16 some solar Project, Walden Renewables then
17 partnered with George to do an additional --
18 George, yes, to do an additional solar project.
19 And, then, when we brought in Sarah, we formed
20 Walden Green Energy.

21 Q. Okay. Now, also according to the LinkedIn for
22 George, it says that he is a co-founder and
23 principal of MR Power, which appears to be in
24 the UK or somewhere in Europe, is that correct?

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Weitzner) I don't know where it is domiciled
2 exactly. But MR Power has built, developed,
3 financed, owns and operates a number of
4 renewable energy projects in eastern Europe.

5 Q. Okay. So, he is doing that coincident,
6 according to LinkedIn, he is still working as
7 part of MR Power, is that correct?

8 A. (Weitzner) Similar to Walden Renewables, MR
9 Power is not very active at the moment. And
10 the three of us are all -- have all of our
11 attention focused on Walden Green Energy.

12 Q. Okay. So, you're three time -- full-time then,
13 the three of you, is what you're saying?

14 A. (Weitzner) Yes. Yes.

15 Q. Okay. Now, I wanted to ask you a question
16 regarding the solar projects that you worked
17 on. And what I -- there are -- you list about
18 10 megawatts of solar, is that correct?

19 A. (Weitzner) Sounds about right, yes.

20 Q. Most of those projects were developed as part
21 of Walden Renewables, as opposed to Walden
22 Green Energy?

23 A. (Weitzner) Correct.

24 Q. Okay. Now, this, when I looked, it was

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 difficult for me to find, for instance, when
2 you -- one of the projects was Whitcomb --
3 Whitcomb Wind Farm?

4 A. (Weitzner) Whitcomb Solar.

5 Q. Oh, Whitcomb Solar, okay. Now, when I looked
6 that up on the Public Service Board's website,
7 this was in Vermont, I didn't see any reference
8 to you in any of the proceedings, is that
9 correct? Is that -- would that be your
10 expectation, too?

11 A. (Weitzner) That's correct. Walden Renewables,
12 myself and George, financed the development,
13 design, and eventually sold that project. Our
14 partner in that, we provided 85 percent of the
15 financing, and we provided all of the direction
16 for that development. But we were not named or
17 directly involved in the PSB docket. That
18 would have been Encore Redevelopment at the
19 time.

20 Q. Okay. And what was the price of that project
21 or the development cost of that project?

22 A. (Weitzner) Did I provide that information?

23 Q. I don't think -- I don't see where it was
24 provided.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Weitzner) I would consider that information
2 proprietary, confidential.

3 Q. Okay. Then, let me ask you this. I did see on
4 the DOER, which is the Department of -- oh,
5 God, what does "DOER" stand for? This is the
6 Massachusetts Department of --

7 A. (Weitzner) -- Energy and Resources, I believe.

8 Q. Thank you. I do have a printout from their
9 website for the RPS solar carve-out projects,
10 and they list two projects that you worked on.
11 These would be the Hubbardston Solar and the
12 Palmer Solar projects?

13 A. (Weitzner) Yes.

14 Q. And they actually do list a cost per watt of
15 \$2.83.

16 A. (Weitzner) Okay.

17 Q. And, so, those projects are each, I believe,
18 two and a half megawatts in size. And, so, the
19 total price for one of those projects would be
20 7.2 million and the other 7.2 million, does
21 that sound about right?

22 A. (Weitzner) Okay.

23 Q. Okay. So, what -- So, that means that, if we
24 transfer that same price to all of the

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 projects, we're talking about \$28 million on
2 projects, of the 10 megawatts, at \$2.83 a watt,
3 about \$28 million spread across eight projects,
4 does that sound about right?

5 A. (Weitzner) Yes.

6 Q. Okay. Now, and given that solar projects are,
7 for instance, in the State of Vermont, solar
8 projects are subject to a feed-in tariff, is
9 that correct?

10 A. (Weitzner) The Whitcomb Project was, yes.

11 Q. And what is the price? What is the price of
12 the -- that it's receiving? You don't have to
13 tell me the PPA, but what is the price under
14 the feed-in tariff?

15 A. (Weitzner) That's the same thing as the PPA.

16 Q. Okay. I wasn't sure if it was different from
17 that. But go ahead. So, what would that be?

18 MR. NEEDLEMAN: Is that confidential
19 under the PPA?

20 MS. LINOWES: I believe it's public
21 information. It's under the --

22 **BY THE WITNESS:**

23 A. (Weitzner) \$270 a megawatt-hour.

24 BY MS. LINOWES:

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Okay. So, \$27 --

2 A. (Weitzner) \$270 a megawatt-hour.

3 Q. I'm sorry. Twenty-seven (27) cents a kilowatt?

4 A. (Weitzner) Yes.

5 Q. So, and when I looked up the Whitcomb, for
6 example, it was a one-day hearing, and then the
7 approval came after that. So, it's not -- it's
8 not a onerous project, like you would see, say,
9 on this Project -- a proceeding as you would
10 see on this Project, is that correct?

11 A. (Weitzner) I would say we were quite involved
12 in the process. And it was a -- excuse me, it
13 was a fairly onerous process. The application
14 was pretty large, given that it was a solar
15 project. So, I wouldn't agree with that.

16 Q. And was there any opposition to the project?

17 A. (Weitzner) Yes. There was some opposition.

18 Q. All right. Then, so, on scale, though, there
19 is a difference, though? Would you agree
20 there's a difference in scale between eight
21 projects representing 10 megawatts versus one
22 project representing 28.8 megawatts?

23 A. (Weitzner) There's a difference?

24 Q. In scale of the projects?

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1 A. (Weitzner) I suppose, yes.

2 Q. Okay. Now, okay, and the last line of
3 questioning, I wanted to talk to you about
4 the -- I don't know if you're aware, if you've
5 read the Deloitte document that was part of the
6 original Antrim Wind docket? Are you familiar
7 with that there was such a report?

8 A. (Weitzner) I'm familiar that there was such a
9 report, yes.

10 Q. Okay. Now, and the Antrim Wind, the -- one of
11 the obligations of Antrim -- one of the
12 requirements that the Committee has to find is
13 that you have the managerial, financial, and
14 technical ability to construct and operate the
15 Project. The principals in Antrim Wind back in
16 2012 are different from the principals that are
17 involved today, correct?

18 A. (Witness Weitzner nodding in the affirmative).

19 Q. So, Joseph Cofelice --

20 *[Court reporter interruption.]*

21 BY MS. LINOWES:

22 Q. Sorry. Joseph Cofelice and Sean McCabe were
23 the principals, along with Mr. Kenworthy, back
24 in 2012. So, I want to just read from the

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Deloitte report. It lists Mr. Cofelice, it
2 says he was president of Catamount Energy
3 Company, a Vermont-based independent power
4 company focused on wind power. And there's a
5 table showing that he had developed
6 854.5 megawatts of wind before he became
7 involved with the Antrim Wind Project. Now,
8 have you developed any wind projects?

9 A. (Weitzner) I'm currently developing this
10 Project, and two projects in Pennsylvania.

11 Q. So, you have never actually been through the
12 construction process, nor have you been through
13 the operation process of a wind project?

14 A. (Weitzner) I've been through the construction
15 process of numerous solar projects. And, in my
16 previous job, been intimately involved with the
17 operations and developing the infrastructure
18 for many complex energy projects. Everything
19 from natural gas storage, to on-vessel LNG
20 regasification, to large oil and liquid
21 refineries. So, I would say --

22 Q. But not a wind project?

23 A. (Weitzner) Not specifically a wind project, no.

24 Q. Okay. And I just had a question. How many

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 moving parts are there on a solar project?

2 A. (Weitzner) There are no moving parts.

3 Q. Okay. So, you don't lose blades?

4 A. (Weitzner) No.

5 Q. Have you ever had your solar plants get struck
6 by lightning?

7 A. (Weitzner) I've had a solar hot water project
8 damaged by hail.

9 Q. Is that the one that's related to the -- the
10 Brandeis one?

11 A. (Weitzner) Yes.

12 Q. Okay. All right. And, then, so talking about
13 Mr. McCabe, Sean McCabe, he was also -- he was
14 a managing director of wind development at Duke
15 Energy, developed numerous wind projects. But
16 also a vice president of Catamount, which also
17 did wind projects.

18 And, then, lastly, Mr. Kenworthy is cited
19 in the Deloitte project -- document, and I
20 wanted to read, summarize really quickly,
21 because I want to ask you how comparable your
22 experience is. So, it says here in the summary
23 of technical and managerial ability. It says
24 "Mr. Cofelice appears to have significant

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 experience in power industry generally and
2 renewable" -- "generally, renewable energy
3 specifically, and in leading teams and
4 organizations involved in development of
5 projects and in transactions. As such, he
6 appears to have the appropriate level of
7 experience to lead the team."

8 For Mr. McCabe, it says "Based on his
9 experience, Mr. McCabe appears to have some
10 experience in developing wind projects over the
11 past eight years, including a relatively large
12 one. We did not find evidence to suggest he is
13 not capable of competently performing in his
14 role."

15 On Mr. Kenworthy, it says "Based on our
16 understanding of Mr. Kenworthy's role in Cape
17 Systems", which was the Bahamas project, I
18 believe, "as presented in the above-mentioned
19 article, it appears that he demonstrated a
20 significant level of entrepreneurial spirit in
21 developing the projects, but he was involved"
22 -- "that he was involved with in the Bahamas,
23 although the projects appear to be on a smaller
24 scale than the project", being this project.

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 "It appears, however, that he has the ability
2 to lead in developing greenfield projects and
3 could complement the more direct experience of
4 other members of the Project Team."

5 And, finally, for Mr. Soininen, it says
6 that "He does not appear to have experience in
7 developing power projects."

8 So, if I had -- if the Committee is
9 comparing the experience level of Westerly
10 Wind, Mr. Cofelice and Mr. McCabe, with Mr.
11 Kenworthy complementing that effort as an
12 entrepreneurial spirit, to what your management
13 team looks like, there appears to be a
14 disconnect. Can you respond to that?

15 A. (Weitzner) I don't agree. I think the Walden
16 Green Energy management team has an enormous
17 amount of experience. And I would have to
18 argue that it has a good deal more experience
19 than, with all due respect to Mr. Cofelice and
20 Mr. McCabe, in that Walden is 50 percent
21 controlled and majority owned by RWE that has
22 developed over 3,000 megawatts of wind. They
23 have an enormous amount of technical --

24 DR. WARD: Can I ask the witness to

1 please speak into the microphone please?

2 WITNESS WEITZNER: Sorry.

3 DR. WARD: Thank you.

4 **CONTINUED BY THE WITNESS:**

5 A. (Weitzner) They have an enormous amount of
6 managerial and technical expertise, which is
7 being brought to bear on this process.

8 BY MS. LINOWES:

9 Q. Okay. So, let me ask you this question.
10 Because accord to -- you did provide a project
11 list, which I'm not sure if it's in the record
12 now, but you did, in response to a Counsel for
13 the Public's request, and it appears that the
14 RWE projects here in the United States, none of
15 them are wind projects, is that correct?

16 A. (Weitzner) RWE has not built any wind in the
17 United States. Yes, that's correct.

18 Q. So that wind energy experience is resident in
19 Germany or Europe, not here in the United
20 States, is that correct?

21 A. (Weitzner) No, I don't agree. The wind
22 experience from RWE may be resident in Germany,
23 but, on top of that, we have hired a very, very
24 strong team, sitting at this table. DNV GL,

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Siemens, and Reed & Reed, that all extensive
2 experience in the U.S. So, I think that we
3 cover that base very, very -- very, very
4 extensively.

5 Q. And I appreciate that, but I believe that
6 the -- that you, ultimately, are the management
7 team. You ultimately are running the Project,
8 you ultimately run the finances. So, they are
9 your employees, if you -- or contractors, if
10 you will, is that an accurate way of presenting
11 it?

12 A. (Weitzner) Yes.

13 Q. Okay. So, it would come down to your ability
14 to manage technically, your technical and
15 managerial ability to run this Project?

16 A. (Weitzner) Absolutely. It comes down to our
17 technical and managerial ability to manage
18 large energy projects, large infrastructure
19 projects that we have done, that both RWE has
20 done, and the Walden Green Energy management
21 team has done as well, in a very similar
22 situation, applying managerial skills to a team
23 of technical performers and technical advisors
24 that are, I think, you know, peerless in the

1 industry.

2 MS. LINOWES: Okay. All right.

3 Thank you, Mr. Chairman.

4 PRESIDING OFCR. SCOTT: Thank you.

5 Does the Audubon Society have any questions?

6 MR. REIMERS: Yes, we do. I have
7 exhibits to hand out.

8 PRESIDING OFCR. SCOTT: Okay. We'll
9 go off the record while these are being
10 distributed.

11 (The documents, as distributed,
12 were herewith marked as Exhibits
13 **ASNH 8, ASNH 9, and ASNH 10,**
14 respectively, for
15 identification.)

16 *[Atty. Reimers distributing*
17 *documents.]*

18 PRESIDING OFCR. SCOTT: So, why don't
19 we go back on the record. So, Mr. Ward, you
20 have concerns about whether you need to --

21 DR. WARD: Well, there are --

22 *[Court reporter interruption.]*

23 DR. WARD: There were lots of
24 discussions between Ms. Linowes and Mr.

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Kenworthy about the distance of setbacks and
2 ice throw and things like that, all of which
3 involve a lot of meteorology. And I had sort
4 of passed on those, assuming that at some point
5 we would get to it.

6 But now I'm looking down, and all I
7 see is "noise", "shadow flicker", and it sort
8 of implies that, if this goes by, then I won't
9 have a chance to ask questions about setbacks
10 and safety and things like that.

11 PRESIDING OFCR. SCOTT: Let me ask
12 the Applicant. Is Mr. Martin, when he comes in
13 with Panel Number 6, is that the type of topic
14 he's expected to address?

15 MR. NEEDLEMAN: No. That's civil
16 engineering.

17 PRESIDING OFCR. SCOTT: Okay. So,
18 again, I'll ask the Applicant. So, where in
19 the panel set up, in your view, is that an
20 appropriate type of question?

21 MR. NEEDLEMAN: Here. Those are -- I
22 mean, that was specifically the issue of
23 technical and managerial capability, and
24 Mr. Ward asked his questions. So, I'm not sure

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 why we're back here again.

2 PRESIDING OFCR. SCOTT: Okay. So,
3 Mr. Ward, we'll press on with Audubon. I'll
4 give you a little bit of leeway, since there
5 was some discussion on Tuesday of uncertainty
6 of where things fit in. How long do you think
7 you would need?

8 DR. WARD: Oh, I wouldn't think more
9 than 10 or 15 minutes.

10 PRESIDING OFCR. SCOTT: Okay. I'll
11 try to hold you to the smaller of that, okay?

12 DR. WARD: I've done it in two and a
13 half.

14 PRESIDING OFCR. SCOTT: Go ahead.

15 DR. WARD: Thank you, Mr. Chairman.

16 MR. REIMERS: Good morning. My name
17 is Jason Reimers. I'm with the law firm of BCM
18 Environmental & Land Law, in Concord. And I
19 represent the Audubon Society of New Hampshire.

20 What I've handed out is a revised
21 witness and exhibit list. And I added three
22 exhibits, 8, 9, and 10. So, you can just
23 replace your prior list with these.

24 BY MR. REIMERS:

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Mr. Kenworthy, you are an executive officer at
2 Antrim Wind Energy, LLC?

3 A. (Kenworthy) That's correct.

4 Q. And Antrim Wind Energy, LLC is the sole
5 Applicant in this case?

6 A. (Kenworthy) Yes, that's correct.

7 Q. And you are also currently head of Project
8 Development at Walden Green Energy?

9 A. (Kenworthy) That's right.

10 Q. And, at the time of the 2012 Antrim Wind
11 docket, you were the founder of Eolian
12 Renewable Energy?

13 A. (Kenworthy) Yes, that's right.

14 Q. And Eolian was the developer of that 2012
15 Antrim Wind proposed project, is that right?

16 A. (Kenworthy) Eolian was a joint owner of Antrim
17 Wind Energy, LLC, together with Westerly Wind,
18 at the time of the 2012 Application.

19 Q. So, would it be one of the original developers
20 of that project?

21 A. (Kenworthy) Oh, I would say Eolian is the
22 original developer of the project. It's just
23 we weren't the only owner of Antrim Wind in
24 2012.

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Okay. And what was your involvement in the
2 prior Antrim Wind docket?

3 A. (Kenworthy) Similar to this docket, I provided
4 testimony. I was responsible for all of the
5 local landowner relations and negotiations,
6 Town of Antrim relations and negotiations,
7 engagement with stakeholders across New
8 Hampshire, dealing with most of the technical
9 consultants that were involved in helping us to
10 prepare the application, advancing
11 interconnection work with ISO-New England,
12 meteorological work. Pretty much the same
13 types of activities that I've done this time.

14 Q. Okay. And, in 2012, the SEC denied the
15 Application for a Certificate of Site and
16 Facility, right?

17 A. (Kenworthy) Yes, they did.

18 Q. What renewable or wind projects has Eolian
19 constructed?

20 A. (Kenworthy) Eolian has been bought by Walden
21 Green Energy, --

22 Q. Uh-huh.

23 A. (Kenworthy) -- as I believe you know. And, so,
24 Eolian so no longer around. Prior to it being

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 acquired, it had no constructed any utility
2 scale wind projects or any wind projects.

3 Q. You state in your prefiled testimony that your
4 current position as head of development at
5 Walden includes "leading and managing all
6 aspects of development for wind projects
7 located in the U.S. currently in the Company's
8 pipeline." Is that correct?

9 A. (Kenworthy) Yes, it is.

10 Q. Are you currently leading and managing all
11 aspects of development of the proposed Antrim
12 Wind Project?

13 A. (Kenworthy) Yes, together with Mr. Weitzner,
14 and with his -- with his management.

15 Q. And, besides the Antrim Wind Project, what
16 other wind projects in the U.S. are you
17 currently leading and managing all aspects of
18 development for?

19 A. (Kenworthy) There's two wind projects in
20 Pennsylvania.

21 Q. And what are the size of those proposed
22 projects? Sizes?

23 A. (Kenworthy) Ninety (90) megawatts and
24 approximately 65 megawatts.

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. And at what stage are those projects in?

2 A. (Kenworthy) The 90-megawatt project is a
3 similar stage, maybe slightly more advanced
4 than Antrim. We expect to start construction
5 later this year. Using 3.6 or 3.45-megawatt
6 turbines. So, we have -- we're in the final
7 stages of permitting now, interconnection
8 agreements have been signed, and we expect to
9 start construction this year.

10 Q. You further described your responsibilities as
11 including "identifying and analyzing potential
12 wind energy investment opportunities and
13 leading potential investment projects through
14 the research, analysis, modeling, and
15 recommendation phases." To what potential
16 investment projects have you led through the
17 research, analysis, modeling, and
18 recommendation phases?

19 A. (Kenworthy) I can't disclose projects that
20 we've evaluated that aren't part of our
21 portfolio. There's quite a few projects that
22 we've taken a look at over the years and aren't
23 currently developing. I've described the three
24 projects that we are currently developing. But

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 the ones that we've evaluated are all subject
2 to confidentiality agreements between ourselves
3 and other parties.

4 Q. In your prefiled testimony, you discuss changes
5 to the Antrim Wind Project that were made since
6 the 2012 project was denied, is that right?

7 A. (Kenworthy) That sounds right. Can you -- is
8 this my original prefiled testimony?

9 Q. It is. Page 8.

10 A. (Kenworthy) Okay.

11 Q. You describe changes that have been made?

12 A. (Kenworthy) Yes. I see some description here
13 of changes that were made in that portion of my
14 testimony, yes.

15 Q. How many turbines were proposed in the 2012
16 project?

17 A. (Kenworthy) Ten turbines.

18 Q. And how many are currently proposed?

19 A. (Kenworthy) Nine turbines.

20 Q. So, there's one less turbine?

21 A. (Kenworthy) Correct.

22 Q. The current configuration removes what was
23 Turbine Number 10?

24 A. (Kenworthy) That is correct.

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. Are the other nine turbines in the same
2 locations as they were in 2012?

3 A. (Kenworthy) Yes, they are.

4 Q. So, the locations of nine of the -- all nine of
5 the turbines that you're proposing now are in
6 the same location as you proposed in 2012?

7 A. (Kenworthy) Yup.

8 Q. On Page 8, you state that "Turbine Number 10
9 was identified in Docket 2012-01 as having a
10 particularly strong impact upon Willard Pond,
11 and AWE has removed it to directly address that
12 concern." Is that correct?

13 A. (Kenworthy) That is correct.

14 Q. You were present when the SEC deliberated in
15 2012 and denied the Certificate of Site and
16 Facility, weren't you?

17 A. (Kenworthy) I was.

18 Q. Please look at what I just handed you, ASN --
19 Exhibit ASNH 8. Do you have that in front of
20 you?

21 A. (Kenworthy) Yes, I do.

22 Q. Okay. Do you recognize this as the cover page
23 and an excerpt from the SEC deliberations in
24 2012?

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) Yes.

2 Q. Please look at Page 2, you know, not the cover
3 page, and at Line 8 -- beginning at Line 18,
4 please read aloud Lines 18 to 24.

5 A. (Kenworthy) It says "If it were a matter of
6 just one being removed [moved?] or one being
7 deleted from the Project, that would be one
8 thing, but in my mind, it's not solved with the
9 change of one turbine."

10 Q. And please continue.

11 A. (Kenworthy) "So, I end up concluding there
12 really is no meaningful mitigation step that
13 could be taken. We could write all sorts of",
14 then it stops.

15 Q. Okay. That is the -- those are the words of
16 Chairman Ignatius, now Judge Ignatius. Did
17 Chairman -- based on what you just read, did
18 Chairman Ignatius think that the removal of one
19 turbine was the meaningful -- was meaningful
20 mitigation?

21 MR. NEEDLEMAN: I'm going to object.
22 The record is what is. I don't think he should
23 be asked to interpret what the prior Committee
24 understood.

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 MR. REIMERS: That's okay.

2 PRESIDING OFCR. SCOTT: That's
3 sustained.

4 BY MR. REIMERS:

5 Q. You made additional changes to the project as
6 well?

7 A. (Kenworthy) Yes, we did.

8 Q. Turbine Number 9 was reduced from 492 feet to
9 446.2 feet?

10 A. (Kenworthy) That's correct.

11 Q. Okay. That's reduction of 44.8 feet?

12 A. (Kenworthy) That sounds about right.

13 Q. Does that sound like a 9 percent reduction?

14 A. (Kenworthy) I don't do math that quickly in my
15 head. But it sounds about right.

16 Q. Okay. If you'd like, I could give you a
17 calculator?

18 A. (Kenworthy) I'll take your word.

19 Q. Okay. Is this a reduction in tower height or
20 blade height or both?

21 A. (Kenworthy) Both.

22 Q. Can you explain?

23 A. (Kenworthy) Sure. In 2012, the project was
24 proposing to use Acciona AW3000-116 turbines,

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 which had a 116-meter rotor diameter, and were
2 sited on 92 and a half meter hub heights, or 92
3 and a half meter towers.

4 In this case, for Turbine 9, the rotor
5 diameter is 113 meters. So, you've got a
6 3-meter shorter rotor diameter, and the tower
7 in this case is 79 and a half meters. So, the
8 tower is significantly shorter. It's roughly
9 the same tower height as Lempster, for example.

10 Q. Just for Turbine 9?

11 A. (Kenworthy) Correct. Sorry, let me just
12 clarify. The tower -- the tower height of 79
13 and a half is just for Turbine Number 9. The
14 rotor diameter of 113, from 116, is all nine
15 turbines.

16 Q. And you also have reduced the heights of
17 Turbines 1 through 8, right?

18 A. (Kenworthy) Yes.

19 Q. From 492 feet, to 488.8 feet?

20 A. (Kenworthy) Yes.

21 Q. That's a reduction of 3.2 feet per turbine?

22 A. (Kenworthy) That sounds right.

23 Q. And would you agree that that's less than a
24 one percent reduction?

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) That also sounds right.

2 Q. Are you familiar with the word "story", as in
3 "how many stories tall a building is"?

4 A. (Kenworthy) Yes.

5 Q. Please look at the next exhibit, Number 9. In
6 the middle, do you see where it says "How many
7 feet in one story?" The answer is "10.8", a
8 bunch of other numbers after it?

9 A. (Kenworthy) I see it.

10 Q. Okay. So, Turbines 1 through 8 are each 488 --
11 would be 488.8 feet tall. I can give you my
12 calculator, but, if you divide 488.8 by 10.8,
13 does it sound correct to you that Turbines 1
14 through 8 would each be 45 stories tall?

15 A. (Kenworthy) That sounds about right.

16 Q. And Turbine 9 would be approximately 41 stories
17 tall?

18 A. (Kenworthy) That also sounds about right.

19 Q. Okay. Please look at the next exhibit, Number
20 10. Do you know what the tallest building in
21 New Hampshire is?

22 A. (Kenworthy) No.

23 Q. Can you look at the exhibit? And do you see
24 ranked number one, where it says "One City Hall

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Plaza", in "Manchester"?

2 A. (Kenworthy) Yes, I see it.

3 Q. Do you have any reason to believe that that is
4 not the tallest building in New Hampshire?

5 A. (Kenworthy) I don't have any reason to believe
6 it's not or that it is, I don't know.

7 Q. Okay. Well, assuming that it is, do you see
8 where it says that City Hall Plaza is 275 feet
9 tall?

10 A. (Kenworthy) I see that, yes.

11 Q. So, Turbines 1 through 8 would each be more
12 than 200 feet taller than City Hall Plaza?

13 A. (Kenworthy) Yes. These are wind turbines.
14 They need to be tall to collect wind.

15 Q. Understood. And Turbine 9 would be
16 approximately 171 feet taller than City Hall
17 Plaza?

18 A. (Kenworthy) Again, that sounds -- sounds about
19 right.

20 Q. And you are also proposing to build a permanent
21 100-foot met tower?

22 A. (Kenworthy) One hundred (100) meter met tower.

23 Q. Oh, 100-meter met tower. Approximately
24 300 feet?

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) 327 or so.

2 Q. I just have one clarifying question from the
3 other day. It's not -- it's more in the
4 orderly development, but I want to make sure
5 that I heard correctly. You were describing
6 the number of acres compared -- that you're
7 proposing to have conservation easements on
8 with this proposal, compared to your 2012
9 proposal. And I believe you said that the 2012
10 proposal would conserve somewhere in the 600s?
11 Those number of acres?

12 A. (Kenworthy) Yes. There's a couple of steps.
13 When we filed our Application in January of
14 2012, there were 685 acres that were proposed.

15 Q. Okay. And what was the next step?

16 A. (Kenworthy) In I believe it was either December
17 of 2012 or January of 2013, we added an
18 additional 123 acres from the Whittemore Trust
19 property, which would have brought that up to
20 808 acres.

21 Q. So, the project that was denied by the SEC in
22 2012 proposed conserving 808 acres? 808?

23 A. (Kenworthy) Yes. That's right.

24 Q. Okay. And now you're proposing an additional

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 100, 908?

2 A. (Kenworthy) That's correct.

3 Q. Okay. The difference between then and now is
4 100 acres?

5 A. (Kenworthy) If you're talking about "then"
6 being when we filed, it's more than that. If
7 you're talking about "then" being when the SEC
8 made the decision, yes. It would be an extra
9 100 acres on-site, which again connects
10 everything together, and is 100 percent of the
11 ridgeline, as well as the off-site land
12 conservation commitment.

13 MR. REIMERS: Okay. Thank you. I
14 don't have any further questions.

15 PRESIDING OFCR. SCOTT: Thank you.
16 Would the Counsel for the Public, I assume,
17 would like to go after I give Mr. Ward a little
18 bit more time?

19 MS. MALONEY: Sure. It will give me
20 a chance to cross out a bunch of stuff that's
21 already been asked.

22 PRESIDING OFCR. SCOTT: Okay.
23 Mr. Ward, again, I'm going to -- I want
24 questions, and to-the-point questions regarding

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 the topic please.

2 BY DR. WARD:

3 Q. Mr. Kenworthy, you would agree that ice
4 formation is a meteorological event, largely?

5 A. (Kenworthy) I think so, yes.

6 Q. And would you agree that the melting would also
7 be largely a meteorological event?

8 A. (Kenworthy) I don't know exactly what you mean
9 by "meteorological event".

10 Q. Maybe be I'll change the word "event" to
11 basically depends on meteorological factors?

12 A. (Kenworthy) Or weather factors.

13 Q. Whatever. I'll take your word.

14 A. (Kenworthy) I'm a simple man.

15 Q. So am I. And would you also agree that the
16 distance that the melting ice would be thrown
17 would also be at least partly due to
18 meteorological factors? For example, the wind?

19 A. (Kenworthy) Sure.

20 Q. Okay. And would you then further agree that
21 the distance that ice would be thrown would
22 depend on the aerodynamical shape of the ice?

23 A. (Kenworthy) That would be -- that would stand
24 to reason.

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 Q. And would you -- would you care to make an
2 estimate of roughly the speed of a blade tip at
3 the time when they're operating at, let's say,
4 maximum capacity?

5 A. (Kenworthy) I would not care to.

6 Q. In miles per hour?

7 A. (Kenworthy) I would not care to. But I can ask
8 my colleagues up here on the stand, I don't
9 know if Mr. Marcucci has knowledge of what the
10 maximum blade tip speed is?

11 A. (Marcucci) It varies, based on the wind. I
12 mean, you, you know, and, frankly, the turbine
13 may not even be operating when there are
14 meteorological conditions that cause ice to
15 form.

16 Q. My question was, at maximum speed, what would
17 be the blade tip?

18 A. (Marcucci) I don't know, but I can find out.

19 Q. Is it almost or a large fraction of the speed
20 of sound? In other words, it's almost
21 supersonic?

22 A. (Marcucci) Like I said, I do not really know.

23 Q. Not quite.

24 A. (Marcucci) I don't want to guess. I can find

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 that out.

2 Q. But, if I said it was in the "four to five
3 hundred mile per hour range", would you say
4 that that's way off or is it in the right
5 ballpark?

6 A. (Marcucci) Again, I would rather have an exact
7 idea, rather than try and assume.

8 A. (Kenworthy) I would say that sounds very
9 considerably higher than any blade tip speeds
10 that I've ever seen reported.

11 Q. Well, I can do a little back-of-the-envelope
12 calculation. And my calculation shows that the
13 circumference of the tip of the blade is around
14 800 feet. And, if I divide that by roughly one
15 revolution every three or four seconds, I get a
16 very high number for miles per hour. Not
17 supersonic, but way up there.

18 A. (Kenworthy) Well, he's talking circumference.
19 So, I'm sorry you're rotation, you said "a full
20 rotation every one to three seconds"?

21 Q. Right, about "three seconds", I think I said.
22 One full rotation about every three seconds.

23 A. (Kenworthy) Yes. I think -- we can check this
24 for you, Dr. Ward. I think the -- I don't

{SEC 2015-02} [Day 2/Morning Session ONLY] {09-15-16}

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 think 20 RPMs -- I don't think the rotors
2 rotate that fast, which is what you're
3 suggesting. And maybe --

4 Q. Well, I'll do it at --

5 *[Court reporter interruption.]*

6 BY DR. WARD:

7 Q. If I gave you "15 RPMs", am I way off?

8 A. (Kenworthy) No. I don't think you're way off
9 at 15.

10 Q. Okay.

11 A. (Kenworthy) But we can check this and get you
12 the answer.

13 Q. All right. Okay. Well, I've done -- I passed
14 geometry in high school. And I got a number
15 which is many hundreds of miles per hour.
16 Whether it's 200, 300, 400, I understand it's
17 not supersonic, but it can get up pretty --
18 pretty well up there. If I were skipping a
19 stone across a pond, and I could throw it at a
20 couple of hundred miles per hour, it would go a
21 hell of a distance. And, if the aerodynamic
22 shape of this ice, which is the reason I asked
23 the question, would be generally large, just
24 sizewise, very flat, compared to its horizontal

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 dimension, I'm now skipping objects which are
2 very aerodynamically light and easy to carry
3 through the air. And I'm giving them an
4 initial speed of many hundreds of miles an
5 hour, I'm curious as to what happens? If these
6 things had no aerodynamic capability at all,
7 they would go many hundreds of feet. And, with
8 a little aerodynamic lift, they could go I
9 don't know how far.

10 You see, and the numbers that you're
11 quoting, you quoted a number that you said
12 "From our experience, it's no problem. It's
13 only a short distance, relatively speaking,
14 compared to the height of the rotor." And I'm
15 looking at that, and that doesn't match
16 anything. So, I'm wondering where you get your
17 data?

18 A. (Kenworthy) Sure. So, let me speak to this
19 briefly, and then I'm going to ask Mr. Stovall
20 to also speak to this as a general matter with
21 respect to ice throw and wind turbines. I
22 think we're fortunate that we really don't have
23 to speculate about this. There's a lot of
24 data, as to what wind turbines in environments

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 where icing conditions may arise do. And we've
2 summarized some of that data for you in my
3 supplemental testimony, with respect to what
4 the kind of observed maximum distances are for
5 ice fragments to travel. And, also, with
6 respect to public safety risk, the fact that,
7 of, you know, roughly 25 percent of the 275,000
8 wind turbines that have been installed in
9 conditions where icing may occur, there's never
10 been a single reported injury due to ice throw,
11 is a pretty significant statement. And,
12 obviously, we take public safety very
13 seriously. And we've contained information in
14 our Application, we think, that demonstrates
15 that the setbacks that we have here are more
16 than adequate, perfectly adequate to maintain
17 public safety.

18 But let me stop there and see if, Darrell,
19 do you have anything you'd like to add to that
20 answer?

21 A. (Stovall) Yes, I will. Yes. And, in general,
22 DNV GL is of the opinion that ice throw is a
23 minor risk for this Project. Let me explain,
24 but also I think it's relevant to provide some

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 background and context, for those --

2 PRESIDING OFCR. SCOTT: Why don't you
3 get closer to the microphone, if you could.

4 **CONTINUED BY THE WITNESS:**

5 A. (Stovall) -- For those of you who are not
6 familiar with the company.

7 DNV GL is a global company with about
8 16,000 employees, with a significant presence
9 in the U.S. Our primary business is in oil and
10 gas and maritime certification, business
11 assurance services, and we are also the leading
12 technical consultant in wind and solar. And we
13 do have subject matter experts in each area
14 involving the wind industry. So, our
15 assessment is that the maximum ice throw
16 distance is 250 meters, plus or minus.

17 BY DR. WARD:

18 Q. From this? From this facility?

19 A. (Stovall) Yes. That's a general assessment,
20 and it is somewhat of an industry-accepted
21 number. Further, I would think that, and I'm
22 not an expert on ice throw, but I would think
23 that the primary factors are the mass of the
24 ice chunk, the velocity at release, and the

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 geometry of the release would be much more
2 pertinent factors versus the shape of a chunk
3 of ice.

4 I think the aerodynamics may play a role,
5 but I think it's probably minor, versus the
6 mass and geometry of the release event.

7 So, as Mr. Kenworthy has mentioned, we're
8 familiar with the industry in all respects.
9 And we are not aware of any injuries to
10 personnel associated with ice throws.

11 Q. Well, if I understand what you're saying is,
12 that you apparently don't know of any
13 aerodynamic effects or things like that. I
14 don't know, I haven't studied ice throw from
15 turbines. But I'm looking at it, and I know
16 what I can do by throwing a flat stone on a
17 lake, and it sails a long distance. And my
18 calculations, my geometry, showed me that these
19 turbines, the top of the -- at the top throw,
20 they would be going at some hundreds of miles
21 per hour. And I find it hard to believe that,
22 even if it were aerodynamic, that it would fall
23 down within 250 feet. That's the outside thing
24 of the -- that's the tip of the blade when it's

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 farthest out. And you're saying it doesn't go
2 any further than that. That just doesn't --
3 I'm missing something.

4 PRESIDING OFCR. SCOTT: So, Mr.
5 Ward, --

6 **BY THE WITNESS:**

7 A. It's 250 meters.

8 PRESIDING OFCR. SCOTT: So, Mr. Ward,
9 again, you're going to ask questions please.
10 You're past ten minutes. And you're going to
11 get a chance to testify, correct?

12 DR. WARD: That is correct.

13 PRESIDING OFCR. SCOTT: Okay. So,
14 why don't you ask your questions.

15 BY DR. WARD:

16 Q. You will get me the speed of the tip of the
17 blade?

18 A. (Marcucci) The RPM is between 6 and 15.5 of
19 this turbine.

20 Q. What are the --

21 *[Court reporter interruption.]*

22 **BY THE WITNESS:**

23 A. (Marcucci) Between 6 and 15.5 revolutions per
24 minute, depending on how fast it's going,

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 depending on the wind speed.

2 BY DR. WARD:

3 Q. Are you -- have you taken into account the fact
4 that this turbine is going to be on the top of
5 an isolated hill, where the downhill, wherever
6 the ice is thrown, it will be thrown on a
7 downhill slope. Has that been taken into
8 account in your testimony?

9 A. (Stovall) I believe that the 250-meter ice
10 throw distance that's accepted in the industry
11 takes all such factors into account.

12 Q. Well, you quoted, I think either you or Mr.
13 Kenworthy, what, 666,000 something or other,
14 how many of them are on tops of hills?

15 A. (Stovall) A significant number of turbines are
16 located on ridgelines. I think Mr. Kenworthy
17 mentioned that there's approximately 67,000
18 turbines that are located in conditions where
19 icing can occur. And, again, there have been
20 no reported or documented injuries.

21 DR. WARD: I think I'm finished, Mr.
22 Chairman. Thank you very much.

23 PRESIDING OFCR. SCOTT: Thank you.

24 Counsel for the Public, how much time do you

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 think you will want? I'm just trying to
2 decide, I don't want to break you in the middle
3 for lunch and etcetera.

4 MS. MALONEY: No, I really -- I don't
5 think more than half an hour. It could be less
6 than that.

7 PRESIDING OFCR. SCOTT: Okay. What's
8 the Committee feel? Press on?

9 CMSR. ROSE: Press on.

10 MS. MALONEY: Could be quicker.

11 PRESIDING OFCR. SCOTT: Mr. Rose says
12 "Press on". So, I will press on.

13 MS. MALONEY: But everyone will be
14 hungry and they will be thinking about what to
15 eat.

16 BY MS. MALONEY:

17 Q. I want to ask, Mr. Stovall, your contract with
18 Antrim Wind Energy, is that for two years?

19 A. (Stovall) There is a term on the agreement.
20 I'm not sure of the exact duration. But I
21 think, more relevantly, it's what's called a
22 "master service agreement". And there would be
23 work orders associated with specific tasks.
24 So, it's somewhat open-ended. And, you know,

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1 where our role is to, as owner's engineer,
2 provide support as needed to the Project.

3 Q. And that's during the construction phase?

4 A. (Stovall) It's during the development phase,
5 during construction, and during operation.

6 Q. Okay. So, it can be renewed, if the Project
7 gets constructed, and you will be available for
8 that?

9 A. (Stovall) Yes. That is our expectation.

10 Q. Mr. Marcucci, the master -- the agreement that
11 you have or the agreement that you would have
12 with Antrim Wind, is a two-year agreement, the
13 services agreement?

14 A. (Marcucci) The Service and Maintenance
15 Agreement is contemplated to be two years
16 currently, but it can be extended by Antrim.

17 Q. Okay. And, apologies to you, but I understand,
18 from the testimony on Tuesday, that Antrim was
19 looking into another supplier for a services
20 and maintenance agreement following the two
21 years?

22 A. (Marcucci) I'll let Mr. Kenworthy answer that.

23 A. (Kenworthy) Don wasn't supposed to know. I'm
24 only teasing. Yes. So, the structure of the

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 SMA is contemplated to be a two-year initial
2 term, with an option to extend for an
3 additional eight years. And, so, either we
4 will exercise that option, or we will bring in
5 another third party service provider, of which
6 there are numerous kind of qualified third
7 parties that perform work on turbines,
8 including Siemens turbines. For example, EDF
9 Renewable Services is one such company, or
10 Upwind Solutions is another such company, Duke
11 Renewable Energy Services. There's a number of
12 large, established companies that provide these
13 services post warranty period for the turbines.

14 Q. Okay. And you have not had discussions with
15 any of those folks?

16 A. (Kenworthy) We've had -- We have had
17 discussions.

18 Q. You have had discussions?

19 A. (Kenworthy) Yes.

20 Q. Okay. But that would be for two years after
21 the initial maintenance and service agreement
22 with Siemens?

23 A. (Kenworthy) Their role in providing any service
24 and maintenance to the turbines, correct, would

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 not start, if we elected to go with them, until
2 year three.

3 Q. Okay. So, it's Siemens to start with?

4 A. (Kenworthy) That's right.

5 Q. It may be longer, but we're not sure yet.

6 A. (Witness Kenworthy nodding in the affirmative).

7 Q. And, Mr. Cavanagh, you have entered into a
8 binding agreement to negotiate a Balance of
9 Plant contract with Antrim Wind, correct?

10 A. (Cavanagh) That is correct. The
11 Preconstruction Services Agreement.

12 Q. Okay. And this might -- I'm sorry about the
13 microphone, but, if you were not to be able to
14 agree to all terms, does Antrim Wind have a
15 Plan B?

16 A. (Kenworthy) Yes. So, I think, as in any
17 contract, there's outs that are for, you know,
18 unforeseeable circumstances. But we've worked
19 very closely with Reed & Reed on this Project
20 for five years now. They're very aware of the
21 Project and its requirements, and we have ever
22 confidence that we'll execute a BOP contract
23 with them.

24 Q. I appreciate that. So, there's no Plan B?

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 A. (Kenworthy) Well, in the extremely unlikely
2 circumstance that Antrim Wind were unable to
3 come to a final agreement with Reed & Reed,
4 then we would need to bring in another BOP
5 contractor to perform the work that had similar
6 capabilities and qualifications. But we really
7 think that's a very unlikely prospect.

8 Q. Okay. Thank you. I'd like to ask some
9 questions, I guess, about -- just referencing
10 some questions that Ms. Linowes had for you.
11 And I'm wondering if you could pull up the
12 rules again. And, specifically, I'm looking at
13 301.08.

14 A. (Kenworthy) Yes, I have those.

15 Q. And down --

16 MS. MALONEY: Does everybody have
17 those?

18 BY MS. MALONEY:

19 Q. I just was looking at 301.08(a), Subsection
20 (3). If I understand your testimony, where it
21 indicates "Description of planned setbacks that
22 indicate the distance between each wind turbine
23 and the nearest landowner's existing building
24 or property line", you do not interpret that to

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 mean that you have to use a 2-mile
2 circumference there or a 2-mile distance?

3 A. (Kenworthy) No, I do not. I interpret that as
4 indicating the "planned setbacks between each
5 wind turbine and the nearest landowner's
6 existing building and property line". So, if
7 there were none, yes, that's my interpretation.

8 Q. Okay. So, anything beyond the nearest you
9 don't have to identify?

10 A. (Kenworthy) That is my interpretation of those
11 rules.

12 Q. Okay. And I'd like to ask you some questions
13 about the size of the -- the final size or
14 acreage that the Project would entail. It's, I
15 think, 11.8, was it?

16 A. (Kenworthy) I believe it's 11.3 acres --

17 Q. Okay.

18 A. (Kenworthy) -- that will be remaining after
19 post-construction restoration.

20 Q. And does that include the actual turbine layout
21 and the roads?

22 A. (Kenworthy) Yes. It includes the roads, the
23 turbines themselves. It includes the O&M
24 building, the parking area, the substation, and

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 any kind of semi-permanent facilities
2 associated with the wind farm. So, things that
3 are storm water features, for example.

4 Q. And, with respect to the roads, does that
5 include the full 32-foot width?

6 A. (Kenworthy) No. It would not include portions
7 of the roads that are restored post-
8 construction.

9 Q. Now, those portions of the roads that are being
10 restored, I think we've had discussions about
11 this earlier, that the restoration will not
12 include any woody growth or trees, is that
13 correct?

14 A. (Kenworthy) The post-construction restoration
15 that will remain in place during the life of
16 the Project, yes. For the road shoulders, so,
17 we'll have a 34-foot wide road, that will be
18 reduced to a 16-foot wide road. And the
19 shoulders that are reduced down will be covered
20 with organics and seeded, but the roadbed will
21 be left in place, in case we need to operate a
22 crane on that road again. So, during that
23 time, on that road, we would just let
24 vegetation naturally regrow. And it would be

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 cleared, if it were necessary for a crane to
2 come back in on that road. It would be
3 cleared, if vegetation were interfering with
4 really any part of the operation of the wind
5 farm, or, for example, in the electrical lines
6 that are roadside.

7 Q. Okay. And, with respect to that restoration,
8 and in general restoration of areas that I
9 believe Mr. Cavanagh addressed, is there any
10 plan for monitoring that restoration for any
11 quality control, whether it's quantitative or
12 qualitative, as to whether or not the
13 restoration actually is effective?

14 A. (Kenworthy) Yes. I think -- I can ask
15 Mr. Cavanagh to talk about his experience with
16 the restoration work that Reed & Reed has
17 performed on other wind farms that do similar
18 types of activities across New England.

19 It may also be a question that Mr. Valleau
20 and Mr. Gravel can help answer a little bit
21 later today as well, about the
22 performance-based standard, in terms of how DES
23 looks at these issues. Because we are, you
24 know, essentially adding vegetation back into

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 those areas, and we need to ensure the
2 vegetation grows there.

3 So, yes. I believe there is a
4 performance-based standard to ensure that we
5 actually have vegetation that takes in those
6 areas.

7 Q. And those are the people that you would follow
8 their recommendation? So, if they had a two-
9 or three-year monitoring to see if things -- is
10 that -- do you have anything? I couldn't see
11 anything in the Application that -- of that
12 nature, of a formal plan to monitor, that would
13 be supervised by a licensed forester or
14 something of that nature, or in conjunction
15 with New Hampshire Fish & Game? I didn't see
16 anything like that.

17 A. (Kenworthy) Yes. I don't think we've specified
18 an explicit post-construction monitoring
19 program for the roadside revegetation.

20 Q. Well, then, how would you be able to guarantee
21 that that would occur?

22 A. (Kenworthy) I think it's been kind of customary
23 practice that these practices do work. They
24 work well. I think it is, ultimately, you

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 know, the approvals that DES has recommended
2 are, the conditions that they have recommended
3 in their letter, are the conditions that we'll
4 be bound to achieve.

5 But, listen, we don't have an objection
6 to, you know, demonstrating that the
7 revegetation is working in the manner in which
8 we intend it to.

9 Q. In the Granite Reliable Project, the project
10 owner actually did agree to a formal plan.
11 Would Antrim Wind be willing to do that, to
12 enter into an agreement that could be monitored
13 by perhaps DES or New Hampshire Fish & Game?
14 Would Antrim Wind be willing to do that?

15 A. (Kenworthy) I don't know. I don't know if it's
16 necessary or not. I think, again, DES has
17 already made their recommendations for final
18 approval for the Project. I think we've had a
19 number of discussions with them about what
20 their conditions are. And we both appear to be
21 satisfied with those conditions. So, I'm not
22 sure that it's necessary.

23 Q. And, so, that answer is "no"?

24 A. (Kenworthy) I don't know what the agreement is

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 that you're referencing. So, --

2 Q. Well, this is for restoration of the shoulders,
3 I guess, and also final restoration.

4 A. (Kenworthy) I think we have proposed a plan to
5 the Committee about what it is that we intend
6 to do, for both of those periods,
7 post-construction restoration, as well as,
8 ultimately, what the site restoration will look
9 like post-decommissioning.

10 Q. And, as part of that plan, what quality
11 controls do you have to assure sure that these
12 sites do get restored.

13 A. (Kenworthy) Again, I don't know, there's not a
14 specific monitoring plan that we've put in
15 place for post-construction. I'd have to
16 check, and I would want to talk to our
17 environmental engineers about whether there are
18 specific requirements under the storm water
19 rulings, or not. I'm not positive about that,
20 but I could check with them.

21 Q. Well, you know, I'm not -- and that's fine. I
22 appreciate that. But there's things like all
23 the plantings that you're going to do. I mean,
24 what if they don't take? I mean, do you have

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 in mind planting trees? How many trees are you
2 going to plant? Do you have a specific plan?
3 And is there a way to make sure that it's
4 effective and that these lands do, in fact, get
5 restored?

6 A. (Kenworthy) Sure. Well, I can, just to your
7 one point, and I know Mr. Cavanagh wants to
8 speak to this as well, we don't intend to plant
9 trees, other than where we have indicated that
10 we're going to perform vegetative screening
11 around the substation area as part of the
12 initial construction. So, our plan includes
13 essentially taking organics from the site and
14 putting it over areas that we're restoring, and
15 then seeding it with a approved seed mix, and
16 then allowing natural revegetation to occur
17 from there.

18 But let me also ask Mr. Cavanagh to go on.

19 A. (Cavanagh) I can speak to post-construction
20 monitoring. And, on all the projects that
21 we've built, which are probably 90 percent of
22 the utility-scale wind projects in the
23 Northeast, we've developed a comprehensive
24 quality control plan, that we monitor daily all

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 the erosion control on-site to meet the
2 requirements of the permit and the state
3 requirements and best management practices.

4 On top of that, on restoration, you know,
5 when we bring in the roads, the crane paths,
6 when we reduce those from 32 feet to 16 feet,
7 we seed those, and then we -- each state is
8 different. So, I think Vermont was 80 percent
9 or 85 percent, we had to maintain until we get
10 85 percent regrowth. And Maine is 85 or
11 90 percent. And I'm not -- and, so, we just
12 monitor that. And it's typically a year till
13 we get, from when we do our final seeding and
14 restoration, normally a year, you know, one
15 growing season, we'll get that 80 to 90 percent
16 regrowth.

17 And, then, you know, projects that we've
18 restored that are five or six years old, you
19 know, in three to five years we see saplings
20 coming up in that regrowth. You know, so,
21 that's our experience.

22 Q. Okay. My only concern here -- well, obviously,
23 I have more -- not just the only concern, but
24 we could have a year like we had this year,

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 which is not much rain and very difficult to
2 get anything to grow. So, if it's just a
3 one-year window, and nothing beyond that, then
4 the restoration may not be very particularly
5 effective. And, then, you're looking at not a
6 16-foot road, but really what looks like a
7 32-foot road.

8 And, then, again, there's restoration
9 that's supposed to occur at the summit, once
10 the plant is decommissioned. And I know that
11 that's -- you aren't addressing that, but
12 that's something that we're concerned about now
13 as well.

14 A. (Cavanagh) Understood. The post-construction
15 restoration, we've had years where we haven't
16 had good growth. So, we've had to go back a
17 year and a half later and continue to monitor
18 and maintain it until we get that growth.

19 Q. Okay. So, Mr. Kenworthy, you don't have any
20 problem if a Certificate is granted, and it
21 required, you know, multiple years and some
22 demonstration that the restoration has been
23 effective?

24 A. (Kenworthy) No. I think, as Mr. Cavanagh said,

[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 it's generally a performance standard and not a
2 time standard. So, it's until you get to a
3 certain amount of regrowth. And, whether
4 that's a year or it takes longer, that's not
5 unusual, and we don't object to it.

6 Q. Okay. I wanted to go back and ask you some
7 questions about the Decommissioning Plan. And
8 I note that, Mr. Cavanagh, you've prepared an
9 estimate that does not include removing the
10 concrete, four feet of concrete off the site,
11 is that correct?

12 A. (Cavanagh) That's correct.

13 Q. And, Mr. Kenworthy, your interpretation, and
14 I'm going back to 301.08, Subsection (8), Roman
15 Numeral -- Subsection (8)f. Your
16 interpretation of that requirement is that the
17 infrastructure doesn't include the concrete?

18 A. (Kenworthy) Yes. My -- well, my interpretation
19 is that it requires the removal of the
20 foundation down to 4 feet below grade. And
21 that foundation consists of concrete and it
22 consists of steel. And there's cabling through
23 that foundation, and all that steel and cabling
24 needs to be removed and recycled. And, once

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 you've done that, you're left with a bunch of
2 rubble. And it is our interpretation that it's
3 not required that that rubble be removed from
4 the site.

5 Q. And where did you get that interpretation?

6 A. (Kenworthy) It is our interpretation.

7 Q. So, this particular provision says "All
8 underground infrastructure", and you're going
9 to agree that the concrete is infrastructure?
10 The foundation?

11 A. (Kenworthy) I agree the foundation is
12 infrastructure.

13 Q. Okay. And you're saying it's suddenly
14 transformed, this is no longer infrastructure
15 once you removed it?

16 A. (Kenworthy) Yes. I think that our
17 interpretation of these rules is that what they
18 want to achieve is that there's no
19 infrastructure from the project left at depths
20 from four feet to grade. And, so, if there's
21 concrete rubble that's in the ground, the same
22 as rock or crushed rock or gravel that may be
23 left in the ground, that that doesn't -- at
24 that time is not infrastructure that's

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1 remaining on the site.

2 Q. Well, you agree it doesn't say that in this
3 provision, does it?

4 A. (Kenworthy) Doesn't say what?

5 Q. It doesn't say that "once concrete becomes
6 rubble, that it no longer has to be removed from
7 site"?

8 A. (Kenworthy) It doesn't say either way.

9 Q. And there is no definition of "infrastructure"
10 or anything else in this rule that would lend
11 itself to your interpretation?

12 A. (Kenworthy) Or any other interpretation.

13 Q. When you have removed the rebar and whatnot,
14 the rebar is rebar. It's no longer
15 infrastructure, is it?

16 A. (Kenworthy) Possibly not, no.

17 Q. So, you don't have to remove that from the site
18 either?

19 A. (Kenworthy) I don't know. The rebar is a
20 recyclable metal, and it can be reused for
21 another purpose. The concrete rubble is inert
22 material that can be used for another purpose
23 right on-site. I'm not sure what's so
24 objectionable about it.

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1 Q. Well, I think what's objectionable about it is
2 that the rule requires it be removed from the
3 site, and it's fairly specific and fairly
4 straightforward.

5 A. (Kenworthy) Again, if that is the Committee's
6 determination, is that we have interpreted the
7 rule incorrectly, and that that rubble is
8 required to be removed from the site, then we
9 would expect them to clarify that for us and we
10 would comply with it.

11 Q. Okay. Well, you had previously described it as
12 "debris". Is that what you -- you would agree
13 it's debris at that point or what?

14 A. (Kenworthy) Are you referring to my
15 supplemental testimony?

16 Q. No. Earlier this morning.

17 A. (Kenworthy) I'm sorry. I don't recall
18 specifically what word I used earlier this
19 morning.

20 Q. Well, my concern is this. If your plan was
21 just to bury it on-site, were you planning on
22 getting a permit for a solid waste facility?
23 Because, at that point, it's then solid waste.
24 And burial on-site is disposal, and it then

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[PANEL: Kenworthy~Weitzner~Stovall~Cavanagh~Marcucci]

1 becomes, under the definition under RSA 149-M,
2 a solid waste facility.

3 MR. NEEDLEMAN: I'm going to object
4 to that. I think that calls for a legal
5 conclusion. And I'm not sure that, with
6 request to concrete rubble, it is subject to
7 149-M.

8 MR. RICHARDSON: I'd raise a similar
9 concern. I'm actually dealing with this in a
10 case that goes to trial next month. And it's
11 typical construction practice to process
12 concrete, remove the steel, and turn it into,
13 you know, roadbed. They do the same thing with
14 asphalt. There are restrictions. You can't do
15 it within drinking water supply areas where
16 there are wells.

17 But I think that -- I think the real
18 question is is, you know, what is the mechanism
19 of the processing? I mean, is it going to be
20 ground up, into what sizes? You know, those
21 types of details, you know, may be important.

22 But I don't think that the practice
23 that Mr. Kenworthy is describing is unusual at
24 all in the construction industry. And it's not

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1 an environmental concern. I mean, it's
2 happening throughout the State of New Hampshire
3 every day, on every construction site
4 practically.

5 PRESIDING OFCR. SCOTT: Ms. Maloney,
6 do you have a response or would you like to
7 rephrase?

8 MS. MALONEY: Well, I asked him if he
9 was planning on getting a solid waste permit.
10 And I'm not intending to have a legal argument
11 with anybody here, and we can have -- we can
12 have a discussion about what can and can't be
13 done with concrete, and whether it's a practice
14 or not. But I can withdraw that question.

15 BY MS. MALONEY:

16 Q. But I can ask you, Mr. Kenworthy, did you have
17 a full and fair opportunity to participate in
18 the rulemaking process at the SEC?

19 A. (Kenworthy) Yes, I believe so.

20 Q. And did you participate in that process?

21 A. (Kenworthy) In some components of it, yes.

22 Q. Okay. And, so, you weren't -- you're not
23 suggesting that you were denied due process by
24 not fully participating in that, in the

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1 rulemaking process?

2 A. (Kenworthy) No. I think, to me, it seems as
3 though perhaps there's just some disagreement
4 about exactly what the rules mean with respect
5 to this one particular issue.

6 Q. Okay. So, if you wanted the SEC -- you did
7 submit a letter to the SEC, did you not?

8 MR. NEEDLEMAN: I'm going to object
9 at this point. The rules say what they say.
10 And we will comply with the rules whatever the
11 Committee determines they mean. It sounds like
12 we just have a disagreement on interpretation.
13 This sounds like legislative history we're
14 talking about.

15 BY MS. MALONEY:

16 Q. And I don't want to get into that, but I am
17 looking at the Decommissioning Plan. And I
18 think a fairly large assumption was made about
19 the rules. And there is no cost or estimate of
20 decommissioning with regard to the removal --
21 excuse me -- the removal of the rubble. So,
22 that was sort of a leap of faith that I don't
23 think was appropriate to take.

24 A. (Kenworthy) Again, I respect that's your

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1 position. I don't think it was a leap of faith
2 on our part. I think it was our good faith
3 interpretation of the rules, and that is our
4 position still.

5 As I said before, if the Committee
6 believes that we've misinterpreted that rule,
7 and that, in fact, the rubble does need to be
8 removed, then we will comply with that. And I
9 think, in accordance with the Decommissioning
10 Plan and the agreement we have with the Town of
11 Antrim, we would then form a decommissioning
12 cost estimate on the basis of that new scope,
13 and that would be the amount of money we would
14 need to post as decommissioning funding
15 assurance, and we would proceed accordingly.

16 MS. MALONEY: Okay. Thank you.

17 PRESIDING OFCR. SCOTT: All right.
18 So, I'll poll the Subcommittee. How many
19 questions, how much time do you think you all
20 will need?

21 *[Court reporter interruption.]*

22 PRESIDING OFCR. SCOTT: Sorry. We'll
23 go off the record.

24 *[Brief off-the-record discussion*

1 *ensued.]*

2 PRESIDING OFCR. SCOTT: Back on the
3 record. Okay. We're going to break for lunch.
4 As I had mentioned Tuesday, our Day 1 of these
5 hearings, we'll try to keep this to 45 minutes.
6 Thank you.

7 (Lunch recess taken at 12:17
8 p.m. and concludes the **Day 2**
9 **Morning Session.** The hearing
10 continues under separate cover
11 in the transcript noted as **Day 2**
12 **Afternoon Session ONLY.**)

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