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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

December 7, 2016 - 12:50 p.m.
Public Utilities Commission
21 South Fruit Street - Suite 10
Concord, New Hampshire

DELIBERATIONS
DAY 1 AFTERNOON SESSION ONLY

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

PRESENT FOR SITE EVALUATION SUBCOMMITTEE:

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...)
Pamela Monroe, SEC Administrator

COURT REPORTER: SUSAN J. ROBIDAS, NH LCR NO. 44

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1 P R O C E E D I N G S

2 PRESIDING OFFICER SCOTT: Okay. Thank
3 you. We're back. So, as we discussed -- and
4 I'll thank Dr. Forbes again for -- Director
5 Forbes for filling the time with air quality
6 issues. It's always my favorite, anyways.

7 So we'll jump back into
8 unreasonable adverse effects and start to
9 address aesthetics. Excuse me. Again, Dr.
10 Boisvert and I have agreed to kind of divvy up
11 the discussion a little bit. It's a broad,
12 very contentious topic. So, to the extent we
13 either miss something or gloss over something
14 the Committee feels we should discuss in more
15 detail, it's important that we do so.

16 So, first I would like to look
17 at the statute which drives this. So it's
18 162-H:16(4)(c). And effectively, similar to
19 the rest of the unreasonable adverse effects,
20 we have to assure ourselves that the Project
21 will not have unreasonable adverse effects on
22 aesthetics in this case.

23 Looking at the rules
24 specifically, the SEC Rules Site 301.14

1 outlines the criteria relative to a finding of
2 unreasonable adverse effects. So that's our
3 primary focus. And of that, under Section (a),
4 in determining whether a proposed facility will
5 have an unreasonable adverse effects on
6 aesthetics, the Committee shall consider, and
7 they list seven points. And the first is the
8 existing character of the potential visual
9 impact -- excuse me -- the existing character
10 of the area of potential visual impact. So
11 "the area" is the important words there.

12 Two, the significance of
13 affected scenic resources and their distance
14 from the proposed facility. "Scenic resources"
15 is defined. I will address that in a moment.

16 Three, we have to look at the
17 extent, nature and duration of the public uses
18 of affected scenic resources.

19 Fourth, No. 4, we have to look
20 at the scope and scale of the changes in the
21 landscape visible from the affected scenic
22 resources. While we're at that point -- so
23 those first four notionally I have agreed to
24 discuss, and Dr. Boisvert has agreed to discuss

1 the next three.

2 So, the fifth thing of the seven
3 to look at under that rule is the evaluation of
4 the overall daytime and nighttime visual
5 impacts of the facility as described in the
6 Visual Impact Assessment submitted by the
7 Applicant and other relevant evidence submitted
8 pursuant to our rules Site 202.24, which is
9 evidence, I believe.

10 The sixth bullet is for us to
11 look at to the extent to which the proposed
12 facility would be a dominant and prominent
13 feature within the natural or cultural
14 landscape of high scenic quality or as viewed
15 from scenic resources of high value or
16 sensitivity.

17 And finally, No. 7, the
18 effectiveness of the measures proposed by the
19 Applicant to avoid, minimize or mitigate
20 unreasonable adverse effects on aesthetics and
21 to the extent to which such measures represent
22 best practical measures.

23 So, also, the rules talk about
24 potential impacts of combined observations,

1 successive observations and sequential
2 observation for the facility by the viewer.

3 On 301.05, which is labeled
4 "Effects on Aesthetics," as far as preparing
5 the Visual Impact Assessments, the import, at
6 least to me, is the fact that it has to be
7 prepared in a manner consistent with generally
8 accepted professional standards by a
9 professional trained or having experience in
10 visual impact assessment procedures.

11 On the definitions, a couple to
12 point out are our rules Site 102.10, which is
13 "area of potential visual impact." That's
14 defined as "a geographical area from which a
15 proposed facility would be visible and would
16 result in potential visual impacts, subject to
17 the aerial limitations specified in
18 301.05(b)(4)," which is 10 miles. And that's
19 been discussed in most of the filings, by the
20 way.

21 Thank you, Mike.

22 Also is the definition of
23 "scenic resources," which is our SEC Site
24 102.45. "Scenic resources" is defined as

1 "resources to which the public has a legal
2 right of access that are" -- and there's (a)
3 through (f) -- "(a) designated pursuant to
4 applicable statutory authority by national,
5 state or municipal authorities for their scenic
6 quality; (b) conservation lands or easement
7 areas that possess a scenic quality; (c) lakes,
8 ponds, rivers, parks, scenic drives and rides
9 and other tourism destinations that possess a
10 scenic quality; (d) recreational trails, parks
11 or areas established, protected or maintained
12 in whole or in part with public funds; (e)
13 historical sites that possess scenic quality;
14 or (f) town or village centers that possess a
15 scenic quality. So that's -- at least I've
16 tried to outline some of the import within the
17 rules.

18 Attorney Iacopino, is there
19 anything -- other rule sites that I should
20 mention as being particularly important?

21 MR. IACOPINO: I think you have
22 covered all of the regular administrative rules
23 that apply.

24 PRESIDING OFFICER SCOTT: So, before I

1 cut out, again, my intention was to kind of
2 outline some of the positions and then pick out
3 some areas, which are many, but some of the more
4 salient areas of disagreement. Before I go into
5 that, is there any discussion or questions
6 regarding the rules and what's before us?

7 [No verbal response]

8 PRESIDING OFFICER SCOTT: I take all
9 the head nods as a "No."

10 So, again, at least my
11 assessment is aesthetics is the largest issue
12 in testimony. We've heard a lot of positions
13 on this. So what I'll start with, obviously,
14 is the Applicant asserts they will not have an
15 unreasonable adverse effect on aesthetics in
16 the region. As we know, there was a Visual
17 Impact Assessment prepared by LandWorks and Mr.
18 Raphael. He asserts that generally he used the
19 same methodology that, in his view, is
20 universally used in these types of assessments
21 for projects of this nature. His Visual Impact
22 Assessment analyzed, again, as we just
23 discussed in the rules, the impact within a
24 10-mile radius of each of the wind turbines.

1 He assessed the impact to the Project of
2 aesthetics only on national, state or local
3 recreational and scenic resources that are
4 readily accessible to the public. That's one
5 of the discussion items.

6 He did not analyze the impact of
7 the Project on such properties as White Birch
8 Point and the amphitheater located at Black
9 Pond because they're private. And, again,
10 we'll come back to that.

11 In the Applicant's VIA, out of
12 290 identified scenic resources in the study
13 area, 30 were deemed potential for visibility
14 in the project. Out of those 30 resources, 10
15 were ranked as moderate high or high and were
16 considered sensitive.

17 One area of issue that has come
18 up in the different testimony where Mr. Raphael
19 does discuss the blades themselves, he's taken
20 an approach in his assessment that the primary
21 focal point of a turbine for visibility
22 purposes is the nacelle, or the hub. That's
23 another issue of, perhaps, disagreement.

24 Similarly, Mr. Raphael took a

1 different view, no pun intended, of the angle
2 of view in making rankings, and that was --
3 again, that will be something we discuss a
4 little bit later.

5 Bald Mountain itself was
6 another -- the views from Bald Mountain, excuse
7 me, was another area of disagreement. There
8 are eight turbines and a meteorological tower
9 would be visible from there. Mr. Raphael
10 asserts that that view, though, is not readily
11 accessible and that is -- there is some
12 disagreement on that.

13 Out of -- only 1 out of the 10
14 resources identified, which is Willard Pond,
15 was identified as having a higher -- a moderate
16 high impact under the LandWorks Visual Impact
17 Assessment. Another issue of contention is Mr.
18 Raphael testified that he did not conduct a
19 user survey but relied on other sources, such
20 as publications, Internet sources and his own
21 experience in visiting the area in field trips.
22 He also pointed out that regarding the
23 significance of the Willard Pond area, that
24 it's not specifically identified as a protected

1 scenic resource in the Town of Antrim's Master
2 Plan.

3 His view was that that area of
4 Willard Pond is not a primitive, remote or
5 highly unique or highly scenic wilderness area
6 that would render it more sensitive to
7 human-built structures. He did cite, however,
8 that the Project would have a high visual
9 dominance at Willard Pond.

10 Ultimately, Mr. Raphael
11 determined that the Project was reasonably
12 scaled and would not have an unreasonable
13 adverse effect on aesthetics.

14 There is also a discussion, as
15 we know, on aesthetics regarding mitigation.
16 And the Applicant has asserted that the
17 changes -- which are, effectively, removal of
18 Turbine 10; reduction of height of Turbine 9;
19 the turbine change in the turbine itself, the
20 model of the turbine; the landscape plan that
21 would provide screening for the substation and
22 operation and maintenance building; the
23 installation and use of a radar-activated
24 lighting system; the restoration and

1 revegetation of any created roads to no wider
2 than 16 feet; the conservation easement for
3 908 acres of forest lands along the ridge line;
4 the one-time payment to the Town of Antrim for
5 \$40,000 for the Gregg Lake recreational area;
6 the payment of \$100,000 to the New England
7 Forestry Foundation to purchase additional
8 conservation lands and the annual gift of
9 \$5,000 to the Antrim Scholarship Committee --
10 they felt was appropriate mitigation, to the
11 extent there was some necessary.

12 They also took issue, in
13 follow-up testimony and supplemental, with the
14 methodology that is commonly used by Counsel
15 for the Public, in particular, the rating
16 system. And we'll talk about that. Also,
17 there was criticism of Mr. Raphael's pictures
18 and simulations that -- containing any cloud or
19 haze, though he argues that they're clearly
20 visible and meet the rules.

21 And again, to summarize, I
22 think -- again, I'm just hitting the high
23 points, depending on your point of view -- that
24 the LandWorks assessment meets industry

1 standards in its approach. He also -- Mr.
2 Buscher's video that we saw, he also took issue
3 with that.

4 So, in counter to that,
5 primarily from Counsel for the Public and her
6 expert, Kellie Connelly, she suggests that Mr.
7 Raphael did not conduct an independent,
8 extensive review of federal, state and regional
9 visually sensitive resources. She relied much
10 on her list of scenic resources from the prior
11 work done in the prior docket with Ms.
12 Vissering. And she identified, Ms. Connelly,
13 14 sensitive resource viewpoints. And, again,
14 she more -- more to the point, no pun intended,
15 also assessed more closely the tips of the
16 blade rather than the hubs themselves for the
17 Project, as she cited that the spinning nature
18 of the blades makes them more noticeable.

19 She used a rating panel. And
20 other than herself, the other members of the
21 rating panel actually didn't visit the site.
22 That was an issue that was discussed at length.
23 Her rating panel determined the Project will
24 have high unreasonable adverse impacts at six

1 resources: Willard Pond, Meadow Marsh, the
2 White Birch Point, Gregg Lake, Bald Mountain,
3 Goodhue Hill and Black Point -- Pond. Excuse
4 me.

5 Again, regarding Bald Mountain,
6 she disagreed with Mr. Raphael whether the view
7 thereof, again of the eight turbines and the
8 met tower, would be accessible. She feels it
9 is. Regarding Goodhue Hill, she specifically
10 disagreed with Mr. Raphael's determination that
11 the Project would not be visible from the hill.
12 And again, she used White Birch Point and the
13 amphitheater as views also. And there was,
14 again, discussion there, as the rules say they
15 should be open to the public. So there was
16 discussion on that also.

17 And probably finally, from at
18 least the points I'm picking out, Ms. Connelly
19 also suggested that the mitigation measures
20 that are proposed are not appropriate for this
21 project. We've had a lot of discussion from
22 the intervenors, the Blocks and Ms. Voelker,
23 that the visual impacts -- removing Turbine 10
24 alone and changing the height of Turbine 9 were

1 not sufficient. And similarly, they suggest
2 that the photo simulations were not accurate or
3 useful.

4 And probably the last issue that
5 I'll bring up, unless we dig deeper, is to the
6 extent that anyone had done any kind of survey,
7 Mr. Edmund and Mr. Giffin had done an informal
8 survey. And there was some discussion over
9 what's appropriate for -- we'll see in our
10 rules that we have to also look at the use of,
11 public uses of these areas also.

12 So, to kind of summarize some
13 areas of disagreement -- there's many -- we
14 have a difference over the extent of view to be
15 considered. Is it area or just a specific
16 view? Certainly for the panel that was used
17 for the Counsel for the Public's exhibits, two
18 of the panelists only saw pictures. So there
19 was debate over whether that picture alone is
20 appropriate, or do you need to look at a
21 broader view. The Applicant suggests that the
22 words in our rules, "area landscape" and
23 "scenic view," all indicate that we should
24 evaluate a broader area in its totality.

1 As I mentioned, there is debate
2 over does the spinning nature of the blades
3 make using the hub as its focal point, you
4 know, is that an issue or not. The rating
5 panel, how the forms should be done, the
6 context provided to the panel, the sensitivity
7 rating, whether it was misapplied or not are
8 all issues. How close the scoring and
9 formulation is to the Bureau of Land Management
10 methodology are all issues.

11 Again, the photo simulations
12 were questioned by some, the use of them and
13 whether the backgrounds were appropriate. As I
14 mentioned, what to consider a scenic resource,
15 whether White Birch Point and the amphitheater
16 at Black Pond, despite their lack of public
17 access, should they be considered also.

18 As I mentioned, the
19 accessibility of Bald Mountain. And again, the
20 acceptability of the mitigation measures are
21 all among the many issues in contention.

22 So, first what I'd like to do is
23 maybe to try to dispense of an easy thing,
24 which I'm not sure there is much easy here.

1 One of the things we need to look at is
2 potential impacts of combined observation,
3 successive observation and sequential
4 observation of the wind facility by the viewer.
5 I think it's understood that Pitcher Mountain
6 already has a existing view of Lempster Wind
7 Project. Mr. Raphael stated that neither
8 project will be seeing the same view or arc,
9 and the distance of the resources from either
10 project will diminish any combined impact. And
11 Ms. Connelly stated there is no cumulative
12 impact, combined, sequential or successive that
13 will result from the Project.

14 So, not to be presumptive, but
15 since I think we have effectively both sides
16 saying there is really no cumulative impacts,
17 I think perhaps that may be something we could
18 dispense with. Maybe I'll start with that, if
19 there are any concerns or discussion on that
20 small point, break the ice here. Anybody? Mr.
21 Boisvert?

22 DR. BOISVERT: I would not say that
23 there's no cumulative impact there. The
24 question is: Does it reach the level that might

1 be an unreasonable adverse effect? There is
2 cumulation of impact and, hypothetically, one or
3 the another might not rise to the level that
4 would be unreasonable. But I think precisely
5 because the cumulative impacts were written into
6 the rules for wind farms, I would not presume at
7 the onset that this is not cumulative impact.
8 We can certainly debate if it rises to the level
9 of unreasonable adverse effect. But I think
10 there is an anticipation that this will not be
11 the last wind farm to be proposed in New
12 Hampshire, and I think we need to be sensitive
13 to that and to the concept of establishing some
14 sort of precedent. So, in my mind, I think
15 there is some accumulation -- to stretch the
16 words -- of an impact. Is it reaching the level
17 that we need to consider to be unreasonable is
18 another question. But I respectfully disagree
19 with the two experts that there isn't a
20 cumulative impact there. And I think we need to
21 leave that open, if not for this specific
22 instance, but for instances in the future on
23 other projects. We can't presume if they're
24 individually small at the onset that they might

1 not eventually accumulate. As I said, I think
2 that was the reasoning behind including
3 cumulative impacts in the rules.

4 PRESIDING OFFICER SCOTT: So I'm not
5 sure I'm understanding what you would like to do
6 with that.

7 DR. BOISVERT: I don't want to accept
8 out of the gate that, just because the two
9 experts agreed that there is no cumulative
10 impact, I think that -- and I think I can be
11 persuaded that it's not unreasonable adverse
12 effect. I don't know. I want to think about
13 that part a little more. But I do have
14 reluctance to accept sort of an automatic
15 assumption just because the two experts came to
16 that conclusion.

17 PRESIDING OFFICER SCOTT: So what I
18 thought would be easy is not. Okay.

19 MS. WEATHERSBY: I would just like to
20 point out that under Rule 102.18, "cumulative
21 impacts" is defined, and it's the "totality of
22 effects resulting from the proposed wind energy
23 facility or existing wind energy facility and
24 all wind energy facilities to which a

1 certificate of site and facility has been
2 granted and all proposed wind energy facilities
3 to which an application has been accepted." So
4 it does not take into account any unknown future
5 date. Perhaps maybe there will be one other
6 hypothetical wind farm. It's only those which
7 are known, the most tenuous being those for
8 which an application has been accepted.

9 PRESIDING OFFICER SCOTT: Anybody
10 else?

11 [No verbal response]

12 PRESIDING OFFICER SCOTT: Mr.
13 Clifford.

14 MR. CLIFFORD: So I'll agree with the
15 definition. So if we're supposed to look at
16 cumulative impacts, then we should discuss the
17 cumulative impacts. We have a wind facility in
18 Lempster, we have a wind farm in Groton, and now
19 a proposed facility in Antrim. Am I missing any
20 others? So that seems to me they've given us
21 the parameters by which to discuss cumulative
22 impacts, so we might as well discuss it.

23 PRESIDING OFFICER SCOTT: My
24 understanding is that the Lempster Wind Farm is

1 the only other wind farm that's visible from any
2 of those locations, is my understanding.

3 MR. CLIFFORD: The way I think the
4 rules read is we discuss it in toto. So it's
5 sort of -- you know, you include the others. So
6 I'm just saying that if this is the third and
7 there's one in the northern part of the state,
8 one or two in the north, and perhaps one here,
9 are we willing to concede the cumulative effects
10 are not unreasonable yet, or they are
11 reasonable? I'm of the viewpoint that they're
12 not unreasonable. That's just my personal -- if
13 you look at it as a whole, that component I
14 think I'm okay with.

15 PRESIDING OFFICER SCOTT: I concur
16 with that. If, Dr. Boisvert, your concern again
17 is what about the future, I think that's -- I
18 think the impact will be done for -- assuming
19 there's other, obviously, wind farms in the
20 area, that would be done as they happen. So you
21 would take the additive effect is the way I
22 viewed that.

23 DR. BOISVERT: When I was discussing
24 the future, future applications, not future

1 impacts on this particular spot. Just in
2 general, the concept of future applications as
3 more and more projects may be approved and
4 constructed.

5 PRESIDING OFFICER SCOTT: And, again,
6 my point, I think, is that, to the extent
7 there's a cumulative impact that becomes
8 unreasonable, that would be looked at as it
9 happens; meaning, let's say this project was
10 installed and then there's going to be one
11 proposed next door to it or whatever. It's
12 during that proceeding that I think we would
13 say, okay, maybe the last one was okay, but when
14 you add this one on, it's no longer all right.
15 I think that's the appropriate -- I don't think
16 there's any mechanism whereby we would sanction
17 the wind farm we've already approved because
18 another one is trying to come in. Not that
19 you're saying that. I just want to make sure
20 we're clear on our thinking.

21 Anybody else have any thoughts
22 on what I thought was an easy issue? Director
23 Forbes.

24 DIR. FORBES: Yeah, I agree. I don't

1 think that there are unreasonable impacts here.
2 I agree with Dr. Boisvert that this is an area
3 where we should have a conversation. But in
4 this context, I think the facilities are far
5 apart. I think that the experts agree that
6 cumulative impacts are not significant.

7 PRESIDING OFFICER SCOTT: Anybody else
8 before I move to the next subtopic?

9 [No verbal response]

10 PRESIDING OFFICER SCOTT: I'll do
11 that, and I won't characterize whether I think
12 it's easy or not.

13 So if we go back to 301.14, so
14 the first issue it raises is we need to look at
15 the existing character of the area of potential
16 impact. So, at least in my mind, I try to
17 characterize some of the concerns that were
18 raised. One is how broad a view should be
19 looked at when you look at the viewshed and the
20 scenic resources. For example, Mr. Raphael,
21 regarding, you know, being on a body of water,
22 suggests you look at 360 degrees. He's also
23 suggesting where there's a limited view, you
24 look at 180 degrees. Ms. Connelly, especially,

1 particularly with her panel, looks at a much
2 narrower focus. So I think that's one of the
3 things we need to get our heads around is what
4 is appropriate.

5 Certainly, the character, we've
6 heard a lot of testimony about the uses and the
7 type of activities, the recreational, which
8 includes hiking, people that go see the natural
9 environment, certainly the wildlife sanctuary.
10 So I think that plays into the character of the
11 area. And again, to what extent would the view
12 cause an unreasonable impact, that's the crux
13 of the issue we have to decide.

14 On this particular rule, which
15 is, again, 301.14(a)(1), in supplemental
16 prefiled, Mr. Raphael suggests that Ms.
17 Connelly failed to understand the existing
18 character of the area of potential impact as a
19 result of not spending enough time in the field
20 and the fact that she didn't look, again, at a
21 broader view.

22 The Counsel for the Public --
23 again, this is all -- I am taking the crib note
24 version here -- notes Mr. Raphael mistakenly

1 thought, for example, that the Audubon Society
2 only owned 50 percent of the shore in the
3 Willard Pond area, suggesting that he wasn't
4 appropriately taking into account the character
5 of that area. She also notes that the
6 LandWorks methodology is heavily weighted with
7 an emphasis on national and state resources
8 over local and regional, and she suggests that
9 he's misreading our definition of scenic
10 resources.

11 So, on that first issue of
12 existing character of the area of potential
13 visual impact, is there any discussion there?
14 I tried to fill in some things to discuss. Is
15 that helpful? We're going to be here for a
16 long time, I can tell.

17 MR. CLIFFORD: I think we can all
18 consent on one thing: We can say it's rural.
19 It's not urban. Okay. So that's one area we're
20 looking at. And then there were certain
21 discussions and testimony about what the town's
22 own characterization of that area was, too,
23 which was that it was in a zoning district that
24 was rural conservation, I think. So I think

1 we're going to agree on that.

2 So, then, going forward, I mean,
3 talk about the character. It is primarily
4 rural and not a lot of people out there, No. 1.
5 More animals maybe than people. And we've
6 heard testimony that it was actually a -- the
7 area had actually been tested for wind as well.
8 In other words, it was -- it wasn't as if they
9 were proposing to put turbines in a valley
10 which didn't have a good, you know, source of
11 wind energy to make the thing work. So I can
12 say that.

13 And then we also know that steps
14 were taken to, as you said, to mitigate the
15 potential impacts of the identified scenic,
16 resources, with some additional conservation
17 put in place. So, those steps were taken.

18 And, you know, let's face it,
19 we're here to talk about the wind -- there's
20 going to be a view from some point. If you
21 install them, you're going to see windmills.
22 You're not going to see the mountains anymore.
23 So I guess we have to have a thorough vetting
24 of that aspect, too, because right now there's

1 no windmills on any of those tops, Bald
2 Mountain, Pitcher Mountain. I guess there is a
3 view from one point of Lempster Wind Farm. But
4 in general, if you are a resident of Antrim,
5 you don't see any windmills today, and
6 potentially you might. So what's the impact
7 there? And we heard a lot of testimony about
8 those impacts, and some people thought they
9 were reasonable and others thought they were
10 completely unreasonable. I guess it's our job
11 to decide whether they're unreasonable adverse
12 effects. So there's going to be some effects,
13 but are they unreasonably adverse, and adverse
14 to what.

15 I won't talk very long, but I'll
16 say I don't like telephone poles. And it seems
17 to me that if you want electricity in this
18 world, you have to have telephone poles. But
19 maybe we've reached the point where people are
20 starting to rethink that and bury lines. So I
21 view the telephone poles as an unreasonable
22 effect, but I have to deal with it if I want
23 electricity at my house.

24 So, with that said, we need to

1 decide whether there are unreasonable adverse
2 effects of possibly permitting a wind facility
3 that offers a substantial amount of power to
4 New Hampshire residents.

5 PRESIDING OFFICER SCOTT: Ms.
6 Weathersby.

7 MS. WEATHERSBY: Another
8 characteristic -- while talking about the
9 characteristics of the area, another
10 characteristic important to point out is the
11 amount of conservation land and the efforts that
12 have gone into that in developing the "Super
13 Sanctuary" concept. I think that's just
14 important to note.

15 PRESIDING OFFICER SCOTT: Anybody
16 else? I mean, I can elaborate more on the
17 character of the area. Obviously, we've heard a
18 lot of heartfelt commentary on the beauty of the
19 area and all that, I think. We've been there
20 ourselves and we've seen that, I think. We did
21 observe some historical use for forestry. You
22 know, in the past some areas have been cleared
23 for grazing and that type of thing. So I'm not
24 suggesting for a moment any of this is easy for

1 anybody involved. I get that.

2 Maybe if I could parse this out
3 a little bit. You know, one thing I notionally
4 put in this area was the -- what's the
5 appropriate span of the view? Is there
6 opinions on a more narrow focus when a visual
7 assessment's done, or more of a view of the
8 totality of the area? Does anybody have an
9 opinion on that? Mr. Forbes.

10 DIR. FORBES: Well, maybe backing up a
11 little bit in answering this question as well
12 is, you know, when I think of the character of
13 Willard Pond and the recreational aspect, I
14 think of the character of the fishing resource
15 there, people who are out there recreating. And
16 there would be an example where I think we would
17 take a very narrow view of the impacts of that
18 particular resource. But certainly, in a
19 totality is the way I would think we would
20 ultimately make our decision: What's the
21 overall cumulative impacts, so to speak, on the
22 different impacted resources?

23 PRESIDING OFFICER SCOTT: You want to
24 say something, Mr. Clifford?

1 MR. CLIFFORD: I think I agree. For
2 example, if you look at Willard Pond, if I were
3 a fisherman or ice skater, swimmer or kayaker,
4 if there's a -- toss it out there. If I could
5 see a wind turbine, it's not going to affect
6 whether I can kayak, fish, swim, hike, bike.
7 It's an aesthetic issue. But it doesn't affect
8 that resource, in my opinion, one iota. I'm
9 still going to be able to draw -- throw a line
10 in and grab trout, for example. I'm still going
11 to be able to put a kayak in and paddle around.
12 The question is: Do you want to do that, or
13 would I want to do that with a wind turbine in
14 the background? I mean, I guess my personal
15 preference, maybe I would or would not. But the
16 use of that resource still hasn't changed at
17 all, in my opinion. In terms of the use, it
18 hasn't. That's sort of where I come out on that
19 type of impact.

20 DIR. FORBES: I agree totally with
21 that. I mean, really, it's more of an indirect.
22 And in the context of does it change the
23 character, I think there's an argument that it
24 does change the character of the use of the

1 resource. The character of Willard Pond as a
2 fishing resource has not changed. The trout
3 will still be there. The water will still be
4 just as clean. But the character of the place,
5 you know, potentially would be impacted. And I
6 think the question we have to answer is: Is it
7 an unreasonable impact?

8 PRESIDING OFFICER SCOTT: Commissioner
9 Rose.

10 MR. ROSE: Thank you. And as you --
11 as we started talking about the character of the
12 area -- and I think it was, you know,
13 appropriately outlined as a very rural area, and
14 it is an area that has a history and
15 appreciation and recognition for conservation
16 efforts, as we've heard throughout the course of
17 the testimony -- there is a high degree of land
18 that is in conservation in one form or another.
19 And it is also an area that does attract a lot
20 of specific user groups, as we started to allude
21 to, in terms of some of the hiking in the area,
22 some of the boating in the area, the fishing
23 that was referenced in the area. And it does
24 have a lot of, you know, natural aesthetics that

1 I think are very pleasing to those who have an
2 opportunity to either live or recreate or travel
3 to that part of the state.

4 I do think when you start
5 talking about the broad view of how you look at
6 the effects, I think you do have to take a
7 peripheral perspective that, you know, while I
8 think you're at a specific resource such as
9 Willard Pond, it's hard to, you know -- your
10 experience is going to be impacted. Whether
11 that's adverse or not, you know, is open to
12 discussion. But I think there will be a visual
13 impact, an aesthetic impact, on that use. But
14 at the same time, you do need to look at it
15 from a broad perspective, in that, if you are
16 focusing in on just one snapshot, one
17 perspective, you may lose the context of the
18 overall environment by which we're trying to
19 evaluate the aesthetic impact, the aesthetic
20 visual impact.

21 So I do think from a vantage
22 point, I think that there is a benefit to
23 having a holistic observation of a particular
24 location in order to fully appreciate and

1 recognize the impact on that particular user.

2 PRESIDING OFFICER SCOTT: Any other
3 discussion on this point? What I could do is go
4 to No. 2 and kind of wade through that. I know
5 Dr. Boisvert has prepared some thinking points,
6 too, I suspect.

7 DR. BOISVERT: I guess I'm struggling
8 with, is this the proper place to raise certain
9 kinds of questions in terms of existing
10 character and so forth? I guess that's the
11 starting point. This is the canvas that we're
12 working from. And I feel we need to understand
13 that canvas and then see what happens when we
14 paint onto it the turbines and so forth. And I
15 think embedded in that canvas is why is it
16 important, not just what is, but, you know, why
17 is this canvas important.

18 To that end, I think that the
19 significant effort invested by the Town of
20 Antrim and by other communities nearby to
21 develop the Super Sanctuary means that there is
22 regional, or just above local level, a concern
23 and a desire to have that kind of rural
24 environment. There are indeed man-made

1 intrusions in there, utility poles, if you
2 will. The question becomes: Do we want to add
3 more? And have we absorbed the utility poles
4 such that we don't see them anymore? And if we
5 have new developments, do we make an effort to
6 bury the utilities and not have more utilities
7 poles?

8 But I think that No. 1 here is
9 what is the canvas and why is the canvas
10 important. I think that at a starting point,
11 the essentially natural landscape, forested
12 landscape, the ponds and so forth, is something
13 that the communities nearby and the broader
14 communities of people who are interested in
15 having this Quabbin-to-Cardigan think is
16 important. I think that's our starting point.
17 And that canvas has an importance in being the
18 way it is for, among other things, its
19 aesthetic aspects. I think when people are
20 using these areas, it's not just to fish or
21 just to hike. If it was just to get the fish,
22 you could go buy them someplace. It's when one
23 goes fishing, the few times I've been able to
24 do it, it wasn't just bagging some fish, it was

1 a more larger experience. So I think that
2 there is importance to that landscape, as
3 demonstrated by efforts to zone it in certain
4 ways, to acquire land and to keep it in that
5 state. So, on the existing character, I think
6 that's what I have to say.

7 PRESIDING OFFICER SCOTT: Anybody
8 else? What I think I'll do is go to the second
9 part of that rule, which is we need to address
10 the significance of the effect of scenic
11 resources and their distance from the proposed
12 facility. I'll note that the Applicant says the
13 average viewing distance of all resources with
14 potential visibility will be five or more miles
15 from the Project.

16 I note that Counsel for the
17 Public said LandWorks should have included the
18 sensitive sites identified in the earlier order
19 denying, the 2012 docket. She suggests that in
20 that order the Committee was calling out
21 specific vistas as significant, that need to be
22 looked at. And again, on how that's done and
23 the methodology, you know, Mr. Raphael suggests
24 that Ms. Connelly inflated the significance of

1 the affected scenic resources because of her
2 methodology. So, you know, the back and forth
3 there. And that suggests -- the implication
4 was that there was a lack of a proper inventory
5 which impacted the impact analysis. So, again,
6 these are all very tied together and so
7 sometimes it's hard to parse these things out.

8 And I think, going back to Dr.
9 Boisvert's question, as far as, you know, what
10 is the canvas which we'd be starting with, I
11 think it goes hand in hand with what's the
12 significance of the affected resources. So,
13 you know, it's hard to talk about one thing
14 without talking about the other.

15 Before I move on, is there any
16 discussion on the significance of the affected
17 resources?

18 [No verbal response]

19 PRESIDING OFFICER SCOTT: Again, I'll
20 add the obvious, that I think one of the issues
21 which makes our job harder is it's not is there
22 an impact, but is there an unreasonable impact.

23 So, seeing none, everybody's
24 wowed. Okay. I'll move on to the third part

1 of that rule, which is we need to look at the
2 extent, the nature and duration of public uses
3 of affected scenic resources.

4 So, you know, we had a lot of
5 testimony on the use and the recreation
6 benefits. Willard Pond, in particular, you
7 know, we heard about canoeing, fishing, the
8 wildlife sanctuary. Again, Mr. Edmund and Mr.
9 Giffin talked about they did an informal survey
10 to try to understand the public usage. Again
11 I'll state, in my opinion, this clearly may be
12 a sample, but it was certainly unscientific,
13 too. Mr. Raphael, on this subset of rules,
14 specifically in his supplemental testimony,
15 suggested Ms. Connelly misunderstood the
16 extent, nature and duration of the public uses
17 of the affected resource by not doing, again,
18 sufficient analysis on the site herself and
19 with her panel, and suggested that the Bureau
20 of Land Management methodology requires that to
21 be done. And, again, I think these all tie in
22 together. So this is not an easy discussion.
23 You know, the more subjective issues were
24 discussed this morning. That's a little bit

1 easier.

2 I'll note, and I said this
3 earlier in questioning, when you look at the
4 Visual Impact Assessments, to me, trying to
5 quantify something like this and put it into a
6 table is not easy. And so I understand the
7 difficulty for somebody doing the Visual Impact
8 Assessment, but that clearly means we have a
9 hard look also.

10 Any questions there? Anything
11 we want to add about the extent, nature and
12 duration of the public use, and I guess the
13 implication would be, and the impact on them?

14 Ms. Weathersby.

15 MS. WEATHERSBY: I'll just comment
16 this actually may be one of the easier ones
17 because the scenic resource is necessarily a
18 place that the public has a right of access. So
19 it's not a view from home, which are clearly
20 affected. But this speaks to the public -- to
21 the scenic resources to which the public has a
22 right of access, and the extent, nature and
23 duration of the public uses of those more public
24 places. So, to me that is, you know, the

1 mountains, the swamp, the lakes. It's -- those
2 are the types of public places that are affected
3 here. And the uses of those tend to be fairly
4 temporary. Someone going for a hike and someone
5 fishing or swimming, a nature walk or a field
6 trip, it's not necessarily a place that someone
7 sits for 24 hours.

8 PRESIDING OFFICER SCOTT: Thank you
9 for that. And you bring up a point I was
10 raising earlier. Obviously there's some
11 controversy between the parties on should White
12 Birch and the amphitheater at Black Pond be
13 used. Our rules would say -- would imply no,
14 because it's not publicly accessible. I guess
15 the question would be, what I think we're
16 invited to, is to look beyond our rules and say
17 that those viewsheds should be looked at also.
18 So I don't know if anybody had any thoughts on
19 that.

20 Dr. Boisvert.

21 DR. BOISVERT: I will agree on White
22 Birch Point, that they zealously guard their
23 rights of access there. Regarding Black Pond,
24 that is available to the public for a fee; they

1 rent it out. And to that extent, it is
2 available to the public. It's just there is an
3 additional requirement that one rent it for
4 things such as weddings and so forth. And I can
5 conceive of situations where a photographer
6 might be very interested in including images of
7 the turbines in the background or not
8 interested. It can go either way, I suppose.
9 But I think that Black Pond, in my mind, does
10 fit the public access because it is made
11 available to the public for rental, and you're
12 not allowed to discriminate as to who can rent
13 it or not. So that makes it public. White
14 Birch Point, separate story. They do have a
15 private situation there. It's different. So I
16 don't know. Regarding Black Pond, I think that
17 one of the major viewpoints -- places where you
18 can view things is available to the public for a
19 fee. I think that might be part of our
20 consideration.

21 PRESIDING OFFICER SCOTT: Again, I'll
22 speak for myself here. I think, as I laid it
23 out, I'm not sure I agree with that assessment.
24 To me, that's private property you have to pay

1 to an earlier comment about the duration of or
2 time. The transient nature of an individual
3 enjoying any of these resources is transient,
4 for sure. But I think that because of the
5 nature of these resources, it can be year-round.
6 I think we should look at it in the context of
7 duration that is continual. Regardless of the
8 season, people do like to hike up to Bald
9 Mountain or wherever. And so I would not agree
10 with the characterization of a "transient"
11 duration on these, or temporary impact.

12 And as to the Black Pond or
13 Black Lake, that does have a public boat
14 launch, I'll remind folks, so you can go out
15 there without paying a fee and enjoy that.

16 PRESIDING OFFICER SCOTT: I think Ms.
17 Weathersby was next.

18 MS. WEATHERSBY: I was just going to
19 speak to classifying private property that you
20 can pay to go into as a scenic resource as kind
21 of a dangerous proposition. When someone allows
22 hunting on their land for a fee or you open a
23 bed and breakfast or rent out their couch --
24 there's all kinds of uses people can go onto

1 private property, and I think that's a dangerous
2 way to characterize "scenic resources."

3 PRESIDING OFFICER SCOTT: Commissioner
4 Rose.

5 MR. ROSE: Thank you. I was just
6 going to pick up on that same topic. And, you
7 know, I think Black Pond, the vantage point that
8 we were looking at, is clearly from private
9 property. There is not, you know, exclusive
10 access from the perspective that you could
11 choose to pay a fee from the public to be able
12 to access it. But I wouldn't view that as a
13 public or a scenic resource as it's defined
14 within our rules, which I think is probably in
15 our best interest to try to stick to.

16 PRESIDING OFFICER SCOTT: Attorney
17 Clifford.

18 MR. CLIFFORD: Yeah, I just want to
19 echo that, that I think for our purposes we
20 ought to concern ourselves with the definition
21 of "scenic resource," which is a resource to
22 which the public has --

23 (Court Reporter interrupts.)

24 MR. CLIFFORD: -- a legal right of

1 access. So, while the pond's under
2 consideration, I don't think we ought to be
3 talking about viewpoints from private areas,
4 even those for which you might pay a fee. So
5 you're talking about the boat launch and pond as
6 a whole. But I think, unfortunately, our
7 consideration should be based on the statute.
8 And if those folks who actually have the private
9 right of access wanted to be heard, they had an
10 opportunity to come in and present their views.
11 But unfortunately we didn't hear from them, for
12 whatever reason. So, in my view --

13 Then I would talk about what Mr.
14 Forbes spoke to. In some sense, it's not
15 exactly transient, in that there's a lot of
16 activity and uses that occur seasonally. But I
17 would say the duration is generally of a set
18 period of time for any of the activities that
19 seem to go on in this area. It's not -- for
20 example, I haven't been informed there's a
21 long-term seasonal campground, for example, or
22 a facility which is used, you know, for
23 example, for a long period of time in the
24 summer, other than, you know, the beach,

1 obviously, is used by swimmers and stuff. But
2 there doesn't seem to be a particular use for
3 an extended period of time. There seems to be
4 a lot of activity over short periods of time
5 for various kinds of use, whatever they may be,
6 hiking, biking, et cetera.

7 MR. ROSE: I would tend to agree with
8 that assessment. I don't believe that the term
9 "transient" was necessarily -- well, at least I
10 wouldn't think of the term "transient"
11 associated with "seasons," but perhaps duration
12 of experience as opposed to limited to just a
13 particular season, in terms of, you know,
14 enjoying that resource.

15 PRESIDING OFFICER SCOTT: Ms.
16 Weathersby.

17 MS. WEATHERSBY: On the counter
18 argument, we also need to consider the nature of
19 the use. And the very nature of the hiking,
20 fishing, et cetera, people are using that
21 because of the environment, and that's what's
22 affected. I think that also has to kind of come
23 into play here.

24 PRESIDING OFFICER SCOTT: Anybody

1 else? I'm not sure we're making much progress,
2 but I'll move on to the fourth one and maybe
3 hand over to Dr. Boisvert, as far as at least
4 outlaying the broad issues.

5 So, the fourth item to look at
6 under that part of the rule, which, again, is
7 301.14, is the scope and the scale of the
8 change in the landscape visible from the
9 affected scenic resources.

10 So, the Applicant suggests that
11 the Project will not substantially alter the
12 visual qualities or the character of the
13 landscape. Mr. Raphael, in his supplemental,
14 suggests that Ms. Connelly misrepresented the
15 scope and scale of the changes in the landscape
16 visible from the affected scenic resource,
17 again, by too heavily relying on one stagnant
18 photo to analyze the resources. And not
19 surprisingly, Counsel for the Public asserted
20 that the photo simulations that LandWorks used,
21 again, didn't appropriately depict the issues
22 either.

23 So, is there any discussion on
24 the scope and scale of the change? And again,

1 it's all very tied together. The more I look
2 at these, it's really hard to parse out. In
3 all these, whether it's the nature of the use
4 and the types of use, I think ultimately it
5 comes down to will the Project, again, have an
6 unreasonable impact on those uses? You know,
7 will people not fish there, not come there to
8 take in the environmental aspects, that type of
9 thing? And these are hard things to know. So,
10 any comments?

11 DR. BOISVERT: I'll launch out first
12 then. I think if we look back to the original
13 decision, which is in the certificate, one of
14 the -- and just one of the issues at hand was
15 visual impacts on Willard Pond. And in the
16 visual assessments -- I was going to bring this
17 up later, but this is a good time, I suppose.
18 Mr. Raphael's visual assessment, Exhibit 18,
19 shows Willard Pond with no turbines, with 10
20 turbines from the original plan, and 9 turbines
21 for what is proposed now, and that gives us an
22 opportunity to look at the change. And in
23 looking at it, we need to determine, you know,
24 is that an adverse effect.

1 You mentioned would the change
2 be enough to prohibit somebody from coming
3 there. I'm not sure that is the bar that I
4 would suggest as being what we have to identify
5 as being unreasonable adverse effect, that it's
6 so extreme that no one would go there. I think
7 it may be less than that. It may be go there
8 and you're very disappointed, and maybe you go
9 back less frequently. Or maybe you don't go
10 back at all, as you suggested. But I think
11 that the experience that -- at that property,
12 that involves appreciation of aesthetics as
13 opposed to catching the fish, is that degraded
14 enough to become an unreasonable level?

15 The first Application was denied
16 because, in part, at Willard Pond, the 10
17 turbines were viewed as being unreasonable. We
18 need to ask ourselves: When we take it to 9,
19 does it cross that line back to being
20 reasonable? I think that impact and in other
21 places were part of the consideration. It
22 wasn't just Willard Pond. I think a point of
23 departure for our consideration is, has the
24 change that's been made been made explicitly to

1 reduce the impacts on aesthetics? Has it been
2 enough to take it down from being an
3 unreasonable adverse effect? I think that's
4 very simple. Was the change sufficient enough
5 to move it down to below the bar for
6 unreasonable? I think we need to look at the
7 simulations and begin there. I'm not
8 suggesting it's the end, but the beginning.

9 PRESIDING OFFICER SCOTT: So if I
10 could, in that context -- again, you were on the
11 original committee -- do you feel that the --
12 there's been some regulatory changes since then,
13 right. So now we're going through, as obviously
14 you can tell, a series of -- we're looking at
15 the rules. Do you feel that impacts that
16 assessment? I mean, is it as simple as
17 everything is the same and now we have to decide
18 if 10 being gone matters?

19 DR. BOISVERT: Is there some sliding
20 scale introduced because of the change in the
21 rules?

22 PRESIDING OFFICER SCOTT: Right.

23 DR. BOISVERT: I think in this area, I
24 don't think there's much of a change. The only

1 change would be consideration of cumulative,
2 which Willard Pond is not a question. But I
3 think otherwise it is basically the same ball
4 game. So I would say that I don't see -- and
5 please go through the rules to see if I missed
6 something, but I don't think there's anything
7 substantive in the rules on that aspect. I
8 mean, as I said, look at it to see have they
9 made enough change so that it is no longer an
10 unreasonable adverse effect, starting with
11 Willard Pond? I think that's sort of the meat
12 of the matter.

13 (Court Reporter interrupts.)

14 PRESIDING OFFICER SCOTT: Dr.
15 Boisvert, can you repeat that?

16 DR. BOISVERT: It's the meat of the
17 matter. This kind of comparison is where we
18 should start: Is the change enough to persuade
19 us that it's no longer an unreasonable adverse
20 effect? I think that's the simple question.

21 PRESIDING OFFICER SCOTT: Anybody else
22 want to make a comment on that?

23 MR. CLIFFORD: I'm not so sure we
24 should get bogged down just looking at the scope

1 of the change without comparing this application
2 to a prior application. I thought we were -- we
3 should be, at least what I intended to do, is
4 view this application as an entirety. I respect
5 that the point being made is that there are 9 as
6 opposed to 10. But I think it needs to be
7 looked at in the broader context and maybe not
8 one specific area, but in consideration of all
9 the scenic resources.

10 DR. BOISVERT: I agree. I was just
11 pointing out the reason why it was 9 instead of
12 10 is because of that earlier decision.

13 PRESIDING OFFICER SCOTT: Anybody
14 else?

15 What we can do is, again, Dr.
16 Boisvert is poised to discuss 5, 6 and 7 of
17 that rule. You know, again, these all
18 intertwine so much. So if you're willing to do
19 that, maybe that would help move the discussion
20 along.

21 DR. BOISVERT: I will try. And I hope
22 I'm as well prepared as you are.

23 No. 5, evaluation of the overall
24 daytime and nighttime visual impacts of the

1 facility as described in the Visual Impact
2 Assessment --

3 (Court Reporter interrupts.)

4 DR. BOISVERT: -- submitted by the
5 Applicant and other relevant evidence submitted
6 pursuant to Site 202.24.

7 I think if there is an easy part
8 on this, it's the nighttime because that is
9 fairly well defined and has been addressed very
10 specifically by the Applicant in reference to
11 their application to the FAA to implement --
12 and I don't have it written down -- the
13 radar-triggered lighting of the safety lights.
14 I don't think anyone would dispute the need for
15 lighting on anything that tall for aviation
16 purposes. We're talking about very, very real
17 health and safety issues. And if it is
18 unsightly, that's okay. It's for very clear
19 health and safety issues. The fact that it can
20 be reduced to a very limited amount that's very
21 much tied into a potential for an accident
22 makes it not just acceptable, but I think
23 required. And so I would propose to everyone
24 that this is identified. It is there as being

1 addressed and is minimized as much as possible.

2 Maybe we can discuss that real
3 quick and move on?

4 PRESIDING OFFICER SCOTT: So if I
5 could paraphrase, what I think you're saying is
6 because of the automatic detection system,
7 which, your words, minimizes the light impacts,
8 you don't feel that the lighting in that mode
9 would have an unreasonable impact. Is that a
10 fair --

11 DR. BOISVERT: Yes.

12 PRESIDING OFFICER SCOTT: I agree with
13 that also. Mr. Forbes.

14 DIR. FORBES: This raises a question
15 for me regarding one of the assertions made
16 during testimony regarding the completeness of
17 the Application and the requirements for
18 nighttime visual simulations. Do we need to do
19 anything to address the completeness of the
20 Application in that regard?

21 PRESIDING OFFICER SCOTT: Well, I'll
22 defer to Attorney Iacopino in a second. I mean,
23 we did -- we started this proceeding with
24 accepting the Application. So we effectively

1 said there's enough there and it's complete
2 enough to do our work. I do envision -- and we
3 can do it now or later -- a condition regarding
4 the FAA lighting, since my understanding is they
5 don't have that approval at this point. So I
6 want to make sure that, assuming we issue a
7 certificate, that that be implemented. So I
8 want to see that. And I guess one of the
9 discussion items, my presumption would be,
10 leaping way ahead here, but that we would not
11 want to see them operate without that; right?
12 Because if the FAA doesn't grant that, the
13 default would be the lights are on all the time
14 at night.

15 DR. BOISVERT: Yes. I believe it was
16 six of the nine towers. Wasn't all of them, but
17 on six of them. And it is an effect. The
18 question for us to decide is: Is it an
19 unreasonable effect if it's just the six and
20 there is no FAA approval? They have maintained
21 that the FAA approval has been requested and
22 it's highly likely to be approved. The question
23 then becomes, you know, should we make that a
24 condition?

1 MR. ROSE: I'd like to also point out
2 that receiving that approval from the FAA was
3 also one of the elements that was included in
4 the MOU that they reached with the AMC. So that
5 was something they stated they were going to do,
6 and that was one of the key principles of the
7 agreement with the AMC. So I think a condition
8 such as that would be appropriate.

9 PRESIDING OFFICER SCOTT: And to
10 clarify, the condition would be they can't
11 operate until approval.

12 MR. ROSE: Correct.

13 PRESIDING OFFICER SCOTT: I concur
14 with that. I think a lot of that is built in.
15 I'm not saying the Applicant said anything
16 different. But there's been no assertion that
17 they would ever operate without that system in
18 place, at least that I can -- I apologize. My
19 voice is trailing off I think.

20 Any other discussion on the
21 potential for a condition for the FAA lighting?

22 MS. WEATHERSBY: I think there may
23 have been some discussion about that they wanted
24 to operate with normal lighting until they got

1 approval. And we could condition it that they
2 diligently pursue it, and then once they get
3 approval, diligently put the new lights on. Or
4 we just -- personally, I'd probably be more in
5 favor of you need to have the radar-activated
6 nighttime lighting approval before you can
7 commence operation, because they said it was
8 likely to be approved and -- it's how strict do
9 we want to be about it I guess is the point of
10 conversation.

11 PRESIDING OFFICER SCOTT: And to
12 clarify my point, I was going in the same
13 direction. My concern would be, if we were to
14 certificate without it -- meaning, implying that
15 if you don't get it, it's okay -- if the FAA
16 never got around to doing it, what we're saying
17 is they can operate without that, you know, and
18 move it forward for as long as the Project's
19 there, which may be appropriate, but I'm not
20 sure we've really had that discussion. I think
21 that's what you're teeing on; is that fair?

22 MR. ROSE: Correct me if I'm wrong,
23 but I think that was also the assumption that
24 was made within the Application itself, because

1 there wasn't a lot of nighttime simulations as a
2 result of the fact they were going to have this
3 technology in place. So I think it's reasonable
4 for us to assume that that would be something
5 that would be in place prior to its operation.

6 MR. CLIFFORD: I thought that was one
7 of the key assumptions we were making and that's
8 why we didn't see --

9 (Court Reporter interrupts.)

10 MR. CLIFFORD: That's why we didn't
11 see nighttime visual simulations.

12 I also note that I think I
13 remember discussion that there is at least one
14 wind farm that has this particular type of
15 radar detection system installed, and I think
16 it was in Wyoming. So I think it would behoove
17 us to put a similar or some kind of condition,
18 were we to go forward, that this does get
19 installed so that we're not in the situation,
20 as Ms. Weathersby talked about, where it never
21 gets done. And I think there was an explicit
22 statement in there that it was going to be
23 done. And that was a key component of not
24 having the nighttime lighting, was to have this

1 other system in place that could automatically
2 detect aircraft.

3 PRESIDING OFFICER SCOTT: And I think
4 I agree with Commissioner Rose. I'd be a little
5 bit uncomfortable with the level of analysis
6 that's been done, assuming it doesn't happen.
7 That, to me, is something that wasn't fully
8 vetted. If we're going to go down that road, I
9 think I would have liked it. So, feeling --
10 without that condition, I feel we're a bit on
11 unstable ground I think. I don't know if
12 anybody else has any thoughts on that.

13 MS. WEATHERSBY: I agree with you.
14 And I guess I have a question for Attorney
15 Iacopino.

16 If for some reason FAA says,
17 absolutely not, you cannot have this, there
18 would be a chance for them to come back to the
19 SEC and ask us to release that condition, I'm
20 guessing, and then we'd have a hearing on that?
21 What would be the procedure if somehow the FAA
22 said no?

23 MR. IACOPINO: They could certainly
24 come to the Committee and seek to amend the

1 certificate, if you granted them one with that
2 condition.

3 (Court Reporter interrupts.)

4 MR. IACOPINO: I'll say it again. The
5 Applicant could certainly come back and move to
6 amend the certificate, if your certificate
7 contained that condition. But what the
8 Committee would do at that point, I think, is
9 obviously up to you all. But there's
10 certainly -- we've had many motions to amend,
11 over the years, conditions in certificates.

12 PRESIDING OFFICER SCOTT: Any other
13 discussion? Do we want a straw vote on that
14 condition?

15 DR. BOISVERT: I'll let you as
16 chairman decide --

17 PRESIDING OFFICER SCOTT: I'll change
18 it up a little bit. Would anybody object if we
19 were to at least put on the -- we have a corral
20 over to the side which Attorney Monroe is
21 holding all the potential conditions. Does
22 everybody agree we should add that as one?
23 Checkcheck.

24 [No verbal response]

1
2 PRESIDING OFFICER SCOTT: I have a
3 head nod by everybody. So, okay. So you've
4 been more successful than I have. You knocked
5 one out I think.

6 DR. BOISVERT: All right. And the
7 other part is the overall daytime visual impact
8 of the facility as described in the Visual
9 Impact Assessments from the Applicant and
10 others. And here we're looking at the visual
11 assessments, their evaluation of the daytime
12 impacts. And this is obviously much more to the
13 heart of the matter.

14 A hypothetical summary of all
15 this, I believe, can be found in Table 7 of
16 TerraLink's [sic] visual assessment. And this
17 is on Page 61 of their assessment of visual
18 impact. And this is a table that is a
19 comparison of previous visual impact rating
20 results. And I point to it simply as a measure
21 of the -- is it comprehensive of the overall
22 visual impacts? These are a number of places
23 that were considered by Kellie Connelly of
24 TerraLink, Raphael with LandWorks, and

1 Vissering -- and I forgot the name of her
2 company. And it shows the number here, and you
3 can see that TerraLink considered more places
4 than LandWorks, which considered more places
5 than Vissering. Vissering is just a point of
6 departure. So, really, we only need to look at
7 TerraLink and LandWorks, if you have that
8 table. Really, there's only one -- actually,
9 three places fewer in the LandWorks assessment.
10 And here we have to consider the thoroughness
11 of the consultants in the process.

12 And with that, I'll throw that
13 out to the Subcommittee to consider not
14 necessarily the ratings that they have, but do
15 they -- overall consideration of the
16 properties. Hopefully I've understood the
17 instructions in the rules properly.

18 PRESIDING OFFICER SCOTT: Any
19 reactions? If you want, I'll give you a by,
20 just like I did, and go on to the next one while
21 we think on it.

22 DR. BOISVERT: This is probably the
23 core question of all of them: The extent to
24 which the proposed facility will be a dominant

1 and prominent feature within a natural or
2 cultural landscape with high scenic quality or
3 as viewed from scenic resources of high value or
4 sensitivity. In other words, having winnowed
5 down the locations, making sure that they're
6 public, making sure that they're important,
7 would the proposed facility, the wind turbines,
8 be a dominant and prominent feature? And not
9 stated explicitly, you know, but this is towards
10 the goal of determining is there an unreasonable
11 adverse effect. It's not going to be an
12 unreasonable adverse effect unless it is a
13 dominant and prominent feature within the
14 natural cultural landscape.

15 And this is where opinions of
16 how important the properties are were debated
17 to some extent. Willard Pond was viewed by Mr.
18 Raphael as being nice, but not exceptional.
19 That was not the position taken by Ms.
20 Connelly, in that she and others maintained
21 that it was a very important visual place.

22 There was the discussions
23 regarding Bald Mountain. And we heard a good
24 deal of debate regarding accessibility of a

1 place where you could see the wind farms; was
2 it really accessible, was it not; some implicit
3 considerations for the capabilities of people
4 hiking that trail to get to it or not; and
5 having gotten there, is it an important
6 viewpoint, and were the turbines a prominent
7 and dominant feature on the landscape?

8 There were other locations.

9 Gregg Lake, as viewed from just offshore from
10 the White Birch Point Beach, that particular
11 vista is on the lake, certainly publicly
12 accessible. And as mentioned, Black Pond is
13 publicly accessible. We have to look at those
14 simulations because all we have are
15 simulations.

16 And I might add, just from my
17 own personal point of view, I would have liked
18 to have seen some balloon tests. Trying to
19 look at these simulations on photographs that
20 you're supposed to hold out at arm's length and
21 so forth and compare it to the landscape is
22 about the only way we can do it unless we do
23 some balloon simulations. Those are done
24 routinely for cell towers. And they may have

1 more applicability to cell towers than to wind
2 turbines which have the rotating fins.

3 But those -- we have to make our
4 decision of are they prominent and dominant,
5 having arrived at a place, pun intended, that
6 we viewed to be significant from an aesthetic
7 point of view. And that I'll put out to the
8 group.

9 PRESIDING OFFICER SCOTT: Maybe I'll
10 bite first. I will just note that even
11 LandWorks, Mr. Raphael's work, did look at
12 Willard Pond and judge it to be -- he
13 characterized it as "high" for a dominance
14 factor. But again, he did not then go on to
15 suggest that that made it an unreasonable
16 adverse effect either.

17 DR. BOISVERT: Actually, he tested
18 "moderate." According to Mr. Raphael's
19 characterization system, and I was going to
20 comment on this later, one needed to view 16 or
21 more turbines before it could be considered
22 "high," which would be an impossible level to
23 reach since this only had 9 turbines. This gets
24 into the debate between the two sets of

1 consultants regarding how they were going to
2 scale the impacts. And each one thought that
3 the other one was unacceptable and that theirs
4 was obviously much better.

5 PRESIDING OFFICER SCOTT: I didn't
6 pull it up, so maybe my recollection is wrong.
7 You're right. Under different subcategories,
8 one of the controversies is unless you have --
9 under Mr. Raphael's methodology, unless you have
10 a certain number of turbines, you can't score
11 high. But I thought for visual dominance in
12 that area, I thought he had done so. So perhaps
13 I stand corrected.

14 DR. BOISVERT: I didn't mean to derail
15 your comment. I apologize for interrupting.

16 PRESIDING OFFICER SCOTT: That's okay.
17 Any other discussion?

18 MR. ROSE: Just one other point. And
19 I appreciate Dr. Boisvert's comment in terms of,
20 you know, we're somewhat working within the
21 confines of what we've been presented from the
22 simulations. But I was curious as to the
23 perspective of consideration of past dockets, in
24 terms of decisions that the Committee has made,

1 and if that is something that we could or should
2 be taking into consideration in terms of, you
3 know, the visual impacts, in terms of concerns
4 referenced about proximity to certain resources
5 or in certain settings. So I wasn't sure if
6 that was something we had at our disposal as
7 well.

8 PRESIDING OFFICER SCOTT: Attorney
9 Iacopino, do you have anything to add on that?

10 MR. IACOPINO: Site 301.14 has not
11 existed for any wind turbine consideration that
12 the Committee has had in the past. So this rule
13 that sets forth the criteria for you to consider
14 did not exist at the time of the prior -- any
15 prior hearings on wind applications. And I can
16 say -- all I can say about them, without pulling
17 out the orders and addressing them, is they all
18 had, for the most part, except for maybe Granite
19 Reliable, Visual Impact Assessments that were
20 done. And I can't say that they were the same
21 as these or different than these just because I
22 don't have that information in my head. But
23 this rule did not exist for any of those.

24 PRESIDING OFFICER SCOTT: Anybody?

1 Director Forbes.

2 DIR. FORBES: Yeah, just to clarify
3 for the record, looking at the LandWorks ratings
4 on Willard Pond, they rated Willard Pond
5 "moderate" for number of turbines, "high" for
6 percent visibility, "high" for proximity or
7 distance, "moderate" for angle of view, "high"
8 for visual dominance, and "moderate" for visual
9 clutter of landscape, coherence. The overall
10 rating was "moderate to high."

11 PRESIDING OFFICER SCOTT: My favorite
12 kind of solution. We were both right, Dr.
13 Boisvert. Thank you for that.

14 Were you going to speak? I
15 don't want to put you on the spot. I guess
16 not.

17 MS. WEATHERSBY: Just wondering if at
18 some point it might be helpful to go sort of
19 site by site, you know, Black Pond, Willard
20 Pond, Goodhue Hill, and just kind of look at the
21 simulations, have a discussion about the site as
22 it affects the factors laid out. Probably not
23 right now. Maybe go through the initial
24 overview first. But I think that might be

1 helpful.

2 PRESIDING OFFICER SCOTT: We can
3 certainly do that. I'm going to need a minute
4 to pull it all up, I know that.

5 So why don't we, for efficiency
6 sake, or lack thereof, maybe go to No. 7, Dr.
7 Boisvert. And then what I'm wondering is,
8 these are hard discussions, but it's also kind
9 of hard to -- my opinion, these seven are so
10 intertwined, it's kind of hard to break them
11 out in granular form because they're all kind
12 of intermingled. So I'm wondering if maybe we
13 discuss No. 7, have an attempted discussion
14 about the broader view, and then, as Attorney
15 Weathersby suggested, maybe actually look at
16 the simulations also.

17 DR. BOISVERT: No. 7, the
18 effectiveness of the measures proposed by the
19 Applicant to avoid, minimize or mitigate
20 unreasonable adverse effects on aesthetics and
21 the extent to which such measures represent best
22 practical measures.

23 The Applicant has fundamentally
24 proposed that their overall Application does

1 address the minimize and mitigate measures by
2 offering the money to the community, by
3 arranging for conservation land and increasing
4 it from, respectfully, 800 acres in the first
5 Application to 900 acres now, and offering
6 this -- these steps as mitigating the potential
7 adverse effects, that by preserving the land,
8 by providing funds to the community, some
9 targeted to Gregg Lake Beach, some spread over
10 time as a scholarship -- presumably at the high
11 school level, but I wasn't clear on that --
12 that these would be the measures that would be
13 acceptable. This was not accepted by the first
14 docket. They said explicitly that the use of
15 the conservation land, while worthy and
16 notable, were not acceptable. We do not need
17 to be bound by that decision. As we have said
18 at the beginning of our deliberations today, it
19 is a different project on a variety of topics.
20 And even if it were and we were still looking
21 at it, we are a different committee and we have
22 our own responsibilities. We need to make our
23 own decisions based upon the evidence in front
24 of us. Not to say we don't take into account

1 previous efforts and understand that, but we
2 are indeed a separate subcommittee.

3 And this is a contingency kind
4 of decision. It's contingent upon deciding if
5 there were unreasonable adverse effects. If
6 there were unreasonable adverse effects, we
7 might decide that there will be additional
8 mitigated avoidance measures. The Applicant
9 stated they don't believe there's any
10 unreasonable adverse effects, so they have not
11 offered any mitigation, but I believe
12 implicitly they have by offering to increase
13 conservation land, et cetera.

14 So this is where I think things
15 truly get intertwined, and it is for us to look
16 at this aspect of it in the context of our
17 decisions made, particularly on 5 and 6.

18 Have I categorized that
19 sufficiently?

20 PRESIDING OFFICER SCOTT: I'll just
21 add that, again, as we know, Ms. Connelly with
22 Terraink has suggested that, short of moving the
23 Project, there is no suitable mitigation. So,
24 again, another disagreement.

1 DR. BOISVERT: We have the polar
2 opposites. At one end there is absolutely no
3 unreasonable adverse effect; and at the other
4 end, the only thing you can do is cancel the
5 Project. And those are the positions staked out
6 by Counsel for the Public through their
7 consultant, and the Applicant.

8 PRESIDING OFFICER SCOTT: Any
9 discussion on that or the totality of 1 through
10 7? Commissioner Rose?

11 MR. ROSE: So, I guess just one
12 question for consideration is, within 7, when
13 it's referencing, you know, measures proposed by
14 the Applicant to "avoid, minimize or mitigate
15 unreasonable adverse effects on aesthetics," so
16 it's not trying to minimize effects on
17 aesthetics, but just on the unreasonable adverse
18 effects on aesthetics. Is that how folks read
19 that?

20 DR. BOISVERT: I think that's a
21 question for Attorney Iacopino.

22 PRESIDING OFFICER SCOTT: And I can
23 say that's what it says.

24 MR. IACOPINO: And that's how Attorney

1 Iacopino would respond.

2 PRESIDING OFFICER SCOTT: I'm not an
3 attorney, but I'm in training.

4 [Laughter.]

5 PRESIDING OFFICER SCOTT: So, again,
6 if it's easier for discussion, we can talk
7 about, rather than trying to parse out 1 through
8 7 as a package, we could do that or take a
9 break, come back, prepared to go through the
10 visuals. Let me get a sense of the Committee.
11 Are we -- again, this would be non-binding. Are
12 we anywhere near a straw vote for anything?

13 [No verbal response]

14 PRESIDING OFFICER SCOTT: Sounds like
15 "No."

16 Okay. Any discussion on -- you
17 know, not to be bound by, gee, does this fall
18 under 1 or 3 or 7, but any discussion on that
19 end that people would like to make?

20 MR. CLIFFORD: I just want to make one
21 observation, and I think this is what makes this
22 particularly difficult in this situation, is
23 that, by definition, understanding the
24 unreasonable adverse effects, you've got a

1 facility that, by all accounts, its singular
2 most dominant and prominent feature is the size.
3 These unreasonable adverse effects, to remind
4 everybody, apply to whether this is a pipeline
5 facility, a wind farm, a nuclear power plant.
6 But unfortunately, wound up in that, in Item 6,
7 is the dominant and prominent question. I think
8 that we need as a committee to just remember
9 that these particular provisions apply to not
10 just wind facilities, but to any other facility.
11 And while we're discussing wind, the very nature
12 of the facility itself lends itself to a
13 dominant and prominent that doesn't come up
14 really in my mind in any siting of another type
15 of facility -- in any other type of facility
16 when you consider it as a unitary measure. So
17 that's where I think some of this shakes out, at
18 least for me.

19 PRESIDING OFFICER SCOTT: I agree.
20 Whether or not we like it, at the end of the day
21 we have two river banks of "absolutely no" and
22 "absolutely yes." I'm paraphrasing quite a bit
23 for the audience. I understand there's a lot of
24 gray area between. I think it's really going to

1 be, you know, whether our impression of this is
2 unreasonable or not, obviously. In the context
3 of, you know, luckily we've been -- and it's a
4 good thing -- we've been out there twice
5 ourselves. We can look at the visuals, the
6 photo simulations. But I think it's going to
7 come down to what we think, obviously. It's not
8 a -- I think, unfortunately, it's not a
9 scientific, did they check this box or not. I
10 think it's more, you know -- if that were the
11 case, it would be a lot easier discussion.
12 So...

13 DR. BOISVERT: To add on to that, I
14 think that's the very nature of aesthetics. It
15 is by its definition not quantitative, and we
16 are left to make the judgments ourselves based
17 upon what is clearly subjective measures.
18 There's been every attempt to try to find some
19 way to quantify it, and I would say that's been
20 singularly unsuccessful. There is very little
21 consistency that I can perceive in how one does
22 these visual assessments. Standard methodology
23 notwithstanding, there seems to be a great deal
24 of debate back and forth between the consultants

1 as to what constitutes a "standard" methodology.

2 And to give us a little bit of
3 grace on this, this is the only criteria that
4 we are to evaluate that does not have a state
5 agency vetting it in advance for us.

6 Everything else goes through at least some sort
7 of evaluation by a state agency. There are
8 criteria in here that they must do certain
9 things in visual simulations. People argued
10 they did not meet that. Were there an agency
11 that would vet this sort of thing, they could
12 have looked at that as a technical issue and
13 answered it. As I look across the state
14 government, there's only one state agency that
15 does this sort of thing, and that is that part
16 of DOT that looks at scenic highways, scenic
17 byways. And that's where they start making
18 evaluations. And that is obviously a very
19 narrow consideration. So we're left having to
20 make these decisions at the end of the process
21 and making a very subjective judgment. And
22 that's just the way it is. And I guess I've
23 noticed this for some time, and like to get it
24 on the record. These subcommittees are

1 basically out there with very little support or
2 reference from the rest of the state
3 government, you know, permitting, vetting,
4 evaluation. Just an observation.

5 PRESIDING OFFICER SCOTT: So we have a
6 suggestion by Attorney Weathersby to go through
7 the Visual Impact Assessments, the photo
8 simulations. What's the will -- do we think
9 that would be helpful? Do we have a maybe?

10 MR. ROSE: Give it a shot.

11 MR. CLIFFORD: I think it's worth it,
12 because otherwise we leave ourselves open. I
13 mean, we might as well look at the pictures. We
14 have them. And it would tend to lend itself
15 towards a more thoughtful and thorough
16 discussion if we actually have the pictures in
17 front of us as opposed to discussing what our
18 recollections might be of what they look like.
19 And if it breaks down, it will breaks down, but
20 at least we start the process.

21 MR. IACOPINO: Okay. If you want to
22 take a break, we could probably get the
23 originals for the Committee.

24 PRESIDING OFFICER SCOTT: Great.

1 That's what I was going to suggest next. Why
2 don't we take a break so we can prepare that.
3 Thank you everybody.

4 (Whereupon a recess was taken at 2:34
5 p.m., and the deliberations resumed at
6 3:01 p.m.)

7 PRESIDING OFFICER SCOTT: Back on the
8 record. First part of this exercise will be
9 getting everybody to look at the same things.
10 So, two documents, at least from my mind. I
11 know we have some hard copies. I'm looking at
12 the Applicant's Visual Impact Assessment. I'm
13 looking at the PDF version. When I go to PDF
14 Page 154 -- at least I think this is where I
15 want to be -- it says "Exhibit 6, Existing
16 conditions from Bald Mountain." That's the
17 first photo simulation in the Applicant's Visual
18 Impact Assessment. Should I pause there or
19 continue?

20 [Members reviewing documents.]

21 PRESIDING OFFICER SCOTT: All right.
22 So the next document, again to get us literally
23 on the same page, would be the Terraink Visual
24 Impact Assessment. And I'm looking at the

1 version which we were able to get on a memory
2 stick, if I remember right. This is labeled
3 "Terraink Entire VIA Report." It's 282 pages.
4 And if you start on Page 87, PDF Page 87 of 282,
5 that's where I see the start of those photo
6 simulations. And that's labeled "Figure 9,
7 Viewpoint 1, View to the north from Willard
8 Pond, boat view." Is that helpful for anybody
9 to get us on the same page? Do you need more
10 time? Do you not need more time?

11 [Members reviewing documents.]

12 PRESIDING OFFICER SCOTT: Thumbs up?
13 Jean, thumbs up? Patty?

14 MS. WEATHERSBY: I had it, but I'm not
15 sure I...

16 PRESIDING OFFICER SCOTT: No problem.

17 So, again, I was looking at the
18 Terraink Entire VIA Report, which is 282 pages,
19 starting on Page 87 of the PDF. I was also
20 looking at the Applicant's -- I have it labeled
21 "Appendix 9A," but the Applicant's VIA. I was
22 starting on -- which is a hundred -- I show 191
23 PDF pages. I'm looking on PDF Page 154, which
24 is labeled "Exhibit 6, Existing conditions from

1 Bald Mountain."

2 [Members reviewing documents.]

3 PRESIDING OFFICER SCOTT: How are we
4 doing? Let me know when you're ready. I see
5 head nods.

6 Okay. So, Ms. Weathersby, you
7 suggested this, so which would you rather start
8 with, the Terraink or LandWorks?

9 MS. WEATHERSBY: Doesn't matter.

10 PRESIDING OFFICER SCOTT: Doesn't
11 matter. Okay. Why don't we start with
12 LandWorks, which is the Applicant's. Again, for
13 me, anyways, I'm showing that it's 191 pages.
14 We're on Page 154 of the PDF. Again, that's
15 labeled "Exhibit 6, Existing conditions from
16 Bald Mountain." Top page is without the photo
17 simulation added. The next page shows the photo
18 simulation added. Any discussion?

19 DR. BOISVERT: Just an initial
20 comment. The cloudy sky is not our friend here.
21 Makes it a little more challenging to see some
22 of the representations.

23 PRESIDING OFFICER SCOTT: I'll note
24 that I think we're seeing, obviously, some

1 nacelles, just some of the top of the blades.
2 We're seeing the met tower off in the distance.

3 Mr. Clifford, are you reaching
4 for your microphone?

5 MR. CLIFFORD: So what I'm trying to
6 understand is that the views are essentially, as
7 I see it, almost the same number of turbines.
8 And this is sort of looking at the top of --
9 from the view of Bald Mountain; right?

10 PRESIDING OFFICER SCOTT: Exhibit 6.

11 MR. CLIFFORD: The first Exhibit 6.
12 Okay. So, in my mind, this doesn't -- this
13 isn't... I'm looking at it with and without, and
14 to me it's not materially adverse.

15 (Court Reporter interrupts.)

16 MR. CLIFFORD: I don't see it in my
17 own mind. And if someone wants to correct me or
18 give me an alternative viewpoint, I'm happy to
19 hear it for unreasonably adverse.

20 PRESIDING OFFICER SCOTT: Ms.
21 Weathersby.

22 MS. WEATHERSBY: So I see the turbines
23 as being a prominent feature in the landscape
24 but not a dominant feature in the landscape. I

1 think probably what's most objectionable to me,
2 that unlike the view from some other places,
3 they're not evenly distributed, but they're kind
4 of clustered, and that makes it -- more towards
5 the left of the simulation, that makes it less
6 visually appealing. But I don't think it makes
7 it rise to the level of being unreasonable.

8 DR. BOISVERT: I see them as
9 prominent. On the left side, the cluster,
10 working its way up to dominant. We expect to
11 hear a clatter. You don't, obviously. It's an
12 eggbeater kind of look. I wish that the
13 background was clear, not hazy. I think that
14 could affect the interpretation. I'm not ready
15 to go unreasonably adverse or not. I want to
16 look at all these before I ink it in. But I do
17 see them as prominent. And to the left --

18 (Court Reporter interrupts.)

19 DR. BOISVERT: To the left side of the
20 image they appear getting closer to dominant.

21 PRESIDING OFFICER SCOTT: Commissioner
22 Rose.

23 MR. ROSE: Thank you. I would tend to
24 agree that, you know, they are clearly visible

1 and there is an impact. I'm not sure if I'm
2 ready to say whether it's, you know, an undue
3 and unreasonable impact. But I will just state
4 the left side certainly appears much more
5 cluttered with the grouping. But, you know, at
6 the same time, it doesn't, I guess, strike me as
7 an unreasonable impact.

8 I will also just note that the
9 distances of the turbines from the site is
10 listed at 1.62 miles for the closest turbine,
11 and looks like the furthest visible turbine is
12 3.05 miles within this simulation. And there
13 is a comparable view in the Terraink that I
14 think does provide a clearer contrast with the
15 sky when and if we choose to juxtapose these
16 two simulations.

17 PRESIDING OFFICER SCOTT: Do you care
18 to give us a reference for the Terraink version?

19 MR. ROSE: Bear with me one moment. I
20 was looking at the hard copy that we had. I'll
21 see if I can't try to find the page.

22 (Pause in proceedings)

23 MR. ROSE: It appears to be on Page 93
24 of 282.

1 Applicant's LandWorks. We would go to Exhibit
2 7, which is the view from Franklin Pierce Lake.
3 That would be, I want to say, Bates -- excuse
4 me. It's PDF 157 out of 191.

5 MR. IACOPINO: Mr. Chairman, just so
6 the record is clear, when you mention "Exhibit
7 7," you mean Attachment 7 to Appendix 9A to the
8 Application, which is the LandWorks Visual
9 Impact Assessment?

10 PRESIDING OFFICER SCOTT: That's
11 correct. I was reading the language on it that
12 says "Exhibit 7." But that's correct.

13 MR. IACOPINO: Okay. Thank you.

14 PRESIDING OFFICER SCOTT: Any
15 commentary on this one? I will say I believe
16 the same view is on Bates -- excuse me -- PDF 90
17 of 282 on the Terraink report. You want to go
18 around and get a sense from the crowd?

19 DIR. FORBES: I would say we're a bit
20 further away than the last simulation,
21 4 miles -- 4.1 miles to the furthest visible --
22 the nearest visible turbine -- 4.1 to the
23 nearest turbine and 5.87 to the furthest. I
24 would say it seems to me to be less intrusive

1 than the prior one. I would comment that it
2 seems that LandWorks, in their report, had the
3 overall impact. Trying to find that. But I
4 don't see anything here that I find particularly
5 alarming.

6 MS. WEATHERSBY: For me, like the last
7 view, I find the turbines to be prominent but
8 not dominant. And I think that -- on this
9 landscape. And I think it's because of the
10 distance to the turbine. I think if you got a
11 lot closer there they may become dominant. But
12 from this scenic resource, I don't find them
13 dominant.

14 DR. BOISVERT: I have -- similar to
15 Ms. Weathersby, it's prominent in comparing it
16 to the TerraLink. That said, it's somewhat a
17 different scale. So it's a little closer. The
18 appearance is closer. The contrast is greater.
19 I wouldn't call it dominant, but it is readily
20 recognizable on the horizon line.

21 MR. ROSE: I tend to be in the same
22 camp, from the perspective that I find this not
23 to be a dominant feature, but it is certainly
24 visible and prominent within the viewscape of

1 the scenic resource.

2 MR. CLIFFORD: I echo the same
3 concern. I see it as fairly prominent, in some
4 senses almost aesthetically pleasing in some
5 ways if you frame it as a picture.

6 I note we had a discussion
7 earlier about whether the turbines were
8 supposed to be shown at 12:00 or 3:00. And I
9 think we can -- by looking at these more
10 closely, we can determine -- actually, it's
11 almost helpful to have them at varying
12 positions because that's, in a sense, where
13 they may end up stopping. They're not going to
14 stop precisely at 12:00. So I kind of like the
15 idea that there's a mixture in both
16 simulations.

17 And I might add, I also find
18 that in the LandWorks, which seems to be on a
19 cloudy, overcast day, it's almost as if you can
20 see the turbines almost more clearly than you
21 can on an almost bluebird day in the Terraink
22 simulations. So I actually find it helpful to
23 see, in some regards, the two different
24 presentations in a sort of well-lit, you know,

1 or very, very clear day, as opposed to what
2 I'll call my non-meteorological, partly cloudy
3 or mostly cloudy day, but still with some
4 clarity to it.

5 DR. BOISVERT: I think the requirement
6 for a 12:00 position was for at least one of the
7 turbines in the photo should be at 12:00. But I
8 agree, having different ones is helpful. And I
9 think it depends upon if the simulation is
10 backlit or not. Backlit means it will be dark,
11 and against a cloudy sky it will obviously pick
12 that up. So, sort of multiple variables at a
13 time. But, yeah, I did see the backlit ones
14 from TerraLink showing up a little better. But
15 at least one needed to be at 12:00.

16 PRESIDING OFFICER SCOTT: I guess I'll
17 finish out. Again, I don't disagree with the
18 assessment made by everybody else. And I'll
19 state, at least by my view, none of this rises
20 to the level of unduly adverse. And I think
21 maybe this is a good thing, as you mentioned,
22 Dr. Boisvert, to have it backlit. In some ways
23 it's nice to have a variety from the same view.
24 I think in some ways I shared Attorney

1 Clifford's view, that in some ways I can
2 actually see the turbines better. But I think
3 it has to do with how they're shadowed and
4 backlit. So what I think we're seeing is two
5 different, much like the rest of the visual
6 assessments, two different views of how best to
7 highlight something. Obviously they're
8 different approaches.

9 So, perhaps then we can move on
10 to the next, which I believe is for the
11 LandWorks. That's on PDF 159, which is the
12 photo simulation from Gregg Lake. Any
13 discussion on this?

14 MS. WEATHERSBY: Is there a comparable
15 for TerraLink [sic]? I don't find one.

16 PRESIDING OFFICER SCOTT: I'm looking.

17 MS. WEATHERSBY: Okay.

18 PRESIDING OFFICER SCOTT: I don't
19 think there is an identical view for the two.

20 Want to go around the horn on
21 this one? So, again, this would be the
22 LandWorks photo simulation from their viewpoint
23 they took for Gregg Lake. And, again, that's
24 the north shore of Gregg Lake facing south.

1 [Members reviewing document.]

2 PRESIDING OFFICER SCOTT: Any
3 discussion on this? Any comment?

4 DIR. FORBES: This one's a little bit
5 tougher. I think the proximity being closer
6 makes it feel more dominant. Gregg Lake is a
7 large lake, and this seems to be just capturing
8 one end of -- I find when I look at the view
9 from Birch Pond -- I mean White Birch Point is
10 so different, I find it striking.

11 PRESIDING OFFICER SCOTT: When you say
12 White Birch Point, you're looking at the
13 Terraink picture --

14 DIR. FORBES: Yes.

15 PRESIDING OFFICER SCOTT: -- photo
16 simulation of that?

17 Mr. Clifford.

18 MR. CLIFFORD: I just want to make
19 sure we're -- I gather we should probably
20 discount that to some agree. I thought we
21 agreed we were not going to incorporate views
22 from lands which the public didn't have access
23 to. I'm just -- I want to make sure. Are we
24 looking at an area the public does have access

1 to or does not?

2 DR. BOISVERT: Public does not have
3 access to White Birch Point. They do have
4 access to the lake. If I'm correct, White Birch
5 Point is at the southern end of the lake. And
6 this is at the northern end, this one here, this
7 perspective. So they're not absolutely
8 equivalent perspectives. But in looking at --
9 I'm trying to just look at this set here on
10 LandWorks, and I'm not comparing it to the -- to
11 another place on the lake. And maybe not
12 putting -- we could not consider the White Birch
13 Point location if we're looking at these from
14 the land. But you'll have perspectives from the
15 lake where anyone can go.

16 MR. CLIFFORD: Then I'll just finish
17 my comment. I would say both views tend to be,
18 I'd say lean more on the dominant and prominent
19 side of things. But it's still -- the view from
20 the boat view or from the view that LandWorks
21 took on the land doesn't seem marked -- I mean,
22 I don't see any real big difference. I still
23 see four turbines. I don't get a glimpse of the
24 met tower in the LandWorks depiction. But

1 again, I see it a little more, if it's a sliding
2 scale, a little more dominant, a little more
3 prominent. But I'm not in the "Red Zone," if I
4 were to use a sports analogy.

5 PRESIDING OFFICER SCOTT: Anybody
6 else?

7 MS. WEATHERSBY: I would agree with
8 Attorney Clifford, that I think they are more
9 dominant and more prominent because they are so
10 close. The LandWorks one in particular, as
11 Director Forbes said, makes Gregg Lake look like
12 a little pond. So it's a little bit difficult
13 in that respect. And it's also difficult and
14 frustrating about the sailboat in the foreground
15 because that clearly distracts from the turbine.
16 So it's a little hard for me to analyze,
17 properly analyze this photo simulation.

18 MR. CLIFFORD: If I could just add,
19 but actually, the part about -- what I like
20 about it is that the boat's there, which, in
21 some respects, it's probably there every summer.
22 I mean, I know. I live near Lake Sunapee, and I
23 see a guy put his boat in, basically tethered in
24 the middle or a hundred yards offshore. So I

1 think, were you to go there, you'd probably see
2 that exact same depiction. I know it looks a
3 little odd, but it's telling me that's probably
4 what I'm going to see if I walk out there, that
5 boat and the cars and trucks on the side of the
6 pond and then the turbines. So I've got to take
7 it all in. And I actually think this helps
8 inform us a little bit more about what it may be
9 like if the turbines were in place and a boat
10 was there and say a kayaker was out there and
11 people unloading their cars. That's what's
12 going on. I find it a little more helpful than
13 just a sterile picture.

14 DR. BOISVERT: I would say this is
15 prominent and dominant. As far as the boat
16 goes, point well taken. But on the other hand,
17 the instructions indicate there's not to be
18 those kinds of images in the foreground, and
19 they're supposed to be excluded from the images.

20 It does give you a sense of
21 scale with the mast going above the horizon
22 line. And insofar as the turbines are backlit,
23 they do show up nicely against the cloudy
24 background.

1 But going back to the original
2 question, prominent, yes. And dominant, I'm
3 still trying to look at the group of them
4 before I come to unreasonable or not.

5 MR. ROSE: I would agree that the
6 turbines are more prominent in this photo and
7 more dominant than in previous photos. I'm not
8 sure that they rise to the level of undue. But
9 I think, as Attorney Clifford referenced, it's
10 closer to the "Red Zone," to use his analogy,
11 which I'm always comfortable using sports
12 analogies. And as for the boat and vehicles in
13 the photo, I tend to agree that they do provide
14 some level of scale. It does make it feel like
15 it's a little more of a real photo, in terms of
16 a real-life image. So, to me, the key is to
17 make sure you have a clear depiction of what the
18 visual impact would be from the scenic resource.
19 And I don't find that it clutters that visual
20 impact. And it does provide, perhaps, that
21 sense of scale that does have some level of
22 value. I would just, you know, reference again
23 that this is closer than some of the previous
24 simulations that we've looked at, where the

1 nearest distance, visible distance to the
2 turbine is 1.71 miles and the furthestest turbine
3 in this case is 1.83 miles in this simulation.
4 So it is closer than some of the previous ones
5 that we've looked at, but I don't feel as though
6 it resonates -- or rises, excuse me, to the
7 level of undue unreasonable effect.

8 PRESIDING OFFICER SCOTT: Thank you.
9 I concur on both of these photos. Certainly,
10 the closer they get, the more intrusive, for
11 wont of a better word. I think they end up
12 being -- I'm still not struck as reaching the
13 level of unreasonable.

14 So, perhaps we could go to the
15 next photo. So, again, this would be the
16 Applicant's Visual Impact Assessment. We would
17 move to PDF 161, which is a visual simulation
18 taken from Island Pond in Stoddard. And I'm
19 not sure there's an analogue with Terraink. Is
20 there?

21 DIR. FORBES: Yes.

22 PRESIDING OFFICER SCOTT: Can you
23 direct me to what page that is?

24 DIR. FORBES: I downloaded that from

1 the Web site, so I don't have the full page.
2 Let me try to zoom in on it.

3 PRESIDING OFFICER SCOTT: Okay. I'm
4 getting there.

5 DIR. FORBES: I think it's
6 Viewpoint 13.

7 MR. ROSE: 106.

8 MR. IACOPINO: Thank you.

9 PRESIDING OFFICER SCOTT: I'm on the
10 wrong page, then, because I'm looking at a view
11 from Pitcher Mountain. Oh, here it is.

12 Okay. Looking at the competing
13 versions, do we have any thoughts on this one?

14 DIR. FORBES: Again, this one pushes
15 to the other extreme. This is hardly visible.
16 It's just poking up above the tree line there.
17 So I don't see this as particularly of concern.

18 PRESIDING OFFICER SCOTT: Ms.
19 Weathersby.

20 MS. WEATHERSBY: I would concur.

21 I'm wondering if -- I'm not
22 directing, but I'm just wondering if perhaps,
23 rather than looking at every single photo
24 simulation, we look at the sites that -- there

1 was a chart we had up earlier, that I think was
2 prepared by TerraLink, where it compared the
3 two, the two studies. And I'm wondering if we
4 just look at the ones that are considered
5 "high" or "moderate." Or maybe we look at all
6 of those that TerraLink rated "high," which are
7 six sites, whether that would be -- because I'm
8 guessing if something was rated "low" by
9 TerraLink, or perhaps even "moderate," it's not
10 something we need to -- it's something that
11 would not rise to the level of undue adverse
12 effect.

13 PRESIDING OFFICER SCOTT: That sounds
14 like a good suggestion. Before we leave this
15 one, I will mention that obviously there were
16 some where the fact that you're -- even though
17 you're not seeing the nacelles, the fact that
18 you're seeing the movement is disconcerting to
19 some. Obviously, the photo simulation is not
20 going to catch that. I think there was an
21 attempt with our -- or with the video simulation
22 to somewhat reflect that.

23 Mr. Clifford.

24 MR. CLIFFORD: No, I was just going to

1 suggest that since both visual experts looked at
2 the 14 in particular, maybe we should just mark
3 the 14 because they are all, in fact, brought to
4 our attention as "significant." So it leaves a
5 hole in the analysis if you say, well, because
6 they said they're "low" and "moderate," we don't
7 need to look at them. I'm not disagreeing with
8 the approach. I'm saying maybe we should just
9 march through it since we've already got them
10 out. Looks like that's what we're doing here,
11 anyway, I think. But just my opinion.

12 DR. BOISVERT: It may be useful to
13 look at this chart, this table, as we do this
14 and say, oh, they thought it was moderate, we
15 think it's such and such or whatever.
16 Additional information can't hurt. It's not
17 like we're hitting sensory overload here.

18 And in terms of this exhibit at
19 Island Pond, it's not prominent and certainly
20 not dominant. And I would have to see
21 something particularly surprising. If it was a
22 video simulation, you could see --

23 (Court Reporter interrupts.)

24 DR. BOISVERT: -- you could see the

1 turbine spinning. Perhaps someday in the future
2 the simulations will all be videoed.

3 MR. CLIFFORD: I agree that would be
4 helpful. I'd just add that I come to the same
5 conclusion. I don't see it as either prominent
6 or dominant. Actually, more like a pesky little
7 gnat. There's like seven of them, but they
8 don't jump out and, as you said, do much unless
9 I would see them spinning. But I don't know if
10 I would have any particular reaction. But they
11 don't seem like, when you look at this point of
12 view, which is -- it says here they're almost --
13 the nearest turbine is 3.68 miles and the
14 furthest turbine is four -- about 4-1/4 miles.
15 They're barely visible even in these
16 photographs. Almost like you have to really be
17 searching for them to identify them.

18 MR. ROSE: I would agree that they are
19 visible, but they are not dominant on the scene.

20 PRESIDING OFFICER SCOTT: I agree.

21 So what's our -- we have two
22 descending views. Do we just look at the high
23 impact or all of them? Anybody? If we're
24 going to look at that chart, I want to --

1 someone's going to have to remind me, 'cause
2 I've since closed it out, where it is.

3 MS. WEATHERSBY: I think if we want to
4 be extra thorough, we go through every single
5 one. If we don't feel as though that's
6 necessary --

7 (Court Reporter interrupts.)

8 MS. WEATHERSBY: -- then we just go to
9 the ones ranked "high." For example, this one
10 at Island Pond was ranked "moderate" by
11 TerraLink, "below threshold, moderate" by Jane
12 Vissering. So, maybe just go through all of
13 them because this is worth discussing.

14 DIR. FORBES: I would agree with that.
15 Let's go through them all collectively. It may
16 tell us something.

17 MR. ROSE: To the point that was
18 raised about the chart earlier, I saw you were
19 looking at one. And Dr. Boisvert, I think you
20 mentioned it earlier as well. Do you recall the
21 page reference?

22 DR. BOISVERT: Yes. It's Page 61 of
23 the TerraLink report. It's Table No. 7. And I
24 believe it's PDF 61, but I'm not certain.

1 MR. ROSE: Thank you. You're correct.

2 PRESIDING OFFICER SCOTT: All right.

3 So now find it for me so we --

4 MS. MONROE: I can make copies if
5 folks would like that.

6 PRESIDING OFFICER SCOTT: Page 62, PDF
7 62. Thank you, Ms. Monroe.

8 All right. Under the guidance
9 that we wish to see all of these, then, so the
10 next would be the Applicant's, or LandWorks.
11 They label it as "Exhibit 10" on the sheet, but
12 it's PDF Page 163, which is the view -- visual
13 simulation from Pitcher Mountain, the fire
14 tower in Stoddard. And if I look at the table
15 we just talked about, Table 7 in the Terraink
16 report, I'm showing Pitcher Mountain as
17 "moderate," "low to moderate," and "moderate."
18 Is that correct?

19 So, Mr. Forbes, do you have any
20 comments on that one?

21 DIR. FORBES: I don't see this as
22 particularly prominent or dominant.

23 MS. WEATHERSBY: I would agree. It
24 certainly introduces an industrial component to

1 an otherwise mostly natural landscape. But
2 they're not dominant or prominent, given that
3 they're six or seven miles away. And also the
4 fact that they're pretty evenly spaced I think
5 makes it more appealing and reduces the visual
6 impact.

7 DR. BOISVERT: I would agree that
8 they're neither prominent or dominant. And as I
9 have some difficulty seeing them, I guess that's
10 probably the point. This is clearly a case
11 where it's not a clear-sky background, and that
12 has some impact on it, but not a lot. I'd
13 rather it be consistent. And given that they
14 had many opportunities to take a landscape
15 photo, it certainly should have been possible to
16 get a clear sky. But even with that criticism,
17 this doesn't rise to a "high" level at all.

18 PRESIDING OFFICER SCOTT: Commissioner
19 Rose.

20 MR. ROSE: I would agree that this
21 does not reach a "high" level. And I would just
22 throw out that if you visit all of the 14 fire
23 towers that we have in the state, you can earn
24 yourself a badge.

1 MR. CLIFFORD: Thank you. I, too,
2 don't find it either dominant or prominent.
3 Looks like you can see all nine, I think, from
4 the top, and it doesn't seem particularly
5 offensive or rise to the level of
6 unreasonableness that we're looking for.

7 PRESIDING OFFICER SCOTT: Only comment
8 I'll add is, again, this is dueling versions of
9 what's worst-case, I guess, or what should stand
10 out. It does occur to me, looking at this, you
11 know, the shadowing against the more white
12 background is dark against light. And if it was
13 a blue background with white, at least -- and
14 I'm partially color-blind, so I'm handicapped --
15 but that actually kind of looks more worst-case
16 as it is. So I think it's a subjective, again,
17 issue. But that's the only comment I have on
18 that.

19 So, perhaps we could move on to
20 the next simulation, which would be, again, the
21 view from Crotched Mountain, which I'm showing
22 as the LandWorks PDF Page 165. I note that Ms.
23 Vissering is showing generally a "moderate"
24 impact for Crotched Mountain, generally. Did I

1 get that wrong?

2 MR. ROSE: I believe that was Ms.
3 Connelly that had it as "moderate."

4 PRESIDING OFFICER SCOTT: I'm sorry.
5 Thank you.

6 MR. ROSE: Ms. Vissering did not have
7 it --

8 PRESIDING OFFICER SCOTT: I crossed my
9 docket. Sorry. I meant Ms. Connelly. Thank
10 you.

11 Mr. Forbes.

12 DIR. FORBES: You know, again, I think
13 this will illustrate the effect of distance.
14 The last simulation we saw was from just over
15 6 miles. This is now 8 miles away and becoming
16 less prominent, in my view.

17 MS. WEATHERSBY: I would concur and
18 also just point out that TerraLink also has a
19 simulation of the view from Crotched Mountain.
20 It's Viewpoint 63. I also find it within the
21 acceptable range.

22 DR. BOISVERT: I agree that is neither
23 prominent nor dominant, and the sky is not
24 relevant because it's backed by other landscape.

1 And they did use a front-lit exposure so that
2 you could actually see them. And with the
3 distance, it's really not an issue for visual
4 adverse effect.

5 MR. ROSE: I, too, would find that
6 this is very low in terms of it's visual impact.
7 Looking at both the LandWorks and the Terraink
8 simulation, it appears to be quite low, from my
9 vantage point.

10 MR. CLIFFORD: I tend to agree. I
11 look at both photos, and I don't get the sense
12 that it's any different than the last depiction
13 we looked at prior to this. It's neither
14 prominent nor dominant, in my view.

15 PRESIDING OFFICER SCOTT: I concur.

16 So let's go to the next
17 simulation, which is the Willard Pond boat
18 ramp. That would be on LandWorks Visual Impact
19 Assessment PDF 167. And I'll note Terraink
20 rated this as a "high" visual effect. Go
21 ahead.

22 MR. CLIFFORD: I just want to say I
23 think it's helpful, this exercise, to look
24 through each and every picture from different

1 areas, because I tend to see -- at least from
2 the boat ramp depiction at Willard Pond, I'm not
3 seeing a prominent or dominant, really, effect.
4 I mean, they are more prominent, again, both in
5 the Terraink and the LandWorks depictions. I
6 see them. But, again, they're shown -- at least
7 from the boat launch in the LandWorks depiction,
8 the nearest turbine is 3.01 miles away and the
9 furthest one is like 3.23 miles, so about three
10 and a quarter. And, again, I think the
11 different -- the backlighting difference and the
12 time-of-year difference actually helps, in my
13 mind, give me an indication that, yeah, they're
14 there, but are they dominant? Do they dominate
15 the scene? I don't -- I'm not seeing it, in the
16 sense that I'm sort of forced to look at them.
17 I'm still looking at the lake. I mean, I'm
18 still drawn to the lake. But that's where I
19 come out on this.

20 PRESIDING OFFICER SCOTT: Mr. Forbes.

21 DIR. FORBES: You know, in this case I
22 tend to agree with LandWorks' opinion here. You
23 know, they've identified this as the most
24 impacted, in terms of visual effects ratings,

1 and I would agree with that. Whether it rises
2 to the point of being an unacceptable adverse
3 risk or adverse impact, I'm still a little
4 uncertain. But I would lean on saying no, it's
5 not overly impactful. But it's certainly the
6 most impactful of the visual resources.

7 MS. WEATHERSBY: So I think there was
8 some testimony about this photo and its
9 deficiencies, and so I looked at TerraLink's,
10 which is -- maybe I could get you folks to
11 verify that -- Viewpoint 1 of TerraLink's photo
12 sims is pretty much the same view. Not
13 entirely. It's at a slightly different angle.
14 And in that photo simulation you can see more
15 towers and the met tower.

16 First, I guess, do people agree
17 this is almost the same view? Can you help me
18 out?

19 DR. BOISVERT: Yeah, if you go down to
20 the next set of photos from LandWorks, you get
21 the same view. You have a boat view and a boat
22 launch view.

23 MS. WEATHERSBY: Oh, okay.

24 DR. BOISVERT: So the boat view is

1 evidently in the pond itself. And those are
2 very similar perspectives between what's labeled
3 as "Exhibit 13" on LandWorks and "Viewpoint 1"
4 from TerraLink. I don't think there's an
5 equivalent view from the boat launch from
6 LandWorks.

7 MS. WEATHERSBY: Okay. So that's the
8 difference, because in the second Willard
9 Pond -- I know we haven't gotten there. The
10 second Willard Pond simulation and the Viewpoint
11 1 of TerraLink's are now much closer to the
12 turbines, 1.26 miles away, and they do become
13 much more dominant and prominent.

14 But with regard to the boat
15 launch photo, certainly they're apparent, but I
16 don't find any dominance or prominence or the
17 effect unreasonably adverse. Again, you're
18 introducing an industrial component to a very
19 natural setting, but I don't find that rises to
20 the, in that photo, to the level of an adverse
21 effect.

22 DR. BOISVERT: And looking at these as
23 one and a half pairs, the boat launch photo
24 is -- I don't see the turbines there as

1 dominant. When I go down to the boat view,
2 that -- I think we do get some dominance in
3 there. In the TerraLink version, you're getting
4 some stacking one in front of the other of at
5 least one set of turbines. We can see the
6 turbines better in their photo as opposed to
7 LandWorks. There, the background is not
8 favorable. They do command quite a bit of
9 attention because there is no development on the
10 shoreline.

11 We mentioned the boat and the
12 cars and so forth on Gregg Lake as being what
13 you would normally see, and that's part of the
14 landscape. Here, the landscape is -- the only
15 man-made, human constructions are the turbines
16 themselves. And what we can't factor in is the
17 motion. And I think that might add to it.
18 Prominent, yes. Dominant? I think it's
19 getting close to dominant because there's
20 nothing else to compete with it in the
21 landscape that's made by people.

22 PRESIDING OFFICER SCOTT: Before going
23 on to Commissioner Rose, Director Forbes, were
24 you addressing the boat launch view or the boat

1 view?

2 DIR. FORBES: Collectively. I was
3 aware of both of them when I was looking --

4 PRESIDING OFFICER SCOTT: Thank you.
5 Sorry to interrupt, Commissioner Rose.

6 MR. ROSE: Quite okay.

7 I tend to agree with the other
8 Subcommittee members that it's certainly more
9 prominent in its view. And it is helpful to
10 see it from the boat launch. But then, when
11 you get back out onto the lake, it is a more
12 dominant view, I think, than just from the boat
13 launch.

14 I would also reference to Dr.
15 Boisvert's comment about the motion of the
16 blades. We are fortunate enough to have the
17 simulation that Audubon provided from pretty
18 much this vantage point, that if you have your
19 Audubon exhibits available it might be helpful
20 to provide that level of perspective.

21 PRESIDING OFFICER SCOTT: So I'm
22 looking at that photo simulation now that
23 Audubon has done. You know, it's been noted,
24 but I'll state the obvious. The only thing

1 moving is the blades, not the water, not --
2 there's no rippling in the trees. So, obviously
3 it's not perfect.

4 MR. ROSE: None of this is.

5 PRESIDING OFFICER SCOTT: Do you have
6 anything else?

7 MR. CLIFFORD: No. I have looked at
8 both depictions, both the boat launch and now,
9 again, from the pond view. And my comments I
10 think remain the same. It's neither dominant
11 nor completely prominent in my mind. It's a
12 little bit more, but, again, it is not
13 overwhelming in my view.

14 PRESIDING OFFICER SCOTT: Yeah, I have
15 the same sense myself. So let's move on to the
16 next.

17 Where are we? I think that's it
18 for LandWorks. Does that sound correct? So we
19 want to make sure we cover the Terraink.

20 DR. BOISVERT: There's Exhibit 18 that
21 gives us a comparison of 9 versus 10 turbines on
22 Willard Pond.

23 PRESIDING OFFICER SCOTT: This is
24 LandWorks?

1 DR. BOISVERT: This is LandWorks.

2 PRESIDING OFFICER SCOTT: 175?

3 DR. BOISVERT: Actually 174, 75, 76.

4 PRESIDING OFFICER SCOTT: Okay. Thank
5 you.

6 So, to finish that out, I want
7 to make sure we finish the Terraink. Any one
8 we haven't seen yet? This will be a memory
9 test.

10 [No verbal response]

11 PRESIDING OFFICER SCOTT: So am I
12 correct that we did not look at Terraink's
13 Viewpoint 5, which is the view from Meadow
14 Marsh? That would be on Terraink's VIA Page 88
15 of the PDF. Anybody like to opine on that
16 simulation?

17 MR. CLIFFORD: Okay. I'll go first.
18 I'll just say that, again, here they're
19 dominant, they're prominent. I don't know what
20 the distance is in the photograph. But it
21 actually -- visually, it's almost appealing. I
22 mean, there's two of them. So I like, you know,
23 pairs as opposed -- and they both appear to be
24 at the same distance. So it's almost as if --

1 in my mind, it's a better look because the two
2 of them are approximately the same distance and
3 in the same field of view and approximately the
4 same height, and they seem to frame that end of
5 the pond. So if they were there or weren't
6 there, aesthetically it doesn't really bother
7 me, even though it is -- it tends to be on the
8 more dominant, prominent side because of the
9 field of view. So I'll leave it at that.

10 PRESIDING OFFICER SCOTT: Director
11 Forbes.

12 DIR. FORBES: I would agree. I don't
13 find this tremendously impactful. I think it's
14 somewhat pleasant to see that. It would be nice
15 to know the distance to compare to others. But
16 from what I see in this simulation, it's not
17 overly adverse.

18 MS. WEATHERSBY: With my reading
19 glasses, I can see four turbines.

20 [Laughter]

21 MS. WEATHERSBY: There's one to the
22 right just before the trees, and there's one to
23 the left behind the pines. The fact that no one
24 else saw them shows that they're not going to

1 be, you know, in everyone's viewscape.

2 MR. CLIFFORD: Congratulations. You
3 won the "Where's Waldo" award for the -- I
4 didn't pick those out with my reading glasses.

5 MS. WEATHERSBY: I was always good at
6 those hidden picture puzzles.

7 But even with the four turbines,
8 they're certainly closer, and they are more
9 dominant and more prominent. But I would
10 disagree, I think, with LandWorks that it's
11 below threshold. I think this is one of the
12 more impactful viewsheds -- impacted viewsheds,
13 but I don't find the impact unreasonably
14 adverse.

15 DR. BOISVERT: I saw three, but not
16 four, so I'm going to put her on my field crew
17 to find things.

18 Prominent, dominant. And this
19 is where we get into the subjectivity. I don't
20 see this as attractive. They're not hideously
21 ugly because they're being compared against
22 dead trees from the pond. They sort of look
23 like another variety of dead tree.

24 Dominant, prominent? I don't

1 know if I'd call them unreasonable, but I guess
2 I've never been a fan of dead trees, which is
3 to say I don't find them particularly soothing
4 or pleasing. And this gets into the whole
5 subjectivity that we have to wrestle with. But
6 that's how I see them.

7 MR. ROSE: I tend to agree with that
8 last comment. They're much more dominant and
9 prominent. I'm not sure if it's adverse, but I
10 wouldn't go as far as to say that they're
11 aesthetically pleasing by any stretch.

12 PRESIDING OFFICER SCOTT: I think I
13 concur with that. They definitely stand out to
14 me. I mean, it's hard to miss them. Well, the
15 two in the middle are hard to miss. Having said
16 that, I'm still not getting beyond the threshold
17 of unreasonable.

18 So, with that, I think let's
19 make sure we haven't missed any other ones.
20 Help my memory here. I'm looking at PDF 90,
21 which is Viewpoint 9, View southwest from
22 Franklin Pierce Lake, the boat view. I don't
23 think we've seen -- have we done this? Okay.

24 DR. BOISVERT: I have the hard copies

1 of TerraLink's, and there are the views of
2 Goodhue Hill, their Viewpoint 33.

3 PRESIDING OFFICER SCOTT: Let's go to
4 that. That is 33? So that would be PDF
5 Page 94?

6 DR. BOISVERT: I don't have it up on
7 PDF. I just have the hard copies.

8 PRESIDING OFFICER SCOTT: I'm
9 confirming for those who do, PDF 94, view from
10 Goodhue Hill.

11 DR. BOISVERT: Here I see parts of all
12 of the turbines. I count nine. If we count
13 more than that, that would be interesting.
14 There's the met tower as well. And in terms of
15 prominent and dominant, I'd have to say they are
16 dominant on this landscape. Perhaps this is
17 just that they're white and everything else is
18 another color. But they do -- they are
19 prominent and dominant in the landscape, as far
20 as I can see. And that's my opinion, let's put
21 it that way. And this is in the "Red Zone" for
22 me.

23 PRESIDING OFFICER SCOTT: Director
24 Forbes.

1 DIR. FORBES: Well, I agree it's
2 pushing in that direction, but I don't feel it's
3 in the "Red Zone," to use that phrase. This
4 simulation, I think, is very helpful. And I
5 notice, of course, that we didn't have one from
6 LandWorks. And, you know, that's troubling, but
7 I think it should be included. It is, you know,
8 certainly a prominent feature, these turbines.
9 But I again don't quite get there, where it's
10 adverse, in my opinion.

11 MS. WEATHERSBY: It certainly changes
12 the view. It makes it much more industrial.
13 And some people find that pleasing and others
14 don't. The towers are very prominent. I don't
15 really find them dominant given the scale of the
16 view. I'll leave it at that.

17 PRESIDING OFFICER SCOTT: Commissioner
18 Rose.

19 MR. ROSE: Thank you. I agree they
20 are prominent. I agree, also, that they're --
21 they don't appear dominant, but I do agree that
22 I see nine turbines. And I'm somewhat surprised
23 that LandWorks wouldn't have had a simulation.
24 I think nine turbines was the minimum you could

1 have to have a "moderate" impact, in terms of
2 their scale, at least on the dominance. So I'm
3 not sure it's unreasonable, but I do find it to
4 be surprising we didn't have a simulation from
5 LandWorks. But they are certainly much more
6 prominent on this landscape.

7 PRESIDING OFFICER SCOTT: Attorney
8 Clifford.

9 MR. CLIFFORD: So I too find them
10 definitely prominent. I'm not there on -- I'm
11 not quite there on the dominant. I too am
12 rather disappointed that we don't have a view
13 from LandWorks or simulation from LandWorks as
14 well. I also know -- I'm curious where this
15 viewpoint's from because I'm not sure if the
16 view of Kearsage -- Mount Kearsage is obstructed
17 with these turbines or not. I'm not sure if
18 that's what I see in the back, in the distance,
19 which is a pretty prominent feature.

20 But nonetheless, I don't -- I
21 don't see an overall, very, very high visual
22 impact. This is one location where I guess you
23 would be able to see all of the turbines in one
24 fell swoop. But they're not jumping out at me.

1 But then again, they're not turning either. So
2 I don't know what that changes or what change
3 that would make. But, again, I think it's
4 fairly prominent, but it doesn't dominate the
5 entire landscape, in my view.

6 PRESIDING OFFICER SCOTT: Again, I
7 think this is a definite significant view. I'm
8 still not at the point of getting to the
9 threshold of unreasonable, though. Certainly,
10 again, I think I'll echo Attorney Weathersby's
11 words that this does certainly change the view.
12 You know, it does have an impact.

13 So I think the other one I
14 noticed from Terraink to look at would be I
15 think the view from the overlook on Bald
16 Mountain, which is their Viewpoint 27.
17 Remember, this was in dispute. LandWorks was
18 suggesting that this view shouldn't be taken
19 into consideration due to accessibility to the
20 view. So this would be PDF 93.

21 (Court Reporter interrupts.)

22 PRESIDING OFFICER SCOTT: Should not
23 be taken into consideration.

24 So this would be Terraink Figure

1 15, Viewpoint 27, which is PDF Page 93. Any
2 thoughts on this one? Since he's sitting on
3 the end, I'll pick on Director Forbes.

4 DIR. FORBES: Well, if you...

5 (Court Reporter interrupts.)

6 DIR. FORBES: I thought we had one
7 from LandWorks' perspective.

8 MS. WEATHERSBY: So, regarding
9 prominent and dominant, I don't really find
10 either. But I find the picture very visually
11 unappealing because of that cluster, the towers
12 just right of center of the simulation. So I
13 think that would probably go to one of the
14 different factors, maybe the change in the view,
15 et cetera. It probably doesn't border on
16 unreasonably adverse, but I find this view, you
17 know, it's not as prominent and dominant. More
18 effective than some of the others.

19 PRESIDING OFFICER SCOTT: So maybe Mr.
20 Forbes can help me. Am I remembering wrong? I
21 thought this was the lookout -- the viewing
22 position that was in dispute from Bald Mountain.
23 Am I remembering wrong? Does anybody know that
24 could help me?

1 DIR. FORBES: I'm not sure.

2 MR. CLIFFORD: I'd have to go back to
3 the record, but my recollection was the dispute
4 was whether this was the view from the peak or
5 whether you actually had to crawl down or hike
6 down to get to this ledge. And there was some
7 differing testimony about whether that was on
8 the trail and easily accessible or whether
9 something people kind of had to know about once
10 they got there or search for. And I believe
11 that was the dispute. And that's maybe why the
12 photograph wasn't -- the presentation wasn't
13 made by LandWorks from this location.

14 But be that as it may, while
15 we're here, I was going to say it doesn't
16 strike me as either dominant or prominent. But
17 if we had another category, I'd call it kind of
18 "cluttered" is really where this one comes out.
19 But I don't -- you know, it looks messy. But
20 it's neither prominent nor dominant. And I
21 gather if you change your field of view one way
22 or another, you might have a different
23 assessment of what those turbines look like
24 even from that peak. But it's unfortunate we

1 don't have another view.

2 DIR. FORBES: I agree. And that
3 brings up one of the points of the LandWorks
4 presentation. They talked about the angle of
5 view and how much, you know, you would see in
6 your visual field. You know, here this
7 photograph is somewhat cropped on the turbines,
8 and it makes it feel more cluttered than perhaps
9 it might in person. I don't know. It's hard to
10 tell.

11 MR. CLIFFORD: No, I tend to agree.
12 For example, if you just see -- if you walk up
13 to the base of the Freedom Tower and look up, I
14 guarantee you you'll feel as if the thing's
15 going to fall down on you from a certain
16 perspective. But then you back away and you get
17 this very aesthetically, visually appealing look
18 to a pretty cool structure. But when you're
19 right up against it and your nose to the sky,
20 you almost feel as if you're a Lilliputian on
21 the wrong side of things. So...

22 And I would agree with -- this,
23 you hit the nail on the head, in that it's
24 really a matter of that visual field that

1 you're taking these things in from. But even
2 from here, if this is an accurate depiction of
3 where people may or may not be on any given
4 hike or day on Bald Mountain, it looks a little
5 funny, but it's not prominent and dominant.

6 I know we saw -- the one picture
7 that struck me as really out of place was that
8 photograph that was presented with the
9 farmhouse. I recall where it seemed like it
10 was merely a quarter of a mile or so, or less,
11 to the base of the turbine, and so someone
12 staring up at that every day had that. That
13 clearly to me was dominant and prominent.
14 There's no way you're going to get rid of that.
15 And it was hard to limit your field of view to
16 avoid it as well because you're so -- because
17 of the proximity.

18 PRESIDING OFFICER SCOTT: And to
19 clarify, that was an example picture from
20 another project; correct?

21 MR. CLIFFORD: Right. I think it was
22 one of the WindAction exhibits that was brought
23 in of a wind farm installation, I think
24 somewhere in upstate New York somewhere, if my

1 recollection is correct. I don't have the exact
2 exhibit, but I could point that out if people
3 want to know the next day.

4 PRESIDING OFFICER SCOTT: I remember
5 it, too.

6 So Attorney Iacopino answered my
7 question to Mr. Forbes, pointed out that if
8 LandWorks -- they're calling it an exhibit, but
9 their Sheet 6 does show a representation from
10 Bald Mountain. And that's PDF 155. So you're
11 remembering correctly.

12 And I think we left with --
13 where were we?

14 MS. WEATHERSBY: I just also wanted to
15 point out in LandWorks Visual Assessment on Page
16 112, which is PDF 118, they show just a
17 photograph of the view from the primary summit
18 of Bald Mountain. And they indicated it does
19 not overlook the Project; rather, one sees
20 Willard Pond and nearby hillsides, such as this
21 one to the south, which is part of Bald Hill.
22 So it sounds like from, and then your testimony,
23 from the summit side of the project. But from
24 the overlook you may or may not have to crawl

1 down and contort your body to get to a view
2 that's depicted.

3 PRESIDING OFFICER SCOTT: Thank you.
4 Dr. Boisvert.

5 DR. BOISVERT: Again, this is a
6 perception issue. The clustering of the
7 turbines makes them prominent in my mind. And
8 if the blades were turning and they were not
9 synchronous, that would add to the visual
10 clutter. And so, to that extent, I think that
11 they would then become prominent.

12 Dominant? On the edge. Maybe
13 not. And as far as is this a place that you
14 can get to or not, I've been on the trail with
15 people who view that there's no place that is
16 inaccessible, and there are others who won't
17 step out of the car. I think that if it can be
18 seen, if it is some sort of viewpoint, that
19 people will go to it. Probably not over the
20 line, but I do see it as -- and I understand
21 now how the visual consultant said that putting
22 them spread out across the horizon line is
23 visually more appealing and acceptable than
24 clustered together. And just as a statement, I

1 didn't I understand that. I understand that
2 much better looking at this photograph. So it
3 is unappealing.

4 But going back to the Exhibit 6,
5 I have difficulty seeing the turbines in this
6 one because of the sky color and color of the
7 turbines. It's much easier to see it on the
8 TerraLink. There seems to be some skewing of
9 visibility here. But compensating for that, I
10 still come to the same conclusion.

11 PRESIDING OFFICER SCOTT: Commissioner?

12 MR. ROSE: Thank you. I agree with
13 the comments earlier about, while it may not be
14 prominent and dominant, it is certainly
15 cluttered, which does have an impact to the
16 overall view, the scenic view. I'm not sure if
17 it gets to the point of adverse, unreasonable,
18 but it is certainly cluttered.

19 I also appreciate the comments
20 of Attorney Clifford in referencing how it is
21 helpful or maybe perhaps underscores a bit the
22 value associated with a larger frame of view
23 when you're looking at the simulation or any
24 particular photo, because, you know, you can

1 lose some perspective depending on how the
2 simulation is presented.

3 And I did also, Mr. Chairman,
4 find the photo I think you were thinking of as
5 well. I think -- well, actually, Attorney
6 Weathersby found it on 118. There was another
7 photo of that same vantage point on Page 85
8 within LandWorks, same visual simulation.

9 PRESIDING OFFICER SCOTT: Attorney
10 Clifford.

11 MR. CLIFFORD: So, yes, I stand
12 corrected. We did find a similar presentation
13 by LandWorks. And, again, I'll just say that --
14 so I'll take back my earlier point. They did
15 present it, okay, so there's no scolding there.
16 But, again, this presentation tends to show the
17 same thing. I mean, is it a little bit of a
18 cluttered view? Yes. But does it rise to that
19 dominant effect that I was contrasting earlier?
20 I don't think it does. It's going to be
21 different if turbines are spinning, clearly.
22 And it depends when you look at this on a clear
23 versus a slightly overcast day. It's a
24 completely different feel to this. But I don't

1 see, you know, the unreasonableness. It doesn't
2 hit that level. I am happy to see that these
3 things are actually spaced out because they are
4 very -- if they're clustered together, I think
5 they'd be more offensive. So I think it's
6 actually helpful that there's actually some
7 degree of separation between the turbines.

8 PRESIDING OFFICER SCOTT: Again, from
9 my perspective, I certainly -- obviously there's
10 an impact here. You know, more simplistically,
11 I think that, again, I'm not seeing it rise to a
12 level of unreasonable.

13 I guess I would ask, for
14 thoroughness, are we missing any other
15 simulations?

16 MR. CLIFFORD: I thought I saw a view
17 from the Mulvern. Is there a depiction there?

18 PRESIDING OFFICER SCOTT: Perhaps we
19 have -- again, she's done a simulation of
20 Loverens Mill.

21 MR. CLIFFORD: That's it.

22 PRESIDING OFFICER SCOTT: Is that what
23 you were thinking of?

24 MR. CLIFFORD: Exactly. I'm sorry. I

1 just completely stepped on the name there. My
2 apologies.

3 PRESIDING OFFICER SCOTT: For those
4 who live in that area, I hope they won't take
5 offense.

6 MR. CLIFFORD: Please don't.

7 PRESIDING OFFICER SCOTT: Okay. So
8 I'm seeing that on PDF Page 95. If memory
9 serves, that's the view near the Block
10 residence, I think.

11 Comments on this? Mr. Forbes.

12 DIR. FORBES: You know, when we were
13 out on this site, I was struck by the noise from
14 the road. But that's another conversation.
15 Again, you know, it is somewhat prominent here
16 in the context of the location. I don't find it
17 particularly adverse.

18 PRESIDING OFFICER SCOTT: Ms.
19 Weathersby.

20 MS. WEATHERSBY: So it looks like
21 there's two towers and the met tower right in
22 the center. The tower to the left is certainly
23 prominent. I don't really find it dominant in
24 this picture. I think the view is affected by

1 the power lines sort of distracting you a bit
2 from -- it's breaking up the view. If you move
3 forward 10 feet, would they appear more
4 dominant? Perhaps. I don't think they rise to
5 the level of unreasonable adverse impact on the
6 aesthetics view.

7 DR. BOISVERT: I agree. I really
8 don't have much more to add to it. It's a good
9 representation with the background and all.

10 PRESIDING OFFICER SCOTT: Commissioner
11 Rose.

12 MR. ROSE: I agree with that
13 assessment as well.

14 PRESIDING OFFICER SCOTT: Mr.
15 Clifford.

16 MR. CLIFFORD: I agree with that, that
17 sentiment precisely. And again to my earlier
18 comments. If you bury the lines, you get a
19 better view of the two towers. But I don't see
20 them particularly prominent or dominant from
21 that viewpoint.

22 PRESIDING OFFICER SCOTT: I have the
23 same assessment.

24 I note there's also -- the next

1 simulation is from Liberty Farm, the ATV trail
2 entrance. I don't know if we want to discuss
3 that or not. That particular simulation is
4 so -- the trees are so much in front of it, I'm
5 not sure how useful it is to discuss it. But
6 we can if you wish. Anybody want to talk about
7 this one?

8 [No verbal response]

9 PRESIDING OFFICER SCOTT: Okay. So
10 are there any other ones we should discuss?

11 [No verbal response]

12 PRESIDING OFFICER SCOTT: Okay. I'll
13 put Attorney Weathersby on the spot.

14 You asked for this. Was this
15 worthwhile for you?

16 MS. WEATHERSBY: Yes, it was, thank
17 you. Hopefully it was for others.

18 PRESIDING OFFICER SCOTT: Okay. So
19 how would we like to proceed? We could start a
20 discussion, obviously. We went through these
21 one by one. We could attempt a straw vote to
22 see where people are. We could -- it's 4:36.
23 We could think on this and come back Friday at
24 9:00 a.m. over at the Donovan Street facility.

1 What are people thinking?

2 DIR. FORBES: I think before we do a
3 straw vote, I'd like to maybe review the
4 thoughts that the Committee has on mitigation,
5 because taken as a whole, that needs to be
6 balanced. The mitigation needs to be balanced
7 against all of these impacts that we just
8 reviewed, whether moderate or high. I think
9 collectively, you know, there's a question for
10 us to decide upon the adequacy of any mitigation
11 efforts, minimization and such that were part of
12 the rule requirements.

13 PRESIDING OFFICER SCOTT: And you want
14 to discuss that now or do that Monday -- or
15 Friday? Excuse me.

16 DIR. FORBES: Well, I would just say
17 that, from my perspective, I think that the
18 Applicant has stepped up here to conserve more
19 land; to provide some financial mitigation to
20 the town to offset, you know, some of these
21 impacts. I know that the prior docket had found
22 that the mitigation effort was inadequate. But
23 I think it's reasonable in this case, and I was
24 curious about the perspectives of others.

1 PRESIDING OFFICER SCOTT: Anybody
2 before I pick on people? Attorney Clifford.

3 MR. CLIFFORD: Thanks. In terms of
4 mitigation, I think it was brought to the
5 attention of the Committee that there were, I
6 think, an additional almost hundred acres that
7 were donated as part of this process, or
8 conserved. I thought the footprint -- my
9 recollection is it's small. I have specific
10 data as part of the research I was doing. But I
11 thought the footprint was considerably smaller.
12 And I do take -- excuse me -- a reduction from
13 10 to 9. I mean, that's a 10-percent reduction.
14 And I don't know how, any way you slice it, but
15 10 percent is pretty significant. Either
16 10-percent yield or 10-percent discount, I mean,
17 10 percent is 10 percent. So that strikes me as
18 some form of mitigation that's actually
19 pretty -- I think 10 percent is substantial. So
20 those are my initial thoughts. And I think we
21 could continue this, but that just jumped out in
22 my mind as some of the significant components.

23 I also thought there was the MOU
24 that was presented to us that we discussed a

1 little at the beginning of this proceeding.

2 DR. BOISVERT: With the historic --

3 MR. CLIFFORD: With the historic,

4 right. Exactly. It's getting late in the day.

5 But I remember that's a different -- that's a

6 component that I think wasn't present last time.

7 And my recollection is the

8 aircraft lighting, the FAA lighting component,

9 that wasn't there in the earlier proceeding; in

10 other words, it would be full lights all the

11 time. And they came back and found this other

12 way to mitigate nighttime, you know, the

13 nighttime visual impacts of this proposed

14 project. So those are just the ones that

15 jumped in my mind, off the top of my head. And

16 I know there are others.

17 PRESIDING OFFICER SCOTT: Rather than

18 be mean and pick on somebody else, I'll talk

19 myself.

20 I do think -- I do find it of

21 interest when we look at -- again I'll use

22 Counsel for the Public's term, "Antrim 1," the

23 first time, looking back on the record there.

24 Ms. Vissering suggested certain mitigation

1 measures. And by and large, this Application
2 seems to have incorporated those. So there's
3 certainly an attempt there. It's not clear in
4 my mind, though certainly the rules suggest it,
5 so I think we need to give deference to that.
6 It's hard to mitigate a visual thing you're
7 looking at here by doing something over there.
8 So that's difficult. But I do take -- to me,
9 it's important. We should take notice of what
10 was done the last time. You know, we had an
11 expert saying if you do these things, that will
12 help. And they effectively have done most of
13 those things is my understanding. So I think
14 that's -- so I guess I'm landing where you
15 were, Director Forbes.

16 DIR. FORBES: Yeah, I would just add,
17 you know, again, the rules, what it tells me,
18 we're supposed to, you know, ponder the
19 effectiveness of the measures proposed by the
20 Applicant to avoid, minimize or mitigate. And I
21 think avoidance, trying to avoid the nighttime
22 light impacts by the radar lighting system, or
23 to minimize by lowering the height of the
24 nacelle in Turbine No. 9, eliminating Turbine

1 10, those affect -- those efforts by the
2 Applicant I think are worthy of note in the
3 context of these rules. And that's what I
4 wanted to bring it up.

5 PRESIDING OFFICER SCOTT: And I will
6 say, to my earlier comment, that is a glaring
7 difference, though I think Ms. Vissering said 9
8 should be removed, not shortened. So there's
9 obviously some large differences.

10 MS. WEATHERSBY: So, concerning using
11 conservation land to mitigate a project, that's
12 worthy of discussion, because for wind turbines,
13 unlike a stationary, single power plant or
14 whatever, you can't put up arborvitaes or
15 fencing, you know, the usual types of things
16 that would change the visual impact. So there's
17 nothing that's tall enough that will change the
18 visual impact of the Project. So, you know, is
19 getting more conservation land appropriate? I
20 mean, here you have 908 acres that's being
21 offered, including the entire ridge of Tuttle
22 Hill that will be preserved from development,
23 except for the things that have been reserved --
24 the possible house, the possible cell tower in

1 the future. And to me, it's kind of -- it's a
2 trade-off between what might happen to that land
3 if it's not preserved versus it will be
4 preserved and maybe there will be a couple
5 things up there. And I think that, in my view,
6 the conservation measures that are being offered
7 here are a significant benefit to the Town of
8 Antrim and do help mitigate the visual impact of
9 the Project.

10 DR. BOISVERT: I look at it a little
11 bit differently. First off, you mitigate an
12 adverse effect. And we're talking about, you
13 know, is it unreasonable or not. But because
14 these towers are so large, there's no way to
15 disguise them. Cell towers, you can make them
16 look like strange pine trees or something. I've
17 heard them compared to mascara brushes as well.
18 But there are some mitigations that are
19 available for color and treatment of them. But
20 it's certainly not possible for turbines,
21 particularly the large ones.

22 Having the additional
23 conservation land in a sense mitigates against
24 other development, that if the turbines were

1 not built and the land was just left there,
2 there's the argument that other developments
3 might go in. Now, I don't expect that someone
4 would try to put in a 100-house subdivision on
5 the slope of Tuttle Hill. I don't think the
6 real estate market is looking to that. And
7 there's all sorts of other constraints. But
8 there could be other developments, homes,
9 whatever on the property, possibly on the
10 horizon line. And if you have the conservation
11 property, it then would make it such that you
12 would not have those other visual or other
13 adverse effects. So it doesn't directly
14 mitigate the adverse effect of the wind
15 turbines, but it mitigates against what might
16 happen if the Project were not there at all, if
17 you follow my illogical train.

18 I am familiar with mitigation
19 measures in other realms where things are
20 seemingly unrelated. But it's an effort to
21 mitigate the loss on one hand by doing
22 something totally different that society views
23 as somehow balancing it in a broader scale, not
24 within the narrow frame of a visual effect by a

1 tall thing on a ridge top but on a broader
2 frame.

3 So I find it acceptable. I wish
4 there were better ways. There are a lot of
5 other sort of untestable aspects. Would
6 anybody ever build up there, anyway? Would the
7 real estate market hold it and that sort of
8 thing? And that's hard to do. But we have to
9 make some decision.

10 So, in general, I think that
11 having the conservation land and the other, the
12 donations of money for the various causes,
13 things that it appears the community feels are
14 appropriate, then I will agree with the
15 community and support these as mitigation
16 measures. And it would seem to me, as well,
17 that the Applicant has taken the information
18 from the first attempt to get a certificate,
19 taken the comments from that and applied them.
20 And that's a good thing. So, with that in
21 context, I'm reasonably comfortable with the
22 mitigations that have been described.

23 MR. ROSE: I am generally comfortable
24 with the totality of the mitigation package as

1 presented. You know, I look at mitigation
2 really largely about trade-offs. And, you know,
3 I think in this particular project we're talking
4 about likely a permanent impact, you know, or a
5 temporary impact, if you will, over the next 40
6 or 50 years of 11 or 12 acres. And we're
7 talking about a proposal that brings in over
8 900 acres into conservation that may or may not
9 end up there at some point. You know, it is
10 currently privately owned, and it will continue
11 to be privately owned based on the conservation
12 easements. But I think that's a pretty robust
13 mitigation package. I think the Applicant has
14 recognized that they are going to have impacts.
15 I think they have made a legitimate effort to
16 minimize many of those impacts from their
17 Antrim 1 effort, and I think they have also
18 increased the mitigation proposal for our
19 consideration within this docket.

20 And while I think aesthetics is
21 a particularly difficult thing to try to
22 mitigate, particularly when it's something that
23 is fairly subjective and it's disproportionate
24 in terms of how it may impact others, I think

1 on the collective whole, getting more land,
2 significantly more land into conservation is
3 consistent with the virtue of the region. And
4 I think that there are additional direct
5 impacts within the community that may or may
6 not truly mitigate adverse effects from
7 aesthetics. But I do think they have a value
8 and an impact, and oftentimes -- to the
9 community. And oftentimes that is part of a
10 mitigation is to try to find something that is
11 of value and presents that to -- or presents
12 that as an option as a result of the impacts
13 that one may find unpleasant or unavoidable.

14 So, I think on its whole, there
15 has been a legitimate effort to improve -- or
16 to minimize. I think there's been a legitimate
17 effort to improve the mitigation package. And
18 I'm generally comfortable with the mitigation
19 as it's presented within this docket.

20 PRESIDING OFFICER SCOTT: So we've
21 heard from everybody on the mitigation. What's
22 the sense of the Subcommittee? Do we want to
23 try a straw vote? Do we want to -- one way or
24 another, we're obviously coming back on Friday

1 at 9:00. Do we want to wait for that until
2 then, give you a little bit of time to collect
3 your thoughts? What's the will here?

4 DIR. FORBES: I'm comfortable now if
5 you'd like to move forward with a straw vote.

6 PRESIDING OFFICER SCOTT: Anybody
7 else? You have a feeling they'd rather wait?

8 MS. WEATHERSBY: I'm waiting for
9 Attorney Iacopino to see if there's anything
10 we've forgotten to discuss under the rule.

11 PRESIDING OFFICER SCOTT: Good
12 question.

13 MR. IACOPINO: I can't say that there
14 is anything in the rule that you haven't
15 discussed. As you all noted initially, the
16 various subcomponents of the rule tend to
17 overlap each other. I can't point out anything
18 that you have missed. I think that you have
19 done an extensive review so far.

20 PRESIDING OFFICER SCOTT: Mr.
21 Clifford.

22 MR. CLIFFORD: I just want to add my
23 comment for all our benefits. These are
24 classified as "deliberations." So, I mean, in

1 my view, if anything comes up at any time on any
2 topic, we're not foreclosed from raising
3 anything. For example, if we went back home
4 tonight and had a question about, you name it,
5 water quality or whatever which we've already
6 talked about, or air quality, for example, and
7 something comes up and someone has an issue that
8 we should -- frankly, it ought to be brought up
9 at a later point. But yeah, I'm comfortable if
10 there's a straw vote. And it's obviously -- the
11 chairman has said that these straw votes aren't
12 binding. They're just to get a sense of where
13 are we, what are we doing here.

14 PRESIDING OFFICER SCOTT: And again
15 I'll confirm. To me, the only vote that
16 matters, the only binding vote is the one at the
17 end: Do we approve or not approve the whole
18 package? This is really a tool to see if we are
19 in a position to move on, or do we need to tease
20 out any more issues.

21 So it sounds like the will of
22 the Committee is we take a straw vote unless
23 anyone is objecting.

24 [No verbal response]

1 PRESIDING OFFICER SCOTT: Okay. And
2 straw vote would be whether the Applicant has
3 met the burden of proof that there will be no --
4 I just lost my --

5 MR. IACOPINO: Unreasonable.

6 PRESIDING OFFICER SCOTT: -- yeah,
7 unreasonable adverse effects regarding
8 aesthetics in this case.

9 So if you believe that's the
10 case, please raise your hand.

11 [Five out of six members raised their
12 hands.]

13 PRESIDING OFFICER SCOTT: Do you care
14 to elaborate, Mr. Boisvert?

15 DR. BOISVERT: Sure.

16 PRESIDING OFFICER SCOTT: Or it may be
17 helpful -- is that an "Abstain" or "No"?

18 DR. BOISVERT: Well, you didn't ask
19 for a "No," so I didn't have the chance to
20 decide between "No" and "Abstain."

21 But I am really on the fence. I
22 could go either way very easily. I mean, I
23 guess I'd have to call it "abstain, leaning
24 towards 'no'." There was a lot of discussion

1 that I was part of that decided that it was an
2 unreasonable adverse effect. It was a five to
3 three vote. I was one of the five.

4 When I look at the impacts where
5 you can see the difference between the presence
6 and absence of the tenth turbine, I still see
7 the impact as being effectively the same. Yes,
8 it's 9 instead of 10, but it's still a question
9 of where did -- have they reduced it enough to
10 come under the line, if you want to look at it
11 that way, that they no longer have an
12 unreasonable adverse effect? And I just am not
13 fully persuaded that it has come enough. And
14 maybe I need to think about are there some
15 other mitigation measures that would be
16 adequate for me to feel that they can come
17 under it. But at this point, I'm not fully
18 persuaded. I admire them for having come as
19 far as they have. I think it's admirable.
20 They have suggested some good things. They
21 have done some good things. But I have to look
22 at it in that whole context, and I'm not there
23 yet. So, at this point I can't vote "Yes."

24 PRESIDING OFFICER SCOTT: Thank you

1 for that. If it helps, for me personally it's a
2 very hard decision because, you know, this is --
3 I've taken quite to heart a lot of the comments
4 we've heard. So it's very difficult.

5 So, I think with that, I think
6 we're at 4:56. I know I have some work to do
7 before I can leave here. I'm sure you all
8 would be happy to be elsewhere and not be
9 coughed on by me.

10 So, again, we'll reconvene at
11 9:00 Friday, day after tomorrow, at the Donovan
12 Street facility. So, any questions before we
13 leave and adjourn?

14 [No verbal response]

15 PRESIDING OFFICER SCOTT: And again,
16 thank you for the audience. I assured you
17 before we started this would not be great
18 theater, so I appreciate your indulgence. Thank
19 you everybody.

20 (Hearing adjourned at 4:57 p.m.)
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