

1                                   **STATE OF NEW HAMPSHIRE**

2                                   **SITE EVALUATION COMMITTEE**

3                   **September 7, 2016** - 9:03 a.m.  
4                   Public Utilities Commission  
5                   21 South Fruit Street Suite 10  
6                   Concord, New Hampshire

7                                   **IN RE:     SEC DOCKET NO. 2015-04**  
8   **APPLICATION OF PUBLIC SERVICE**  
9   **COMPANY OF NEW HAMPSHIRE d/b/a**  
10    **EVERSOURCE ENERGY FOR A**  
11    **CERTIFICATE OF SITE AND FACILITY.**  
12    **(Prehearing conference)**

13                   **PRESENT:**   **SITE EVALUATION COMMITTEE:**

14                   Michael J. Iacopino, Esq.                   (Brennan Lenehan...)  
15                   *(Presiding as Presiding Officer)*

16  
17  
18                   **ALSO PRESENT FOR SEC:**

19                   Marissa Schuetz, SEC Program Specialist

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

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**APPEARANCES :**

**Reptg. Counsel for the Applicant:**

Barry Needleman, Esq. (McLane Middleton)  
Adam Dumville, Esq. (McLane Middleton)  
Christopher Allwarden, Esq. (Eversource Energy)

**Reptg. Counsel for the Public:**

Christopher G. Aslin, Esq.  
Asst. Atty. General  
N.H. Department of Justice

**Reptg. the Town of Newington:**

John Ratigan, Esq. (Donahue, Tucker & Ciandella)  
Susan Geiger, Esq. (Orr & Reno)  
Denis Hebert, Chair, Newington Planning Board

**Reptg. the Darius Frink Farm:**

Helen Frink

**Reptg. The Nature Conservancy:**

Jim O'Brien

**Reptg. Donna Heald:**

Donna Heald McCosker

**Reptg. University of N.H. and Town of Durham:**

Douglas L. Patch, Esq. (Orr & Reno)

**Reptg. Tom and Yael DeCapo:**

Irwin Schwartz, Esq. (BLA Schwartz)  
Tom DeCapo  
Yael DeCapo

**Reptg. Conservation Law Foundation:**

Tom Irwin, Esq.

**Reptg. Little Bay/Durham Point Abutters:**

Matthew Fitch  
Jeffrey Miller  
Vivian Miller

**Also present:** Sandra Gagnon (Eversource Energy)

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

PRESIDING OFCR. IACOPINO: Okay.

We're going to start the prehearing conference in the Seacoast Reliability Project for the Site Evaluation Committee. There is a sign-up sheet that has been passed around the room. Anybody who has not signed it, please sign in, so we know who is here. And we'll ask you to put your e-mail and telephone number on there as well, so that we have an updated service and distribution lists.

We are here in Docket Number 2015-04 of the New Hampshire Site Evaluation Committee, the Application of Eversource Energy for a Certificate of Site and Facility for a project known as the "Seacoast Reliability Project", which consists of a 12.9-mile 115 kV transmission line and associated facilities that is proposed to run from Madbury Station, in Madbury, New Hampshire, through the Towns of Durham and Newington, to the Portsmouth Substation, in Portsmouth, New Hampshire. The proposed Project will run through four towns: Madbury, Durham, Newington, and Portsmouth, in

1 two counties, Rockingham and Strafford  
2 Counties.

3 This Application was accepted as  
4 complete by the Site Evaluation Committee on  
5 June 13, 2016. That acceptance date started a  
6 clock for the proceedings in this particular  
7 matter. That clock is dictated by RSA 162-H.  
8 The Site Evaluation Committee is under a  
9 deadline to complete these proceedings and have  
10 a final written decision within 365 days. So  
11 that the Site Evaluation Committee is required  
12 to issue an order, either granting or denying  
13 the requested Certificate of Site and Facility,  
14 on or before June 13, 2017.

15 We're here today for a prehearing  
16 conference. My name is Mike Iacopino. I am  
17 the Counsel to the Site Evaluation Committee.  
18 I am not a member of the Site Evaluation  
19 Committee. I don't get to make decisions for  
20 the members of the Site Evaluation Committee.  
21 My role here today is to guide you, as parties,  
22 through this prehearing conference.

23 A prehearing conference is a -- it's  
24 a proceeding at -- which is defined both by

1 statute and in our rules, and it's designed to  
2 basically get the parties in one room to see if  
3 there are issues that can be agreed upon. At  
4 an early stage like this, scheduling is one of  
5 the things that we generally address. But, if  
6 there are any additional agreements or anything  
7 that the parties want to bring to the attention  
8 of myself and, ultimately, the Committee, with  
9 respect to the procedures that we're going to  
10 use in this docket. This is not a day to be  
11 arguing your case. This is a day that we talk  
12 mainly about process.

13 It is my hope, as being the  
14 facilitator of this prehearing conference, that  
15 at the end of this process this morning we will  
16 have, at the very least, an agreed upon  
17 schedule that we can recommend to the Chairman  
18 of the Committee. And, ultimately, the  
19 Chairman of the Committee will decide what that  
20 schedule will be. But, usually, when the  
21 parties are all on board, it's an easy job for  
22 the Chairman of the Subcommittee to make that  
23 decision.

24 So, that's where we're at. The first

1 time thing I'm going to do is take appearances.  
2 I'll start with the Applicant at the first  
3 table on the left, then why don't we go back  
4 down that way, and then come around, up from  
5 Mr. Patch, up through Mr. Aslin.

6 MR. NEEDLEMAN: Barry Needleman, from  
7 McLane Middleton, representing the Applicant.

8 MR. DUMVILLE: Adam Dumville, also  
9 from McLane Middleton, representing the  
10 Applicant.

11 MR. ALLWARDEN: Chris Allwarden,  
12 representing the Applicant.

13 MR. RATIGAN: John Ratigan,  
14 representing the Town of Newington.

15 MS. GEIGER: Susan Geiger,  
16 representing Town of Newington.

17 MR. HEBERT: Denis Hebert,  
18 representing the Town of Newington.

19 MS. FRINK: Helen Frink, representing  
20 the Darius Frink Farm, in Newington.

21 MR. O'BRIEN: Jim O'Brien,  
22 representing The Nature Conservancy.

23 MS. HEALD: Donna Heald McCosker,  
24 representing Donna Heald, an abutter.

1 MS. GAGNON: Sandra Gagnon, with  
2 Eversource.

3 MR. PATCH: Doug Patch, from the law  
4 firm of Orr & Reno, on behalf of University of  
5 New Hampshire and the Town of Durham.

6 MR. IRWIN: Tom Irwin, Conservation  
7 Law Foundation.

8 MR. FITCH: Matthew Fitch,  
9 representing the Durham Point/Little Bay  
10 abutters.

11 MR. MILLER: Jeffrey Miller, with the  
12 Durham Bay abutters.

13 MS. MILLER: Vivian Miller, Little  
14 Bay abutters.

15 MS. SCHUETZ: Marissa Schuetz, Site  
16 Evaluation Committee, Program Specialist.

17 MR. ASLIN: I'm Chris Aslin,  
18 Assistant Attorney General, as Counsel for the  
19 Public.

20 PRESIDING OFCR. IACOPINO: Thank you.  
21 I always do that so everybody sort of knows  
22 who's in the room.

23 I know that there are pending motions  
24 in this matter with respect to the Order on



1 Intervention. The process that will be used  
2 for those is the same that we've been using  
3 since the statute has been amended. There will  
4 be a hearing scheduled before the full  
5 Subcommittee, once we have -- once the  
6 objection period has run on those motions.

7 I don't know what that date will be  
8 yet. We have to establish when the Committee  
9 members are available.

10 Before we get into what we're going  
11 to do today, I do want to just explain a little  
12 bit about the Subcommittee. Each of the  
13 members of the Subcommittee, except for the  
14 public members, have a role that they play all  
15 day in the state government. So, this is  
16 probably not the most politically correct way  
17 to put this, but they have a full-time job  
18 that's other than being on the Site Evaluation  
19 Committee. So, sometimes we do get complaints  
20 about "it takes a while to get things signed  
21 off" or "it takes a while to get things  
22 scheduled", and that's because, we're not only  
23 juggling the schedules of the people who are  
24 members of the Site Evaluation Committee, we're

1 also juggling the schedules of those people in  
2 their role as other state officials.

3 And, so, just at the outset, I want  
4 to, you know, I mean, there's a lot of people  
5 who are regular players before the Site  
6 Evaluation Committee here, and they know that.  
7 But, for those of you who are new to this  
8 process, sometimes that does become  
9 frustrating. But, unfortunately, that's the  
10 reality that we deal with, that we have to  
11 juggle around all sorts of different state  
12 commitments.

13 The purpose of a prehearing  
14 conference is to discuss issues that may be in  
15 play in a particular docket, to discuss whether  
16 or not there are issues that can be agreed  
17 upon; if there are any settlements, partial  
18 settlements; any simplification of issues that  
19 can be agreed upon; or there is any agreements  
20 with respect to various facts or the status of  
21 the evidence or proof; and whether there's any  
22 issues which certain parties decide that they  
23 don't really want to play a role in.

24 We can also discuss whether there

1           should be any type of limitation on the number  
2           of witnesses.  Whether -- we will discuss a  
3           little bit about what the eventual hearing  
4           process is.  I'm sure we'll discuss that in  
5           quite a bit of detail for folks who haven't  
6           done it before.  And we can also discuss  
7           consolidation of witnesses.

8                         We could discuss the Intervention  
9           Order, but I can't do much about it.  That will  
10          be resolved by the entire Subcommittee.

11                        And, ultimately, though, I think the  
12          most important thing we're going to discuss  
13          today is the scheduling for the process going  
14          forward in this docket.  And I say that that's  
15          probably the most important thing we're going  
16          to discuss, because we are early on in the  
17          docket.  And, it is, you know, I'm sure that  
18          nobody has considered "jeez, I'm going to  
19          stipulate to a certain issue of fact" at this  
20          point in time.

21                        So, we'll go through the list.  But  
22          the first thing that I want to do is I want to  
23          speak to the Applicant.  Thank you.  They have  
24          prepared a proposed schedule, which I believe

1 has been distributed throughout the room.

2 The first thing I want to address to  
3 the Applicant, before we get to the schedule,  
4 is do you anticipate filing any substantial  
5 amendments or supplements to the Application?  
6 And, if you do, can you give us all sort of an  
7 idea at least of a timeframe for that?

8 MR. NEEDLEMAN: Yes, we do. I think  
9 most folks are aware that we have been working  
10 hard to try to come up with the rights to be  
11 able to locate a portion of the line in  
12 Newington underground, which would essentially  
13 run underground through the Frink Farm and  
14 behind the Hannah Lane residences. In order to  
15 file that amendment, we need to have site  
16 control under the SEC rules. And, to obtain  
17 site control in this instance, it has been a  
18 little bit of a challenge, because there is a  
19 conservation easement on the Frink Farm. And,  
20 in order to secure the underground rights  
21 there, in addition to getting the consent of  
22 the Frinks, we would need to have that  
23 conservation easement amended, which would  
24 require various other regulatory approvals.

1           We've been working with the Town,  
2           with the Frinks, with a number of other  
3           entities, to secure those regulatory approvals.  
4           That process is moving forward.

5           Our hope is that we will be able to  
6           do that sometime in the next few weeks, and  
7           then submit the amendment by the end of this  
8           month or the beginning of October. That's the  
9           best I can tell you at this point.

10           PRESIDING OFCR. IACOPINO: Who has  
11           the authority to change or amend or do whatever  
12           has to be done for the conservation easements?

13           MR. NEEDLEMAN: Rockingham County  
14           Conservation District, U.S. Department of  
15           Agriculture, and the Charitable Bureau of the  
16           New Hampshire AG's Office. I think I got them  
17           all. If I didn't, somebody will tell me  
18           otherwise.

19           MR. ALLWARDEN: The Town of Newington  
20           as well.

21           PRESIDING OFCR. IACOPINO: And, other  
22           than Newington, none of those agencies or  
23           groups have filed an appearance or intend to  
24           appear in the Site Evaluation Committee, I

1 believe?

2 MR. NEEDLEMAN: That's my  
3 understanding.

4 PRESIDING OFCR. IACOPINO: And, when  
5 you say "a few weeks", any idea on how few or  
6 how many?

7 MR. NEEDLEMAN: Honestly, no, because  
8 some of this is just out of our control. We're  
9 doing what we can to push the process forward.  
10 But it's not that I don't want to tell you,  
11 it's I can't tell you. I don't know.

12 PRESIDING OFCR. IACOPINO: Other than  
13 that particular expected amendment, are there  
14 any other amendments or supplements that you  
15 anticipate in this proceeding?

16 MR. NEEDLEMAN: Not at this time.

17 PRESIDING OFCR. IACOPINO: If you  
18 could give me and everybody else here an idea  
19 of, once you have, assuming you get those  
20 approvals, what portions of the Application are  
21 going to need to be amended, and how technical  
22 is this going to be? Is this going to require  
23 additional State agency applications and  
24 approvals as well?

1 MR. NEEDLEMAN: We do not anticipate  
2 additional State agency involvement. Overall,  
3 our expectation is that the nature of the  
4 amendment will be one that is in the context of  
5 a reduction in impacts.

6 It will necessitate changes to some  
7 of the prefiled testimony that's been filed.  
8 And we're trying to do that in a way so that  
9 the changes are contained and as limited as  
10 possible within the testimony.

11 It will also, obviously, necessitate  
12 changes to portions of the narrative part of  
13 the Application. And, again, we are trying to  
14 do it in a way so that is as narrow and  
15 contained as possible.

16 PRESIDING OFCR. IACOPINO: What about  
17 things like Alteration of Terrain Permit,  
18 Wetlands Permit? Is it going to require any  
19 changes to those?

20 MR. NEEDLEMAN: It will require  
21 changes to those. But I don't believe it's new  
22 agency involvement, it's existing agency  
23 involvement, and changes to pending  
24 applications.

1                   And I just, maybe somebody else  
2                   recalls, I don't recall the extent to which we  
3                   would have to make changes to those  
4                   applications.

5                   Do you remember, Adam?

6                   MR. DUMVILLE: I believe they're  
7                   mostly to the Wetlands applications and the  
8                   Alteration of Terrain Permit applications. I  
9                   don't recall whether they're major or minor,  
10                  but they're --

11                  PRESIDING OFCR. IACOPINO: All right.  
12                  So, are you anticipating just amending those  
13                  applications that you've already filed --

14                  MR. DUMVILLE: That's correct.

15                  PRESIDING OFCR. IACOPINO: -- or  
16                  filing new ones?

17                  MR. DUMVILLE: Amending the  
18                  applications that are currently in front of the  
19                  agencies.

20                  PRESIDING OFCR. IACOPINO: I know  
21                  that Mr. Hebert is shaking his head back there.  
22                  Do you have any particular knowledge about the  
23                  extent of what --

24                  MR. HEBERT: Yes, they have to --



1                   *[Court reporter interruption -*  
2                   *multiple parties speaking at the*  
3                   *same time.]*

4                   PRESIDING OFCR. IACOPINO: Do you  
5                   have any particular knowledge about what they  
6                   have to file at the DES?

7                   MR. HEBERT: I believe they're going  
8                   through the Frink Farm, where they're proposing  
9                   to go underground, they're going to be hitting  
10                  some substantial wetlands there. I do know  
11                  that back there there is a spring that existed  
12                  that the Town used to use years ago that is  
13                  just bubbling out of the ground, I think, on a  
14                  regular basis.

15                  That will probably be the biggest  
16                  obstacle they would have as far as getting the  
17                  DES permits -- or, for wetlands permits, excuse  
18                  me.

19                  PRESIDING OFCR. IACOPINO: Mr.  
20                  Aslin, in your experience, probably  
21                  representing DES, do you see this as something  
22                  that is going to take a substantial amount of  
23                  time at the Department of Environmental  
24                  Services?

1 MR. ASLIN: I don't expect it to be a  
2 substantial delay. At most, it would  
3 potentially have DES asking for a small  
4 extension of time. But, given where we are in  
5 the proceedings, if we get an amendment by  
6 October, that should give the agencies time.  
7 And they have their progress report shortly  
8 thereafter, but that's just a progress report.  
9 So, they would still have 100 days or so to  
10 make their final determination.

11 PRESIDING OFCR. IACOPINO: Mr.  
12 Hebert.

13 MR. HEBERT: Thank you. There is one  
14 issue is that the issue of PFOAs in the water  
15 in that particular area. I'm not sure if  
16 that's going to involve another agency or not.  
17 But we've been told that PFOAs do exist in the  
18 groundwater there. So, I'm not -- I still  
19 don't think that's going to be a showstopper.  
20 I think it's just a matter of going through the  
21 proper agencies to get that covered.

22 PRESIDING OFCR. IACOPINO: Mr.  
23 Needleman, do you have any idea of whether the  
24 PFOAs will be -- require any new agency

1 filings?

2 MR. NEEDLEMAN: I don't expect them  
3 to be an issue, based on what we know now.  
4 It's typical that, when underground  
5 construction is contemplated, part of the plan  
6 is dealing with contaminated water or  
7 contaminated soil, to the extent that you  
8 encounter it. And I think part of the plan  
9 here would be to deal with that in the  
10 traditional manner. We would have a plan in  
11 place to deal with those, to the extent that we  
12 do encounter them.

13 PRESIDING OFCR. IACOPINO: And I know  
14 the PFOAs are, obviously, in the news a lot  
15 these days with what's happened down in the  
16 Merrimack area/Litchfield area. Is there  
17 any -- I have not encountered them in any of  
18 our Site Evaluation Committee processes. Is  
19 there anything out of the ordinary with that?  
20 And anybody can weigh in on this that knows,  
21 that would -- and I'm not trying to address  
22 substantive issues here. I'm trying to see how  
23 this may fit into our schedule and our process.

24 MR. NEEDLEMAN: What I can tell you

1 at this point is, we don't anticipate anything  
2 associated with that issue, which would cause  
3 this to be out of the ordinary.

4 PRESIDING OFCR. IACOPINO: Does  
5 anybody else have any input with respect to  
6 PFOAs?

7 *[No verbal response.]*

8 PRESIDING OFCR. IACOPINO: All right.  
9 So, I guess what I'm hearing is that, although  
10 there's going to be an amendment -- there may  
11 be an amendment, we don't know yet, depending  
12 upon how you do with the folks who hold the  
13 conservation easements.

14 If there is an amendment, they may  
15 require some modifications to your existing  
16 Wetlands and Alteration of Terrain Permit  
17 applications. But that that should not hold us  
18 up either with respect to the State agencies'  
19 reply dates. So, at this point, nobody is  
20 expecting to file a motion to suspend any  
21 timeframes based on that issue, is that  
22 correct?

23 *[No verbal response.]*

24 PRESIDING OFCR. IACOPINO: Good.

1           Okay. Then, before we move onto the next  
2           matter, which is basically we're going to move  
3           into -- I'm going to go through the list of  
4           things that we're supposed to do at a  
5           prehearing conference, and, ultimately, we'll  
6           get to scheduling.

7                         Does anybody have any questions about  
8           what we've just discussed with respect to the  
9           amendments and whatnot? And, obviously, I know  
10          that most of the lawyers in the room have  
11          probably already talked, and they know what's  
12          going on. But, specifically, anybody who's  
13          unrepresented here have any questions, doesn't  
14          understand what we're talking about, or needs  
15          any explanation on the process or why I'm  
16          concerned about amendments?

17                                 *[No verbal response.]*

18                         PRESIDING OFCR. IACOPINO: No? Okay.  
19          Good. Let's move on then. Let's tick through  
20          the requirements of a prehearing conference.

21                         We're supposed to consider offers of  
22          settlement, as I indicated before. Obviously,  
23          we've only been involved in this for a short  
24          period of time. I assume there have been no

1 offers of settlement that are at a stage where  
2 they would be disclosed at this point in time.  
3 Is that correct?

4 MR. NEEDLEMAN: Correct.

5 PRESIDING OFCR. IACOPINO: Okay.  
6 Does anybody disagree with that?

7 *[No verbal response.]*

8 PRESIDING OFCR. IACOPINO: Simpli-  
9 fication of the issues. Are there any issues  
10 that anybody out there believes can be  
11 simplified in terms of the manner in which  
12 they're addressed in this case? And, if you  
13 have looked at the Site Evaluation Committee's  
14 charge, you will know that their charge is  
15 basically to consider certain areas, which  
16 include whether or not the Applicant has  
17 sufficient managerial, financial, and technical  
18 capabilities to site, construct, and operate  
19 the project; whether or not the project will  
20 substantially interfere with the orderly  
21 development of the region; whether or not the  
22 project will have a unreasonable adverse impact  
23 on historic sites; air and water quality;  
24 aesthetics; natural environment; I think I'm

1 missing one, public health and safety; and,  
2 finally, whether the -- whether the granting of  
3 a certificate would be in the public interest.

4 This is Eversource. The first thing  
5 that I would look to is this is a company  
6 that's relatively known to most folks. Does  
7 anybody anticipate any real dispute over their  
8 financial ability? Not managerial or  
9 technical, but they're financial ability to  
10 undertake the Project, to site it, to construct  
11 it?

12 I'm not asking you to agree that they  
13 can. I'm just trying to see if there's any --  
14 if anybody intends to, at least at this point  
15 in time, and nothing that you say here will  
16 bind you, we're certainly going to do a full  
17 proceeding, but if there's anybody who intends  
18 really to challenge their financial ability to  
19 build the Project?

20 *[No verbal response.]*

21 PRESIDING OFCR. IACOPINO: I don't  
22 see any. Their technical abilities? Yes, sir.

23 MR. SCHWARTZ: Irwin Schwartz, on  
24 behalf of --

1                                    *[Court reporter interruption.]*

2                                    PRESIDING OFCR. IACOPINO: Can you  
3 put that microphone uncomfortably close to your  
4 face, and make sure the little red light on the  
5 bottom is on.

6                                    MR. SCHWARTZ: It's on now. Good  
7 morning. My name is Irwin Schwartz. And I'm a  
8 representative of Tom and Yael DeCapo, who are  
9 abutters of Little Bay. There is a concern as  
10 to the technical qualifications of the  
11 Applicant with respect to the jet plowing  
12 aspect of the proposal.

13                                   PRESIDING OFCR. IACOPINO: Thank you.  
14 And, then, managerial, sort of goes with  
15 technical, so, we'll leave it at that.

16                                   Most of the public interest stuff,  
17 air/water quality, natural environment, public  
18 health and safety, I've rarely seen anybody  
19 agreement on those issues. Does anybody want  
20 to discuss at all the possibility of any kind  
21 of agreements with respect to those issues?

22                                   *[No verbal response.]*

23                                   PRESIDING OFCR. IACOPINO: Not seeing  
24 a whole lot of people wanting to agree.



1           Okay. Limitation on the number of  
2 witnesses, I'm not going to put you through  
3 that today. The Applicant has filed its  
4 prefiled testimony, along with its Application,  
5 which is, in fact, part of our requirement, of  
6 our application requirements.

7           For each of the other parties, you  
8 should understand that one of the things that  
9 we will do today is set a date by which you  
10 must disclose your witnesses and file prefiled  
11 testimony. In our proceedings, it's not --  
12 it's like -- our adjudicatory proceedings are  
13 similar to a courtroom proceeding, but they're  
14 somewhat different. One way that it's  
15 different is all of the direct testimony, when  
16 your lawyer gets to question you, is done on a  
17 prefiled basis. So, that means that you will  
18 prepare your testimony in advance, and the  
19 easiest way to do it is with questions and  
20 answers, and then attaching exhibits. You  
21 prepare that in advance, there will be a  
22 deadline that will be set for when you have to  
23 file that, similar to what the Applicant had to  
24 do with its Application. Our rules require the

1 Applicant to file their witness testimony with  
2 the Application.

3 So, there are, just so the folks  
4 know, you will have to do that. This isn't --  
5 if you don't do that, you will not be a witness  
6 in the case. If your testimony is not  
7 prefiled, you will not be permitted to testify  
8 in the case. You may be permitted to make a  
9 public comment at an appropriate time.

10 However, your testimony will not be given the  
11 same weight that testimony that is prepared,  
12 prefiled, and cross-examined is given generally  
13 by the Committee. I can't decide the issues  
14 for each Committee member, but, generally,  
15 that's the case.

16 So, when we talk about limitation on  
17 number of witnesses, I would like those folks,  
18 especially those who are unrepresented and  
19 aren't familiar with our rules, to understand  
20 that they should be working on that.

21 And it doesn't just mean you. It  
22 means, if you're going to have an expert of  
23 some type, somebody, for instance, who might  
24 have some experience with jet plowing or an

1 engineer, or perhaps somebody who knows about  
2 EMFs, if you're going to have somebody like  
3 that testify or you want to have them testify,  
4 you have to do the same thing for them as well.  
5 And you have to prefile that testimony by the  
6 deadline that is set.

7 So, I'm not asking anybody to limit  
8 their number of witnesses at this point, but I  
9 do want the folks, especially those who are  
10 unrepresented, to know that direct testimony  
11 will be filed in advance. And we'll get to the  
12 scheduling of that in a few minutes.

13 Has anybody considered or wish to  
14 consider any changes to the standard  
15 proceedings that we generally use in this  
16 process? I don't know if anybody has given any  
17 thought, that's one of the issues that was  
18 noticed, and is typical statutory pretrial  
19 hearing consideration?

20 *[No verbal response.]*

21 PRESIDING OFCR. IACOPINO: Okay.  
22 Consolidation of examination of witnesses by  
23 parties. It is not unusual in our process to,  
24 instead of just having one witness come up to

1 the witness stand over here, as you can see,  
2 there's three chairs there right now,  
3 oftentimes we have a panel of witnesses. So,  
4 it is quite often that, if there's more than  
5 one witness that talks about one layer or  
6 another of a certain issue. So, let's say  
7 there might be discussion of electric and  
8 magnetic fields, as well as noise, audible  
9 noise from a transmission line. They both  
10 apply to public health and safety in some ways.  
11 So, it might not -- it would not be unusual to  
12 have those two witnesses on the dais at the  
13 same time as a panel. And you can ask, when  
14 it's your turn for cross-examination, you can  
15 ask either witness whatever relevant questions  
16 you wish to. But, one of the things that we do  
17 for efficiency sake is oftentimes we will put  
18 witnesses on as a panel. So, that is something  
19 for everybody to consider. Obviously, we're  
20 early on in the process.

21 And, then, we'll get to scheduling.  
22 Before we get to scheduling, I want to turn to  
23 Counsel for the Public, though, and ask if you  
24 anticipate the filing of any motions for, at

1 least at this point in time, for the retention  
2 of experts or other witnesses?

3 MR. ASLIN: Yes. Thank you. I  
4 expect to be filing motions for at least a  
5 couple expert witnesses. I'm in the process of  
6 identifying who I would retain. So, I haven't  
7 been able to file those yet, but I would  
8 anticipate in the next few weeks.

9 PRESIDING OFCR. IACOPINO: Okay.  
10 When we talk about scheduling, Chris, I'm going  
11 to start with the suggestion that's come from  
12 the Applicant. But one of the things we might  
13 want to make sure we discuss in there is a  
14 deadline for you to at least get the motions in  
15 to --

16 MR. ASLIN: Sure.

17 PRESIDING OFCR. IACOPINO: -- to the  
18 Committee. For folks who are unrepresented or  
19 don't know our process, Counsel for the Public,  
20 in some cases, does hire witnesses. Generally,  
21 to do that, he enlists the aid of the  
22 Committee. He will file a motion identifying  
23 those witnesses that he wishes to retain, what  
24 their costs are. And those costs are usually

1 borne by the Applicant, after they're approved  
2 by the Committee. So, that's what Mr. Aslin  
3 and I are discussing right -- were just  
4 discussing, is that particular process. And  
5 that is something that we will have to build  
6 into any schedule, so that everybody knows when  
7 these things have to be done.

8 The last thing we want from any party  
9 is, you know, a week before the final hearing,  
10 oh, all of a sudden "Hey, I've got a new  
11 witness." You know, "I need leave to present  
12 this new witness." So, we like to have these  
13 things front-loaded, at least with regard to  
14 who is going to be presenting information as  
15 witnesses.

16 That being said, before we move onto  
17 scheduling, was there any other issues that  
18 anybody think would be appropriate to address  
19 before we get to scheduling?

20 *[No verbal response.]*

21 PRESIDING OFCR. IACOPINO: Okay.  
22 Does everybody have a copy of what the  
23 Applicant has sent out? Do you guys have any  
24 more copies? There's some folks in the back

1           that don't have copies of it.

2                       And, Mr. Schwartz, somewhere in the  
3           room there is a sign-in sheet, too, if you  
4           could fill that in.

5                       MR. SCHWARTZ:    Sure.

6                       PRESIDING OFCR. IACOPINO:  Actually,  
7           if you have a card, if you could just leave a  
8           card with it, that would be great.

9                       MR. SCHWARTZ:    Sure.

10                      PRESIDING OFCR. IACOPINO:  We use  
11           that to make sure that our distribution and  
12           service lists are up-to-date.

13                      I've had the chance to look over what  
14           the Applicant has proposed in its document.  
15           They have gone with pretty much the standard  
16           anchors, if you will, that we use in most of  
17           our proceedings.  It's no surprise, as  
18           Eversource comes before the Site Evaluation  
19           Committee every now and then, and that they're  
20           aware of the manner in which we operate.  So,  
21           many of these dates are, at least the dates  
22           that are deadlined in the document, are  
23           deadlines that we normally do put in a  
24           schedule.

1           As I indicated before, the one thing  
2           that you always have to realize is that  
3           June 13th is our operative date, and many of  
4           our deadlines run from that, because that's the  
5           date that the Application was accepted. So,  
6           there are certain things that have to be done  
7           within certain timeframes. I haven't confirmed  
8           the mathematics or the calendar, but it appears  
9           that Number 3, which is the State agencies'  
10          150-day deadline, that's a statutory deadline,  
11          as is Number 8, which is a 240-day deadline.

12                 Generally, what happens is the State  
13          agencies will provide draft permits or reports.  
14          Sometimes they request additional information.  
15          That will have to be done by them prior to what  
16          appears to be November 11th. And, then,  
17          ultimately, they issue permits for the Site  
18          Evaluation Committee by the 240-day deadline,  
19          which is Number 8. And those permits should  
20          contain all of the conditions that the State  
21          agencies require from their agency review.

22                 Everything in between those two dates  
23          are -- well, I shouldn't say "flexible", but  
24          they are anchors that are not bound by a



1 statutory deadline. So that we can, you know,  
2 play around with those dates.

3 The next date that is statutory is  
4 the date Number 16, by which the final decision  
5 has to be issued. I generally like a 60-day  
6 period from the end of the adjudicatory  
7 hearings to the date of the actual issuance of  
8 the Committee's decision. And the reason for  
9 that is is these are not minor documents. They  
10 generally run anywhere from 75 to 150 pages of  
11 decision. If you've read the enabling statute,  
12 RSA 162-H, the review by the Subcommittee is  
13 expansive. It goes into a number of different  
14 areas. And, in order to explain its decision,  
15 it does require a lot of writing. And that's  
16 after the Committee has actually voted on  
17 whether or not to grant the certificate, just  
18 so you know.

19 So that, in reality, for instance, if  
20 we were to use the dates contained on the  
21 filing by the Applicant, if we were to end on  
22 April 21, 2017, or shortly thereafter, there  
23 would have been a period of deliberation  
24 conducted by the Committee. The Committee must

1 deliberate in public. They're not allowed to  
2 go in the backroom and hash it out. So, they  
3 deliberate in public. So, you actually know  
4 what their rulings are, you know, anywhere from  
5 30 to 60 days before the actual decision comes  
6 out. But the operative date for any appeals or  
7 anything like that is the day that the written  
8 decision is actually issued.

9 So, usually, in order to get a proper  
10 decision prepared, and get all the signatures  
11 that are needed on it, I usually like about 60  
12 days. Obviously, counsel for the Applicant is  
13 aware of that. They're pretty close, although  
14 they did cheat me by a week.

15 MR. NEEDLEMAN: I like to push you a  
16 little bit.

17 PRESIDING OFCR. IACOPINO: But that's  
18 the other deadline that is statutory. Now, the  
19 Committee can suspend these deadlines. They  
20 would have to have a meeting and take a vote on  
21 doing that. They have to have good cause to do  
22 that. And they have to find that it's in the  
23 public interest to do that. At this point, you  
24 know, we're early on, I don't -- we don't like

1 to do that, because we like to comply with the  
2 black letter law of our enabling statute.

3 So, those three dates are what we  
4 would call dates that have to -- things have to  
5 occur by that: November 11th, February 8th,  
6 and June 13th.

7 Does anybody have any objection to  
8 the -- well, what I would like to discuss next  
9 is a deadline for Counsel for the Public to  
10 file -- at least file the motion for their  
11 experts and witnesses. And the reason why I  
12 want to get that in the calendar is, because,  
13 in the past, when we haven't put it into the  
14 calendar and it's been done, we've had to amend  
15 our procedural schedule to accommodate a  
16 different track for Counsel for the Public, so  
17 that he or she could actually have the benefit  
18 of those witnesses' wisdom and expertise.

19 So, I'm going to turn to you, Chris,  
20 and say what do you think, in terms of here,  
21 the Applicant is proposing October 21 for data  
22 requests or discovery requests to be submitted  
23 based upon its prefiled testimony. Can you  
24 accommodate a schedule whereby you can file a

1 motion, get whatever issues need to be  
2 resolved, get that resolved, and do this by  
3 October 21?

4 MR. ASLIN: Yes. I think October 21  
5 is a reasonable deadline for motions for  
6 experts.

7 PRESIDING OFCR. IACOPINO: Okay. In  
8 this document, they have this as the date on  
9 data requests.

10 MR. ASLIN: I think we can do both at  
11 the same time.

12 PRESIDING OFCR. IACOPINO: So, you  
13 think you'll have sufficient -- did you want to  
14 set a time before that Number 2, between 1 and  
15 2, a date for filing of your motions?

16 MR. ASLIN: My preference would be to  
17 have that date, just to have a little  
18 flexibility so I would have until that time to  
19 file the motions, even though I'm likely to  
20 file them well in advance of that.

21 PRESIDING OFCR. IACOPINO: Okay. You  
22 understand, my concern, though, is, --

23 MR. ASLIN: Yes.

24 PRESIDING OFCR. IACOPINO: -- if you

1 file on October 21st, and then you say "But I  
2 don't have my experts yet, so, I'm not prepared  
3 to issue data requests", that's going to kick  
4 back the entire discovery schedule?

5 MR. ASLIN: Yes. I understand the  
6 concern. But I don't believe it would be a  
7 problem. But I don't want to impose a deadline  
8 that's too early that will then require me to  
9 come back and ask for more time.

10 PRESIDING OFCR. IACOPINO: Okay.  
11 Anybody else want to chime in on that issue?

12 MR. NEEDLEMAN: Well, I would say,  
13 we're happy to accommodate whatever deadline  
14 Chris wants, but it's with the understanding  
15 that we're going to hold that discovery  
16 deadline. Because my experience in the past  
17 has been that Counsel for the Public has wanted  
18 to have their experts onboard, with an order  
19 from the Committee, before they released them  
20 to do work, which included assisting with the  
21 preparation of discovery. But, if you don't  
22 feel that you're going to have those sorts of  
23 constraints here, and you can do both  
24 simultaneously, then that's fine, and we'd be

1 happy to proceed that way.

2 PRESIDING OFCR. IACOPINO: Any other  
3 parties want to address that particular issue?

4 If they have a preference whether  
5 they think that Counsel for the Public should  
6 have a hard deadline sometime before the date  
7 for the filing of discovery requests?

8 *[No verbal response.]*

9 PRESIDING OFCR. IACOPINO: Okay.

10 MR. ASLIN: The one point I will make  
11 is, if there is an amendment filed, that  
12 October 21 deadline may have to, if not shift,  
13 be granted additional time for discovery on the  
14 amendment.

15 PRESIDING OFCR. IACOPINO: I think  
16 that that's a good point, maybe we should  
17 discuss that right now. We don't know -- we  
18 know that there is an intent to seek an  
19 amendment. We don't know when that will  
20 happen. It might even, you know, might be a  
21 good thing to discuss. Well, let's talk about,  
22 first, October 21, okay, because that's the  
23 next thing on the list.

24 And, then, we can talk about what

1 happens if an amendment is scheduled, and  
2 maybe, if we can't get dates, maybe we can at  
3 least get some timeframes for additional  
4 discovery that may be necessary, okay?

5 So, on October 21 is the date that  
6 has been suggested by the Applicant for Counsel  
7 for the Public and the intervenors to submit  
8 their data requests or discovery requests.  
9 Those are, for folks who are not familiar with  
10 this process, they are what, in civil  
11 litigation, they are essentially  
12 interrogatories. They are written questions.  
13 We have a rule, I think it's 202.12, Site  
14 202.12, you are permitted to ask up to 50  
15 questions, each party is permitted to ask up to  
16 50 questions, in writing. I generally suggest  
17 to folks that what they do with those is they  
18 ask for documentation. That's usually where  
19 you're going to get the most information.  
20 Remember, though, that if you have a five-part  
21 question, it counts as five questions. So,  
22 read our rule.

23 And, I would suggest that, if, in  
24 your preparation of your discovery, you

1 determine that "I can't live within the 50  
2 question limit", that you file a motion seeking  
3 leave to ask -- well, first, speak to the other  
4 side, speak to the Applicant, see if they'll  
5 agree to some extra questions. In my  
6 experience, Eversource, and through its  
7 counsel, has done that in the past. And I'm  
8 sure, if there's a reasonable request, they  
9 probably will.

10 But, if you're going to need to seek  
11 relief from the Committee to get additional  
12 questions, you're going to need to file that  
13 significantly in advance of the date that the  
14 questions are due. And you've got to give the  
15 Applicant at least ten days to respond, and the  
16 Committee at least a week or two after that to  
17 issue an order on that motion. So, keep that  
18 in mind. If you're going to seek additional  
19 interrogatories, file your motion well before  
20 whatever deadline is set. So that there's  
21 sufficient time for your motion to be objected  
22 to, if there is an objection, and, number two,  
23 for the Committee to rule on it -- well,  
24 actually, for the Chairman of the Committee to



1 rule on it. Because, otherwise, we wind up  
2 behind our dates.

3 So, let's turn to Number 2 on the  
4 schedule, October 21. Does anybody object to  
5 what the Applicant has proposed for the --  
6 basically, the data request deadline here?

7 Susan.

8 MS. GEIGER: Yes. The Town of  
9 Newington doesn't object to that date. But I  
10 think we'd like the schedule to reflect that  
11 October 21st, that deadline is premised upon  
12 the assumption that any application or  
13 supplemental -- any amendment or supplemental  
14 application would be filed on or before  
15 October 1st.

16 MR. NEEDLEMAN: I'm not sure we're  
17 comfortable agreeing to that. I think that  
18 what we'd like to do is handle this based on  
19 the expectation that we will get that amendment  
20 in as quickly as we can. And that, if it  
21 becomes necessary, because of timing, for  
22 people to need some sort of additional  
23 discovery, specifically with respect to the  
24 amendment, that we talk about that and find a

1 way to work it out. But I don't think that we  
2 should be hinging the entire schedule on the  
3 timing of the amendment.

4 PRESIDING OFCR. IACOPINO: Does  
5 anybody else have any input on the date of  
6 October 21? It is a Friday.

7 *[No verbal response.]*

8 PRESIDING OFCR. IACOPINO: Okay. So,  
9 the issue then is not really that date, it's  
10 "what happens if there's an amendment?" And,  
11 obviously, the Applicant couldn't tell us when  
12 that amendment would be filed.

13 Susan, do you think that scheduling  
14 separate data requests, in the event that there  
15 is an amendment? So, for instance if an  
16 amendment is filed, parties have 21 days after  
17 the amendment to file additional data requests  
18 related to the amendment, something like that?

19 MS. GEIGER: I think that could work.  
20 And another concern that I have is it seems  
21 likely that there will be an amendment or a  
22 supplemental application, assuming all the  
23 folks that are needed to sign off on the burial  
24 rights do so.

1           But, in the unlikely event that they  
2           don't, we'd also like to know that there will  
3           not be an amendment, because that will govern  
4           the types and the numbers of questions that at  
5           least the Town of Newington will have. So, I  
6           was hoping that we could get some certainty  
7           around, whether they're -- a date by which the  
8           supplement either will or will not be filed.

9           In other words, if we don't know by  
10          October 21st whether the Application will be  
11          amended, then the Town of Newington will have  
12          to ask a whole bunch of questions about an  
13          overhead line. If, before then, we find out  
14          that some of that line is proposed to be  
15          buried, then, obviously, I would assume that a  
16          number of questions and the types of questions  
17          that we have will be significantly reduced.

18                 So, that's my concern.

19                 PRESIDING OFCR. IACOPINO: Let me ask  
20          the Applicant. If we did it the other way that  
21          I just discussed, rather than -- I assume you  
22          object to -- okay. I assume you object to a  
23          hard deadline for filing of an amendment?

24                 MR. NEEDLEMAN: We do object to a

1 hard deadline, but I understand Susan's  
2 concern. I assume others have the same  
3 concern.

4 PRESIDING OFCR. IACOPINO: Assuming  
5 that, if we were to go in the other direction  
6 and say "if an amendment is filed, Counsel for  
7 the Public and all the parties will have an  
8 additional amount of time, say 21 days, to  
9 propound data requests or discovery requests  
10 regarding the amendment." Do you have any  
11 objection to such an order including an  
12 additional number of questions, so that they  
13 can address the fact that it's now underground  
14 and not overhead? Because, as everybody knows,  
15 if I have 50 questions, and I'm coming up on  
16 October 21 and there's no amendment, my 50  
17 questions are going to be dealing with the  
18 Project as it exists. And, if I get an  
19 amendment a month later, I'm going to be  
20 looking to ask more questions.

21 So, I guess the thing is is, if we  
22 set up the order in such a fashion to avoid a  
23 hard deadline for the filing of an amendment,  
24 although at some point we will get into

1 never-never land where it's just going to be  
2 too late.

3 But, assuming that there's not a hard  
4 deadline for the filing of an amendment, but  
5 there is an order saying "if an amendment is  
6 filed, the parties will be given X number of  
7 days to submit additional data requests, they  
8 shall be able to submit no matter than X number  
9 of data requests."

10 Is that something that the Applicant  
11 can agree to?

12 MR. NEEDLEMAN: I think that would be  
13 reasonable. I think, in that case, if we had  
14 some date in the schedule that said, for  
15 example, "if an amendment is not filed by  
16 October 14th, then those, you know, that  
17 contingency would kick in." Because what I  
18 want -- what I don't want to see happen is, if  
19 we get an amendment filed on October 3rd,  
20 people are saying "Well, we need more time and  
21 extra discovery." I don't think that would be  
22 reasonable.

23 PRESIDING OFCR. IACOPINO: What do  
24 you think about that? I know that, Susan, you

1 had your thoughts about it, and then  
2 Mr. Ratigan was nodding his head before, too.  
3 So, I guess what --

4 MS. GEIGER: The only thing I would  
5 add is, October 14th seems like a tight  
6 timeframe within which to meet an October 21st  
7 deadline for propounding data requests. So, --

8 MR. NEEDLEMAN: My thinking is that,  
9 either way, there will be a significant portion  
10 of data requests that will be unrelated to  
11 whether an amendment is or isn't filed. And,  
12 so, that extra week would really only be  
13 devoted to either the underground or overhead  
14 portion of the line within the Frink Farm and  
15 the Hannah Lane area.

16 PRESIDING OFCR. IACOPINO: What if  
17 said "by October 7th", so, just the one week  
18 before, it gives 14 days?

19 MS. GEIGER: That's fine.

20 PRESIDING OFCR. IACOPINO: I'm sorry,  
21 I was over on this side of the room. Anybody  
22 on this side of the room want to chime in on  
23 that?

24 MR. NEEDLEMAN: Yes. That's okay.

1                   PRESIDING OFCR. IACOPINO: I'm sorry?

2                   MR. NEEDLEMAN: Sure.

3                   PRESIDING OFCR. IACOPINO: Mr. Patch.

4                   MR. PATCH: Could you just explain  
5 that again. What's the October 7th deadline?  
6 Because I'm not sure I'm totally clear on that.

7                   PRESIDING OFCR. IACOPINO: Okay. The  
8 date, what we're talking about is October 21,  
9 Number 2 on the proposal, will be the deadline  
10 for propounding discovery requests. If an  
11 amendment is filed prior to October 7th, that  
12 will be the only deadline for filing data  
13 requests. If an amendment to the Application,  
14 and we're talking about this undergrounding, is  
15 filed after October 7th, we will set a date for  
16 the parties to submit additional data requests  
17 regarding the underground portion of the -- of  
18 the Project. And the idea would be that those  
19 data requests would be due a certain amount of  
20 time after the amendment, so that we don't have  
21 to have another scheduling conference to  
22 schedule those dates, or we don't have to have  
23 the Chairperson dictate to everybody what that  
24 date will be. You will have your input here

1 today.

2 Does anybody have a problem with that  
3 concept?

4 *[No verbal response.]*

5 PRESIDING OFCR. IACOPINO: Okay. So,  
6 now, there being no problem with the concept,  
7 let's talk about the details of it. So, we've  
8 got October 21 and October 7th, okay. If an  
9 amendment to the Application is filed after  
10 October 7th, what's a sufficient amount of time  
11 to submit additional interrogatories regarding  
12 the underground portion of the route?

13 MR. NEEDLEMAN: We would propose two  
14 weeks.

15 PRESIDING OFCR. IACOPINO: Does  
16 anybody object to that? I think it's  
17 reasonable. But go ahead, Mr. Patch.

18 MR. PATCH: Can I just make sure I  
19 understand for the record, you talk about  
20 "undergrounding", but, as I understand it, the  
21 Applicant really has the ability to amend the  
22 Application beyond that, if they wanted to,  
23 right? So, it isn't just about undergrounding.  
24 Presumably, based on what's been said, that's



1 probably what it's all about. But they could  
2 amend it, I mean, as often happens in these  
3 proceedings, there's an amendment or a  
4 supplement that happens three months in or four  
5 months in or something like that.

6 Are we led to believe the only thing  
7 an amendment is going to deal with is  
8 undergrounding or could it be broader?

9 PRESIDING OFCR. IACOPINO: Well, I  
10 was using "undergrounding" because that's what  
11 the discussion was. I assume, if they filed  
12 some kind of substantive amendment to the  
13 Application that involves other areas that the  
14 same, I mean, the same concept would apply, I  
15 mean, if you're submitting something new, that  
16 wasn't available for folks to understand prior  
17 to issuing their data requests. So, I would  
18 say it would be limited to whatever is in the  
19 amendment, rather than just saying  
20 "undergrounding". That's just my terminology  
21 I've been using, because that seems to be where  
22 the amendment is headed, if there is going to  
23 be one.

24 Does that satisfy you, that the

1 subsequent interrogatories must involve what's  
2 in the amendment? In other words, you can't  
3 take this chance and then go and ask more  
4 questions about their financial capability,  
5 assuming that's not part of the amendment.

6 Mr. Schwartz, did you want to chime  
7 in?

8 MR. SCHWARTZ: No. I was just having  
9 a discussion with my client.

10 PRESIDING OFCR. IACOPINO: Okay.

11 MR. SCHWARTZ: We don't need to add  
12 anything.

13 PRESIDING OFCR. IACOPINO: Thank you.

14 MR. ASLIN: Mike, the only concern I  
15 have, I think 14 days sounds a reasonable  
16 timeframe. But, if, for some reason, we got an  
17 amendment that was substantially more  
18 encompassing than what we are anticipating, or  
19 what I think the Applicant is anticipating, so  
20 it's probably a small chance, but I could  
21 imagine a scenario where a larger amendment  
22 might require some additional time. Just  
23 putting that out there as a concern.

24 I think, for our purposes, 14 days

1 makes sense, subject to the ability to ask for  
2 more time, if something different happens.

3 PRESIDING OFCR. IACOPINO: And that  
4 goes without saying. Obviously, with any  
5 deadline that is set, if something unforeseen  
6 happens, whether it is the amendment is  
7 different than what everybody expected, or  
8 somebody has a death in the family, and you  
9 need additional time, there is a process for  
10 addressing those issues, and that's by filing a  
11 motion. And, you know, if it is something like  
12 an emergency, a family emergency or something,  
13 call Pam Monroe or myself, let us know, and we  
14 make sure that people are aware of it.

15 The other thing that I will point  
16 out, and I usually do this towards the end of  
17 these proceedings, but don't be afraid of these  
18 three guys sitting in the front here, or  
19 Mr. Aslin. Even though they do this a lot, you  
20 should feel free to call them at any time to  
21 discuss issues. Because we do talk about  
22 things in these cases, they may not always  
23 agree with you, but it's always better to talk  
24 about it before -- before you set something up

1 on an adversarial basis. So, I would suggest  
2 that.

3 Chris, with respect to your issue,  
4 like I say, you know, obviously, if there's  
5 something unexpected, there's always a method  
6 to seek leave for additional time or additional  
7 process. And that's by filing a motion with  
8 the Chairman of the Committee, and following  
9 the rules in doing that.

10 So, I agree with you. If something,  
11 you know, if they file something, they want to  
12 transmit the electricity by satellite, yes,  
13 that might require some additional work on  
14 everybody's part.

15 MR. NEEDLEMAN: A lot of work.

16 PRESIDING OFCR. IACOPINO: Yes. So,  
17 that -- I think that goes without saying, but  
18 it's good to note.

19 So, right now, we're talking about,  
20 if an amendment is not filed by October 7th,  
21 the parties will have 14 days after the filing  
22 of an amendment to file additional data  
23 requests.

24 And the question now turns to what

1 number of additional data requests. Fifty is  
2 our limit in the usual course of things. We  
3 should probably set a limit with respect to the  
4 amendment. I understand the amendment may  
5 encompass more than what we've discussed here  
6 today. But, at this point, that's not likely.  
7 So, let's think about it as an amendment that  
8 is likely to bury or propose burial along the  
9 Frink property. And if, for those of you who  
10 attended the site visit, there was some -- you  
11 could see some of that. And, in the  
12 Application, there is some materials from which  
13 you can probably envision where that is and  
14 where that would be.

15 So, who wants to throw out a number?  
16 I look to Counsel for the Public first,  
17 because -- just because.

18 MR. ASLIN: Well, it's hard to say,  
19 without seeing the amendment, you know, how  
20 much --

21 PRESIDING OFCR. IACOPINO: Of course.

22 MR. ASLIN: -- how many different  
23 issues would be raised. But I guess I would  
24 throw out 20 as a reasonable number for

1 additional data requests.

2 PRESIDING OFCR. IACOPINO: Does  
3 anybody, other than the Applicant, think that  
4 that's not a reasonable number?

5 *[No verbal response.]*

6 PRESIDING OFCR. IACOPINO: How about  
7 the Applicant?

8 MR. NEEDLEMAN: I mean, that puts us  
9 in a position where, essentially, everybody is  
10 getting 70 data requests.

11 PRESIDING OFCR. IACOPINO: Uh-huh.

12 MR. NEEDLEMAN: Which, having been on  
13 the receiving end recently of lots of data  
14 requests, that's a lot to answer. And I  
15 understand people will have questions about the  
16 underground portion, that's fair. But we are  
17 only talking about 2,200 feet in a 13-mile  
18 project.

19 PRESIDING OFCR. IACOPINO: In an  
20 historic district.

21 MR. NEEDLEMAN: And one of the  
22 reasons that we're all trying to do this work  
23 is to help try to avoid some of those impacts.

24 So, 20 feels like a lot to me for

1 this narrow change.

2 PRESIDING OFCR. IACOPINO: What's  
3 your suggestion?

4 MR. NEEDLEMAN: I was thinking more  
5 like 10.

6 PRESIDING OFCR. IACOPINO: So,  
7 somewhere between 10 and 20 is the appropriate  
8 number, I guess, huh?

9 Does anybody else want to chime in?

10 MR. NEEDLEMAN: And I would just -- I  
11 mean, I would also hope that, you know, to the  
12 extent that folks are preparing their other  
13 data requests, that they're really trying to be  
14 targeted on those, and not necessarily going to  
15 the limit just because they have 50.

16 PRESIDING OFCR. IACOPINO: I mean,  
17 and you're anticipating that there's going to  
18 be 20 different questions from every party.  
19 It's not likely. As you know, many of those  
20 questions are going to be -- the answer is  
21 going to be the same for them, and you're going  
22 to be able to say "see answer to such and  
23 such".

24 MR. NEEDLEMAN: Yes, that's true.

1 That's true. And I would also hope that, to  
2 some extent, parties might coordinate and try  
3 to avoid being duplicative.

4 PRESIDING OFCR. IACOPINO: Yes.  
5 We'll talk about that in a minute, too. Town  
6 of Newington, any -- we'll get to you in just a  
7 minute, Ms. --

8 MS. HEALD: Okay.

9 MS. GEIGER: I thought that Counsel  
10 for the Public's suggestion of 20 was  
11 reasonable. Obviously, any number, even the  
12 50, though it's set by a rule, if we encounter  
13 difficulties with that number, we'd have to  
14 move for a waiver of the rule.

15 PRESIDING OFCR. IACOPINO: Right.

16 MS. GEIGER: And we would, obviously,  
17 reserve that right here. But, I think, for  
18 conceptual purposes, setting a limit, we  
19 understand why the Applicant would want us to  
20 do that. And, so, 15 or 20 sounds reasonable.

21 PRESIDING OFCR. IACOPINO: Being a  
22 member of the staff of the Site Evaluation  
23 Committee, I think it's a good idea, too.  
24 Because, ultimately, if we do have disputes



1 over the -- the less number of questions there  
2 are, the less number of areas for dispute  
3 there.

4 So, Ms. Heald?

5 MS. HEALD: My question was answered.

6 PRESIDING OFCR. IACOPINO: Okay.

7 Anybody else want to address the number?

8 *[No verbal response.]*

9 PRESIDING OFCR. IACOPINO: I'll leave  
10 it up to the Chairman to decide, but you should  
11 expect it to be somewhere between 10 and 20.

12 So, the next date is the agencies'  
13 report, that's Number 3. That's a statutory  
14 deadline.

15 November 18th is the date for the  
16 Applicant to respond to the discovery requests  
17 that are issued by October 21. Oh, I'm sorry.  
18 Let me back up. How much time, once you get  
19 that additional 10 to 20 questions, do you need  
20 to respond? I am talking to the Applicant.

21 MR. NEEDLEMAN: I would think we can  
22 respond in two weeks.

23 PRESIDING OFCR. IACOPINO: Okay. So,  
24 responses within two weeks.

1           Okay. So, then, we'll go to, like  
2           you said, "November 11th". And, by the way, is  
3           November 11th a -- November 11th is a State  
4           holiday, I think, isn't it?

5           MS. GEIGER: Yes.

6           MR. HEBERT: Yes.

7           PRESIDING OFCR. IACOPINO: Is it a  
8           Monday holiday or is it --

9           MR. HEBERT: Friday.

10          PRESIDING OFCR. IACOPINO: Falls on a  
11          Friday. So, in reality, just so everybody  
12          knows, the agencies are actually going to have  
13          till the 14th to file their progress reports.

14          Then we have November 18th, response  
15          to discovery requests that are issued by the  
16          21st. Does anybody have any problem with that?

17                           *[No verbal response.]*

18          PRESIDING OFCR. IACOPINO: Okay.  
19          And, then, dates of December 5th and December  
20          6th for technical sessions. First, before we  
21          discuss this, does everybody know what a  
22          technical session is?

23                           *[No verbal response.]*

24          PRESIDING OFCR. IACOPINO: Okay. A

1 technical session, there's one going on right  
2 now on the other side of town, in the Northern  
3 Pass docket. A technical session is where the  
4 witnesses will actually be brought to a room  
5 such as this, and the parties to the proceeding  
6 get to ask them questions. It's an opportunity  
7 to get information. They are generally not  
8 recorded proceedings. They are informal.  
9 There's no member of the Site Evaluation  
10 Committee present for them. It is a way for  
11 the parties to informally trade information.

12 The tech sessions generally are  
13 organized by the witnesses that have been  
14 presented by the Applicant, at least the first  
15 set of technical sessions. And, generally,  
16 it's by their subject matter.

17 So, as we speak right now, over in  
18 the Northern Pass, there is a three-panel -- a  
19 panel of three experts who are being questioned  
20 by the various parties in that case regarding  
21 public health and safety of that particular  
22 line. I think there's an EMF expert, there's a  
23 noise expert, there's -- I don't know.

24 MR. NEEDLEMAN: Line sound.

1                   PRESIDING OFCR. IACOPINO: Right,  
2 line sound, right, expert. So, that's what we  
3 do.

4                   And, generally, it's an informal  
5 basis. We go around the room, party-to-party,  
6 and have them -- allow them an opportunity to  
7 ask questions.

8                   At technical sessions, we also  
9 oftentimes see asking for additional data in  
10 the form of various documents or reports. At  
11 the end of the technical session, there's  
12 usually a deadline set for those, for those  
13 documents that have been asked to be produced  
14 to be produced. And that deadline is usually  
15 set at the technical session, based upon what  
16 the volume of the requested documents are.

17                   So, it's a method of discovery that  
18 we use. It is not considered to be a formal  
19 method of discovery. We do have a rule that  
20 permits more formal methods of discovery, if  
21 you file a motion and that motion is granted by  
22 the Chair.

23                   We have technical sessions regardless  
24 of what other types of discovery might occur.

1 So, that's what a technical session is.

2 The proposal is to do it on December  
3 5 and December 6, which are a Monday and a  
4 Tuesday. And my calendar is free right now.  
5 But I can't guarantee that there is a room  
6 available on those dates.

7 Nonetheless, does anybody have any  
8 objection to that general timeframe? That is  
9 the first full week of December 2016?

10 Doug.

11 MR. PATCH: I don't have an objection  
12 to that. I'm just looking at sort of 5  
13 combined with 6. And, as you just said,  
14 oftentimes, when you have a technical session,  
15 there are follow-up responses to questions or  
16 requests for documents. And, so, assume for a  
17 minute that there's something that an  
18 intervenor asks on December 5th or 6th, and the  
19 Applicant says "we'll get it to you by December  
20 12th", a week later. Then, it seems to me it's  
21 a little tight to then have December 16th as  
22 the date by which intervenors and Counsel for  
23 the Public have to file their testimony,  
24 because they may want to look at the

1 information provided as a result of the tech  
2 session.

3 So, I think those two dates together  
4 to me look a little tight. But I don't have  
5 any objection, to answer your question, to  
6 December 5 and 6 for the tech session.

7 PRESIDING OFCR. IACOPINO: So, if I  
8 understand what you're saying, you're saying  
9 that either December 5 or December 6 should be  
10 moved sooner, or the December 16th, Number 6 on  
11 the list, should be slid back a week or so?

12 MR. PATCH: Yes.

13 PRESIDING OFCR. IACOPINO: Does the  
14 Applicant have any concerns on either of those?

15 MR. NEEDLEMAN: I understand what  
16 Doug is saying. As a practical matter, I'm not  
17 sure if it's much of a concern, because the  
18 vast majority of the information will already  
19 be available to their experts. And, to the  
20 extent that the technical sessions produce some  
21 small number of data requests, I've been in  
22 that situation, I'm not sure I can recall a  
23 time where it actually materially affected the  
24 ability to prepare the testimony.

1 I mean, that being said, if people  
2 really do feel like it's a potential  
3 impediment, we could let the December 16th date  
4 slide a little bit into the next week.

5 PRESIDING OFCR. IACOPINO: Does that  
6 satisfy your concern, Doug?

7 MR. PATCH: Yes. Maybe I'm the only  
8 one that has that concern, and, if so, I'll  
9 back off. But it seems to me, that's  
10 legitimate, and I think sliding another week  
11 would probably be --

12 PRESIDING OFCR. IACOPINO: Certainly  
13 not an unreasonable concern.

14 Mr. Schwartz.

15 MR. SCHWARTZ: The DeCapos second the  
16 concern.

17 *[Court reporter interruption.]*

18 MR. SCHWARTZ: I got it. I  
19 apologize. The DeCapos second the concern.  
20 It's something we picked up as well. I also  
21 ask, if there is a supplemental or an amended  
22 filing that comes in after October 21st, how  
23 that will then play into this, given the  
24 discovery is going to slide as to that.

1           And I also note, obviously, that  
2           Thanksgiving is going to fall in between the  
3           discovery responses and the date of the  
4           technical sessions. And perhaps that would  
5           suggest the technical sessions should be slid  
6           back a little bit more as well.

7           PRESIDING OFCR. IACOPINO: Okay. I  
8           want to address the one -- the first thing that  
9           I want to address with your concern is "what  
10          happens if there is an amendment?" Okay? We  
11          are, at this point in time, in December. I  
12          mean, as I said before, there does become a  
13          point in time when sort of never-never land for  
14          an amendment or something major has to happen  
15          on the schedule. So, I think the Applicant is  
16          aware of that.

17          It would be my hope that any  
18          amendment and any discovery regarding the  
19          amendment would occur so that whatever date we  
20          decide for the technical session can be  
21          preserved. Okay? So, to address that concern,  
22          that's where I would be coming from. And,  
23          then, I think probably everybody in the room  
24          would probably agree with that, because it just



1 makes sense, that there would be -- we would  
2 know by that time whether or not there's an  
3 amendment.

4 With respect to Thanksgiving, that's  
5 really -- that's going to interfere with  
6 Mr. Needleman's Thanksgiving, and Mr. Dumville  
7 and Mr. Allwarden's. Because, if we have the  
8 Applicants responding -- oh, no, I'm sorry,  
9 they respond by November 18th. And, then, the  
10 technical -- I see what you're saying, okay. I  
11 don't know that there's much we can do about  
12 that, 5th and 6th. There's a full week after  
13 Thanksgiving available. Assuming you take  
14 Thursday and Friday off, as most people do, we  
15 still have that following week before the tech  
16 sessions. So, I'm not so sure that -- that we  
17 can accommodate.

18 We certainly wouldn't want to move it  
19 up to the 28th and 29th. So, I'm going to  
20 suggest that we leave it on the 5th and the  
21 6th. And, in order to address Mr. Patch's  
22 concern, move the 16th date, Number 6, for  
23 disclosure of your witnesses and prefiled  
24 testimony to the following week, say, the 21st,

1           which is a Wednesday. I'm waiting to hear --  
2           no, wait, before you speak, I'm waiting to  
3           hear, I always get it at these things, "Well,  
4           how about that Friday?" So, I just want to  
5           hear if anybody has got a problem with the  
6           Wednesday deadline?

7                                *[No verbal response.]*

8                        PRESIDING OFCR. IACOPINO: And, if  
9           they think that that's -- speak up if you don't  
10          think that that accommodates what you believe  
11          you'll need to do. And I'll look to you, Mr.  
12          Patch, because you raised the concern. So, --

13                       MR. PATCH: I think that's fine. I  
14          don't have any issues with that.

15                       PRESIDING OFCR. IACOPINO: Okay. So,  
16          what I'm going to recommend is that we switch  
17          December 16th to December 21.

18                       And then -- okay. So, then, we sort  
19          of, at that point, for folks who aren't  
20          familiar with the process, things sort of flip,  
21          okay.

22                       MR. ASLIN: Mike, before you move on.

23                       PRESIDING OFCR. IACOPINO: Oh, I'm  
24          sorry.

1 MR. ASLIN: In regards to the  
2 amendment question that Attorney Schwartz  
3 raised, I do think it might make sense to have  
4 sort of a built-in drop-dead for an amendment.  
5 In the sense that, if it comes too late, the  
6 whole schedule is going to have to change. So,  
7 we might want to set a date that says "if an  
8 amendment is filed after whatever the date is,  
9 we need to have a new procedural schedule."

10 Because if it's after -- really, if  
11 it's after October 21st, it's going to start  
12 impinging on all of these discovery dates and  
13 tech sessions. Because, if it's filed October  
14 21st, we have two weeks to do data requests,  
15 and then the Applicant would have two weeks to  
16 reply, and then they would be responding to all  
17 data requests on the same date.

18 PRESIDING OFCR. IACOPINO: You know,  
19 what we could do is, if it's filed after a  
20 certain date, schedule another prehearing  
21 conference to work out.

22 The other thing is is, and one thing  
23 I can't build into a schedule, and know the  
24 Applicant doesn't like to hear about these

1 things, but, if it is filed so late that  
2 parties believe that they need to request the  
3 Committee to suspend the procedural schedule,  
4 that's something that the Committee has to meet  
5 on and decide whether that's in the public  
6 interest or not. So, that's not something that  
7 I can actually build into a schedule, if that's  
8 what the thoughts are in anybody's mind.

9 But a further prehearing conference,  
10 to work out any additional scheduling that  
11 needs to be worked out, is certainly possible.

12 Is the October 21 a decent enough  
13 deadline date?

14 MR. NEEDLEMAN: So, if we don't get  
15 it filed by the 21st, then it triggers another  
16 conference?

17 PRESIDING OFCR. IACOPINO: Yes.

18 MR. NEEDLEMAN: Yes. I think that's  
19 reasonable. And that's probably the way to  
20 handle it.

21 PRESIDING OFCR. IACOPINO: Okay. As  
22 I was about to say, that this thing -- now  
23 things sort of shift. The Counsel for the  
24 Public and the intervenors have done their

1 discovery, and you have filed your witness  
2 testimony. The Applicant then has the  
3 opportunity to propound data requests to each  
4 party that has submitted witnesses. And  
5 they're proposing, in Line Number 7,  
6 January 13th for doing that.

7 MR. NEEDLEMAN: Well, let's talk  
8 about that for a minute.

9 PRESIDING OFCR. IACOPINO: Okay.

10 MR. NEEDLEMAN: The problem we have  
11 now is that --

12 PRESIDING OFCR. IACOPINO: You lost a  
13 week.

14 MR. NEEDLEMAN: Well, yes. I mean,  
15 we only lost three days, but, practically  
16 speaking, we lost more than that, because we're  
17 now into the holidays, and a lot of our key  
18 people will disappear. If these land on the  
19 afternoon of the 21st, we're not going to have  
20 a lot of people around to work on these. So, I  
21 think we probably need to have that  
22 January 13th date slip a little bit to  
23 accommodate that.

24 PRESIDING OFCR. IACOPINO: What's

1 your proposed date?

2 MR. NEEDLEMAN: Why don't we just let  
3 it slip to the 18th. I think that little bit  
4 of extra time would be helpful.

5 PRESIDING OFCR. IACOPINO: Any  
6 objection?

7 *[No verbal response.]*

8 PRESIDING OFCR. IACOPINO: Okay. So,  
9 we'll change Number 7 to January 18. Is that  
10 okay, Chris?

11 MR. ALLWARDEN: I'm okay. Thank you.

12 PRESIDING OFCR. IACOPINO: Okay.  
13 We'll switch that to the 18th.

14 Number 8 is a deadline that we don't  
15 have any control over.

16 So, responses then. Responses, right  
17 now, are on February 10th. This is an  
18 important date for all of the parties other  
19 than the Applicant, because you have to answer  
20 these questions by that date. The reasonable  
21 thing to do, given that, what would slide would  
22 be to change the 10th to the 15th, which is the  
23 following Wednesday, to accommodate the  
24 slippage in the schedule.

1                   Anybody object to that?

2                                 *[No verbal response.]*

3                   PRESIDING OFCR. IACOPINO:   Applicant  
4                   object to that?

5                   MR. NEEDLEMAN:   No.   That's fine.

6                   PRESIDING OFCR. IACOPINO:   Okay.   So,  
7                   Number 9 becomes February 15th.

8                                 Do we need to slide the technical  
9                   sessions as well?

10                   MR. NEEDLEMAN:   No.   We can deal with  
11                   that.

12                   PRESIDING OFCR. IACOPINO:   Does  
13                   anybody disagree?   Again, these are your  
14                   witnesses.   They have already been -- you've  
15                   already done your hard work with them.   In  
16                   technical sessions, they're just sitting there  
17                   answering questions.

18                                 And, again, although we will try to  
19                   accommodate the actual dates that are in here,  
20                   but, again, when you're talking about the  
21                   February 27th date, it's necessary for us to  
22                   find a room.   This room that we're in belongs  
23                   to the Public Utilities Commission.   And  
24                   whether it's available on that date or not

1 isn't totally within our control. But we will  
2 check it out. But, right now, we'll plan on  
3 February 27th and February 28th for technical  
4 session -- technical sessions of Counsel for  
5 the Public and the other parties' witnesses.

6 MR. NEEDLEMAN: And it may well be  
7 that, I mean, we've got four days set aside  
8 here for these technical sessions.

9 PRESIDING OFCR. IACOPINO: That's  
10 right. You have March 1st and 2nd, too.

11 MR. NEEDLEMAN: Yes. It seems like a  
12 lot. I mean, I don't know how many witnesses  
13 you're contemplating. But, if it's just a  
14 couple, I think two days then.

15 PRESIDING OFCR. IACOPINO: It is  
16 possible that, we have two days scheduled for  
17 their witnesses, but there's more parties than  
18 there are, and, so, it's possible that you guys  
19 will have a lot more witnesses than they have.

20 And, then, again, I've had other  
21 cases where there have been very few witnesses  
22 from the intervening parties. So, I think  
23 keeping the four days is appropriate, if we can  
24 get a room. But, generally, it will be in that



1 vicinity. Hopefully, on those dates, but,  
2 generally, in that vicinity.

3 And, then, March 17th is a date for  
4 any supplemental testimony to be filed.  
5 Supplemental testimony is testimony that  
6 generally comes as a result of what occurred in  
7 the technical sessions, if you obtain new  
8 information through the process of the  
9 technical session, and you want your witnesses  
10 to give their opinions on it in a formal way  
11 that goes to the Committee.

12 When you guys are issuing your  
13 interrogatories and data requests to each  
14 other, those are not seen, and the answers,  
15 those are not seen by the Committee. That's a  
16 discovery process. In order for those to  
17 become part of the evidence in the adjudicatory  
18 hearing, they have to be admitted at the  
19 hearing.

20 And, so, as we go through the  
21 discovery process, although you may see me,  
22 Melissa [Marissa?], and Pam Monroe, that  
23 process is not -- the Committee members are not  
24 made aware of that process, and what these

1 experts' opinions are, other than what gets  
2 filed in their testimony.

3 So, we have a supplemental testimony  
4 date. So that, if you or your witnesses learn  
5 something new through the discovery process,  
6 you can supplement your testimony based on  
7 that.

8 It is not an opportunity to simply  
9 rehash what you put in your direct testimony.  
10 It is a opportunity to address things that were  
11 learned through the course of discovery.

12 So, date of March 17th, does anybody  
13 object to that, Saint Patrick's Day? You can  
14 file, and go downtown.

15 MR. HEBERT: Saint Patrick's Day? My  
16 wife is going to kill me.

17 PRESIDING OFCR. IACOPINO: Well, get  
18 it done early.

19 MR. HEBERT: Okay.

20 PRESIDING OFCR. IACOPINO: And, then,  
21 March 31, for any statements of any stipulated  
22 facts or other stipulations. And, quite  
23 frankly, I mean, if people come to us on the  
24 morning of the hearing and they say "Hey, we

1 all signed this stipulation", the Subcommittee  
2 is not going to throw you out of the room. But  
3 we do like to set a date for it, so that  
4 parties have something in mind. And, if there  
5 are -- and this doesn't mean a stipulation to  
6 the entire docket. It could be that everybody  
7 is agreed, and I'll give the example I said  
8 before, that everybody agrees that there is no  
9 reason to question Eversource's financial  
10 ability to construct the Project. And it just  
11 saves time for the Committee, if something like  
12 that can be stipulated to.

13 And, then, the final adjudicatory  
14 hearings, do you think five days will be  
15 enough, Mr. Needleman?

16 MR. NEEDLEMAN: You know, that's  
17 rarely in my control. I know about how long  
18 it's going to take for us to present our  
19 witnesses. I have no sense of the extent of  
20 cross-examination. And, at this point, I have  
21 no good sense of how many other witnesses will  
22 need to be presented.

23 PRESIDING OFCR. IACOPINO: Are you  
24 doing anything else April 5th? April 17th?

1 MR. NEEDLEMAN: I may be. But I  
2 figured we can't worry about that right now.

3 PRESIDING OFCR. IACOPINO: The inside  
4 joke is that, from roughly April 3rd through  
5 May, and into June, the Site Evaluation  
6 Committee has blocked off pretty much all of  
7 that time for the adjudicatory hearings in the  
8 Northern Pass. Which is a case in which we're  
9 expecting at least 30 days of hearings. We  
10 don't expect that they're going to be held one  
11 day after the other, we expect that they're  
12 going to be jumped around.

13 MR. NEEDLEMAN: Frankly, that was  
14 very much on our minds when we proposed this  
15 schedule. But I think the reality is that we  
16 see no good way around that, at this point, if  
17 the Committee is going to hold to the statutory  
18 deadline in this Project. And, so, our  
19 thinking was, let's propose those dates, get  
20 them on the calendar, and work toward them, and  
21 then see what happens with both of these  
22 dockets. And, if the Committee can take time  
23 to accommodate both, we'll cross that bridge  
24 when we come to it.

1                   PRESIDING OFCR. IACOPINO: Okay. CLF  
2 is in Northern Pass. Anybody else in Northern  
3 Pass that's in here, other than the Applicant?

4                   *[No verbal response.]*

5                   PRESIDING OFCR. IACOPINO: Just CLF  
6 here. Nature Conservancy isn't, is that right?

7                   *(Mr. O'Brien indicating in the*  
8                   *negative.)*

9                   PRESIDING OFCR. IACOPINO: All right.  
10 Does anybody have any objection, forget about  
11 Northern Pass for the moment to that week for  
12 the beginning of our adjudicatory hearings?  
13 And, again, especially with respect to  
14 adjudicatory hearings, we've got to get a room,  
15 and I've got to make sure that my Committee  
16 members are -- Subcommittee members are  
17 available. So, there could be sliding days.  
18 But, generally, that timeframe, that week, any  
19 objections?

20                   *[No verbal response.]*

21                   PRESIDING OFCR. IACOPINO: It's late  
22 April, kids are still in school. So, looks as  
23 good a time as any. So, okay. So, it likes  
24 like we're down to the bottom of the list. Let

1 me just go through these dates quickly, so that  
2 I make sure that I haven't missed anything.

3 Today is Number 1, September 7th, the  
4 first prehearing conference. Number 2 is  
5 October 21, the date for Counsel for the Public  
6 and intervenors to propound discovery requests  
7 on the Applicant.

8 We have the issue of the amendment.  
9 If the amendment is filed before October 7th,  
10 then October 21 will be the only date for  
11 filing of data requests. If the amendment  
12 comes after October 7th, Counsel for the Public  
13 and the other parties will have until -- will  
14 have 14 days after the filing of the amendment  
15 to submit a number that's going to be between  
16 10 and 20 additional data requests. And there  
17 will be responses required of the Applicant  
18 within 14 days of the date that those are due.  
19 If there is no amendment by October 21st -- I'm  
20 sorry, if there's an amendment that's filed  
21 after October 21st, then we're going to have to  
22 schedule another prehearing conference around  
23 address the discovery issues.

24 November 11th, our State agencies

1 will submit their progress reports.

2 November 18th, the Applicant will respond to  
3 those data requests that are filed by  
4 October 21. December 5 and 6 we're going to  
5 try to hold for technical sessions with the  
6 Applicant's witnesses.

7 Then, on Number 6, that one has  
8 changed to December 21, where Counsel for the  
9 Public and the intervenors shall disclose their  
10 witnesses, experts, and testimony will be  
11 filed. Number 7 has changed to January 18th,  
12 2016 [2017?] for the Applicant to propound  
13 their discovery requests on the other parties.

14 Number 8 is a statutory deadline for  
15 the State agencies. Number 9 is changed to  
16 February 15th for Counsel for the Public and  
17 the intervenors to respond to the discovery  
18 requests.

19 Then, Number 10 and 11, technical  
20 sessions for the witnesses of Counsel for the  
21 Public and the intervenors. And those are  
22 February 27-28 for Counsel for the Public;  
23 March 1 and 2 for the intervenor witnesses.

24 March 17th, Number 12 in the

1 pleading, is a deadline for filing any  
2 supplemental testimony. We haven't changed  
3 that. Stipulated facts and other stipulations  
4 are filed by March 31, on Line 13.

5 And, then, a final structuring  
6 conference will be April 6th or thereabouts.  
7 And, then, the adjudicatory hearing, five days,  
8 or more, to commence on April 17th. And, of  
9 course, that depends upon the ultimate number  
10 of witnesses and length of cross-examination  
11 and whatnot. And the June 13th date is a  
12 statutory deadline, 2017.

13 I think we have a schedule. Does  
14 anybody have a problem with anything in that  
15 schedule?

16 Mr. Irwin.

17 MR. IRWIN: Thanks, Mike. Not really  
18 a problem with the schedule, and apologies for  
19 raising this late.

20 But I wonder if the Applicant -- if  
21 the Applicant is going to supplement its  
22 Application in any way addressing issues  
23 unrelated to what's been driving the discussion  
24 about modification, that is undergrounding in



1 Newington, and can provide those supplements  
2 before, say, the October 21st date, I think  
3 that would be helpful to encourage, I guess,  
4 more than one submission, so that they're not  
5 holding back for all materials to be submitted  
6 at the same time.

7 PRESIDING OFCR. IACOPINO: It  
8 certainly would be helpful, obviously. I mean,  
9 the sooner any supplements or amendments to the  
10 Application that the Applicant intends to file,  
11 you should file them as early as possible, and  
12 also as completely as possible, of course, too.

13 So, you know, but I think the reason  
14 why that's the first question I always ask  
15 before I get into scheduling is because it's  
16 not unusual to have an amendment. I think the  
17 Applicant has been quite forthright and has  
18 said, you know, "We're working on this  
19 undergrounding. That seems to be the only  
20 amendment that we anticipate."

21 Obviously, if something happens, and  
22 if there's a new amendment, you know, there  
23 will be -- there will have to be an opportunity  
24 for either another prehearing conference, or

1           some change in the schedule will have to happen  
2           most likely, assuming that the amendment comes  
3           at a time that we're already in the process of  
4           the discovery. So, --

5                       MR. IRWIN: Yes. And, to be clear,  
6           my suggestion is simply that, if there is  
7           supplemental information separate and apart  
8           from the undergrounding in Newington that the  
9           Applicant intends to submit as part of a  
10          modification, that they do so -- that they do  
11          so perhaps subsequently, and not all at once.

12                      PRESIDING OFCR. IACOPINO: The  
13          difficulty of putting something in an order,  
14          and I'll tell you what, is that the statute  
15          actually contemplates amendments to the  
16          application as the process goes on. And that's  
17          the difficulty -- I mean, that's the  
18          difficulty, is any applicant can come before  
19          the Committee and say "Well, wait a minute. If  
20          you look at this section of the statute, it  
21          specifically says we can file amendments. It  
22          doesn't affect our timeframes." Obviously,  
23          it's going to affect the scheduling.

24                      And I think that the best I can do

1           for you, Mr. Irwin, is to say we will have to  
2           have -- if something new comes up, especially  
3           if it's an unanticipated thing, we're going to  
4           meet again and we're going to have to  
5           reschedule things. And, ultimately, as with  
6           any delay that's caused, if the Committee  
7           determines that it is something that is in the  
8           public interest to do, they always have the  
9           option to suspend that June 13th deadline and  
10          take additional time to resolve the issues.

11                        So, yes. I hope the Applicant will  
12          file any changes, any amendments or substantial  
13          supplements to its Application in a timely  
14          fashion before the discovery process starts.  
15          We know that the underground issue may not be  
16          able to do that. We've made some  
17          accommodations for that. That's about the best  
18          that I can do at this point, just encourage  
19          them. Any -- I'm sorry.

20                       MR. NEEDLEMAN: I think it's  
21          important for our position to be clear on this.  
22          I always think of "amendments" and  
23          "supplements" as two different things. What  
24          we're talking about here, with respect to the

1 underground, is plainly an amendment. It would  
2 be a significant change, and we all agree we  
3 should be getting that in sooner.

4 There are very frequently what I  
5 would call "small changes", that are  
6 supplements, things like that. We're not  
7 treating those the same way. And we would  
8 not -- we would not be amenable to changes in  
9 the discovery process if there are those types  
10 of typical minor supplements.

11 And we can cross that bridge when we  
12 come to it. But, if a pole location moves, or  
13 there are other minor changes like that, our  
14 view is that doesn't trigger any sort of new  
15 discovery process.

16 PRESIDING OFCR. IACOPINO: Well, I'll  
17 give you the classic example. We have our  
18 technical sessions. And, as a result of  
19 something that a witness brings up, let's say a  
20 witness for Counsel for the Public, the  
21 Applicant's witness says "well, you know, I  
22 need to address that. That's something that  
23 needs to be addressed." Then, they file  
24 supplemental testimony by, I forget what our

1 date was, sometime in -- Saint Patrick's Day.  
2 And, you know, it's not unusual that we then  
3 have a little scrum about whether this is  
4 something that is going to cause a delay or not  
5 or whether there should be additional  
6 discovery. That happens.

7 There is a difference between an  
8 amendment and simply a small change. But,  
9 then, when you're talking about supplements,  
10 you know, they can run the gamut. And we'll  
11 just have to deal with it as it comes along.

12 I appreciate the Applicant's position  
13 on that. But, again, I can't, you know, I  
14 can't say -- can't say for the parties, "Okay,  
15 if it's this many pages, we start anew." I  
16 mean, we can't do that at this point.

17 And, quite frankly, in my experience,  
18 and I've been doing this for a little bit of  
19 time, I don't think that we generally have  
20 those issues. Because, quite frankly, so many  
21 things wind up getting fleshed out and  
22 discussed as we go through the technical  
23 sessions and the process before this, that the  
24 ultimate hearings, everybody knows what's going

1 to happen at them. Everybody knows what the  
2 witnesses' testimony is. You can probably  
3 write the answers to your cross-examination  
4 questions by the time you get there. But,  
5 again, you're doing it for the Committee, so  
6 that they get to hear it. So, you all will  
7 know a lot more than my Committee on Day 1 of  
8 these hearings. And, to the extent that there  
9 is a need for some procedural changes, we will  
10 have dealt with that.

11 So, Ms. Heald?

12 MS. HEALD: Yes.

13 PRESIDING OFCR. IACOPINO: And, I'm  
14 sorry, is it "Ms. Heald", is that what I should  
15 call you?

16 MS. HEALD: Yes.

17 PRESIDING OFCR. IACOPINO: Okay.

18 MS. HEALD: Thank you.

19 *[Court reporter interruption.]*

20 PRESIDING OFCR. IACOPINO: Slide it  
21 as close as you can.

22 MS. HEALD: I'm very new to this  
23 process.

24 PRESIDING OFCR. IACOPINO: Uh-huh.

1 MS. HEALD: And I do have a question,  
2 regarding Number 15, which is the week of April  
3 17th to the 21st being final adjudicatory  
4 hearings.

5 PRESIDING OFCR. IACOPINO: Yes,  
6 ma'am.

7 MS. HEALD: And the comments that you  
8 made about the Northern Pass. What happens in  
9 the instance that those -- that that period of  
10 five days does not complete that process? And  
11 you are on to the Northern Pass. Does it get  
12 split and brought back weeks later or what do  
13 you do?

14 PRESIDING OFCR. IACOPINO: Well, it  
15 all depends. It's a hard question to answer.  
16 I think, with the proposal on the table here,  
17 is let's get this one scheduled. We've blocked  
18 off probably more time than will be necessary  
19 for Northern Pass. We're anticipating at least  
20 30 days of hearings, but we've actually blocked  
21 off from April, right into the first week of  
22 July, I believe. So, the idea is, is because  
23 we've blocked off that amount of time at  
24 Northern Pass, that we can work in -- and those

1 dates haven't been scheduled yet, we just  
2 blocked off the time, that we schedule this,  
3 and we work Northern Pass around it.

4 I'm sure there will be some  
5 additional time, in addition to the five days,  
6 that Ms. Monroe will know to keep open, so that  
7 in the event that this is not a good estimate  
8 of the actual amount of time this hearing will  
9 take. So, I'm sure there will be some  
10 accommodation for extra time. And I think that  
11 the game plan here is to work the Northern Pass  
12 hearings. There is some overlap between the  
13 two Committees, but to work the Northern Pass  
14 hearings around these.

15 Mr. Patch.

16 MR. PATCH: You covered it.

17 PRESIDING OFCR. IACOPINO: Okay.

18 MS. HEALD: Thank you.

19 MS. GEIGER: Yes. The only comment I  
20 would add is I don't think we had any  
21 conversation around Number 14, which is the  
22 date for the final structuring conference. And  
23 the only reason I'm raising it is for parties  
24 that are new to this process that may not



1 understand what that involves, --

2 PRESIDING OFCR. IACOPINO: Good  
3 point.

4 MS. GEIGER: -- and what they need to  
5 do, in terms of bringing documents with them to  
6 have marked.

7 PRESIDING OFCR. IACOPINO: All of  
8 your exhibits that you want the Committee to  
9 consider have to be premarked. And we  
10 generally, in fact, if you're really game, and  
11 you really love this stuff, you can hang out,  
12 because, at eleven o'clock, we're going to be  
13 having the final prehearing conference in the  
14 Antrim Wind matter. And, as you'll see, if you  
15 hung around here, those parties should be  
16 bringing all of their exhibits premarked, and  
17 we will discuss the things that are normally  
18 discussed at a final pretrial conference or  
19 final structuring conference.

20 So, your work really has to be done  
21 before that date. So, you have to have your  
22 list of exhibits. We require an exhibit list  
23 from each party. You also have to have each of  
24 your exhibits in sufficient format for the

1 Committee, which usually is at least one hard  
2 copy and something electronic. Because what I  
3 try to do is provide each Committee member with  
4 a full set of the exhibits, so that, as you can  
5 imagine, if we have seven people up here,  
6 showing somebody a document is going to be  
7 difficult. And we're really not set up like  
8 the federal court, where you can display the  
9 document on a nice big movie screen. So,  
10 you'll have to have your exhibits marked by the  
11 April 6th date, and have them submitted on that  
12 day.

13 And, then, what I do is I take them  
14 and provide copies of them to each member of  
15 the Committee. So that that's what the final  
16 structuring conference is about.

17 Also, at the final structuring  
18 conference, we'll probably discuss, okay, which  
19 witnesses is the Committee going to see in  
20 panels, individually. We'll probably try to  
21 get an idea on actually how much time each  
22 party expects to spend with each set of  
23 witnesses, so that we can gauge better our  
24 timeframes, and so that the members of the

1 Committee can, you know, make arrangements in  
2 their day jobs as to what they're expected to  
3 do at their home offices.

4 So, does anybody have any questions  
5 about submitting exhibits and those sorts of  
6 things?

7 *[No verbal response.]*

8 PRESIDING OFCR. IACOPINO: Okay. Did  
9 I cover that sufficiently, Susan?

10 MS. GEIGER: Yes.

11 PRESIDING OFCR. IACOPINO: Chris.

12 MR. ASLIN: There's one other date  
13 that I think we should build into the schedule,  
14 and that is a date for objections to the  
15 Applicant's motions for waivers that were filed  
16 along with the Application. There was an  
17 agreement, and I believe the Subcommittee  
18 accepted the assented motion way back when to  
19 suspend the timeframe for that. But I think it  
20 would make sense.

21 And I would propose 10 days from  
22 whenever the procedural schedule is issued.

23 PRESIDING OFCR. IACOPINO: Any  
24 objection?

1 MR. NEEDLEMAN: No. That's fine.

2 PRESIDING OFCR. IACOPINO: Ten days  
3 to respond?

4 *[No verbal response.]*

5 PRESIDING OFCR. IACOPINO: The  
6 Application included a request for waiver of  
7 certain rules regarding the contents of the  
8 Application. The waiver determination is made  
9 by the full Committee.

10 So, we have to schedule a hearing of  
11 the full Committee on it. Not the full  
12 Committee, the full Subcommittee.

13 MR. NEEDLEMAN: I think, Mike, it  
14 might have been scheduled.

15 MR. DUMVILLE: For November 2nd.

16 PRESIDING OFCR. IACOPINO: Is it  
17 scheduled already?

18 MR. DUMVILLE: Pam said that that's  
19 what she was aiming for.

20 PRESIDING OFCR. IACOPINO: Okay. So,  
21 it sounds like, and this will be confirmed for  
22 everybody, that there's already a date that we  
23 reserved for a hearing on that. So, that's  
24 November 2nd. So that, assuming that this --

1 get back to today. Assuming this order gets  
2 signed by the Chair by Friday, ten days would  
3 be the 19th, ten days would be the 29th. That  
4 would get us in just in time. So, I think we  
5 can accommodate that, ten days and ten days.  
6 That means that the objections would be filed  
7 by the 29th, and then the following -- oh, no,  
8 I've got a whole nother month in there, I'm  
9 sorry. I was thinking that was November.

10 Okay. November 2nd, she was talking  
11 that late?

12 MR. NEEDLEMAN: Be better to get it  
13 done earlier, if we could.

14 PRESIDING OFCR. IACOPINO: Yes. I  
15 think it would be, too.

16 For those of you, Pam Monroe is our  
17 Administrator. And we're doing double duty  
18 today with the Northern Pass hearing going on  
19 on the other side of town, she's over there.  
20 And she is the wiz at getting Committee members  
21 to let us know when they're available.

22 So, I'm going to leave that to her.  
23 But I can tell you, you'll have at least ten  
24 days, at least ten days to object. I'm going

1 to ask her to see if there isn't something we  
2 can do sooner than November. Is November 2  
3 also -- is there anything else she was talking  
4 about on that? I don't remember seeing the  
5 e-mail or you may have talked by phone with  
6 her, I don't know.

7 MR. DUMVILLE: I did.

8 MR. NEEDLEMAN: Well, but isn't the  
9 Committee going to have to get together anyway  
10 on the motions for rehearing on interventions?

11 PRESIDING OFCR. IACOPINO: Yes. Yes.  
12 But that's why I need to know what the --

13 MS. SCHUETZ: Mike, do you want me to  
14 go check the calendar?

15 PRESIDING OFCR. IACOPINO: If you  
16 could, that would be great.

17 Doug.

18 MR. PATCH: Just to be clear, this is  
19 on motions that were submitted by the Applicant  
20 in conjunction with their Application for  
21 waivers of what?

22 PRESIDING OFCR. IACOPINO: I believe  
23 it's the mapping requirements. They have  
24 mapped a certain area within the

1 transmission or -- well, around the  
2 transmission right-of-way. Our rule  
3 requires -- it's an unusual rule. It requires  
4 them to -- I can't repeat it, but it's an  
5 unusual rule, and they have sought to waive its  
6 strict requirement and to map an area that  
7 is -- is it 400 feet from the edge of the  
8 right-of-way? Something like that.

9 MR. NEEDLEMAN: Yes. The mapping  
10 requirements, Doug, if read literally, require  
11 wetlands mapping and other resource  
12 identification conceivably very far off the  
13 right-of-way where there won't be any impacts.  
14 So, we asked for a waiver of that.

15 And I think we also asked for a  
16 waiver of decommissioning requirements, because  
17 it's a reliability project.

18 PRESIDING OFCR. IACOPINO: So, we  
19 need to set a date for the parties to object.

20 MR. PATCH: And, if there is no  
21 objection, there would be no need for a  
22 hearing. But, if there is an objection --

23 PRESIDING OFCR. IACOPINO: No. There  
24 still would have to be a hearing, because the

1 Subcommittee has to grant the waiver. The  
2 statute requires -- that's a Subcommittee  
3 decision. It's not something that the  
4 Chairperson can do. Our Subcommittee can't  
5 meet in private. We have to deliberate in  
6 public. So, there would have to be a public  
7 meeting of the Subcommittee to grant or deny  
8 the waivers either way.

9 MR. PATCH: And the idea is to  
10 combine that with requests for reconsideration  
11 on some of the intervention issues?

12 PRESIDING OFCR. IACOPINO: Well,  
13 not if -- I don't think that that's a good  
14 idea, my own personal view, and my boss may  
15 disagree with me, but I don't think that that's  
16 a good idea if you're talking about November.  
17 I think we should resolve these intervention  
18 issues as soon as possible, and, you know, get  
19 the Committee together as soon as possible.

20 And, as you know, if there's other  
21 things that need to be resolved by the  
22 Subcommittee, get them resolve in as few  
23 meetings as possible. Because the more  
24 Subcommittee meetings we have to have, the more



1           it delays the schedule, because they are hard  
2           to schedule. So, --

3                   MS. GEIGER: And, Mike, I guess  
4           another reason for deciding the waiver requests  
5           sooner rather than later, is that, if it's  
6           denied, then the Applicant will have to  
7           supplement its Application to provide more  
8           information. So, --

9                   PRESIDING OFCR. IACOPINO: That's  
10          correct. That's correct. And I expect that,  
11          if it's denied, we'll be seeing some kind of  
12          additional filing from the Applicant, which may  
13          be one of those things that requires a further  
14          prehearing conference.

15                   But we have to see what -- those are  
16          the things that are beyond our ability to  
17          predict, because nobody in this room is going  
18          to make that decision. So, --

19                   MS. SCHUETZ: There is a hold for  
20          November 2nd for a hearing on the motions. I  
21          don't know that it's been officially scheduled  
22          yet, though.

23                   PRESIDING OFCR. IACOPINO: Okay. All  
24          right. I will talk with Pam about that.

1           So, I'm going to add into this order  
2           ten days from the date of the procedural  
3           schedule. So, in other words, when this  
4           schedule gets formally issued by Ms. Monroe, it  
5           will be sent to everybody electronically that's  
6           on our distribution list. It will also be  
7           posted to the website. Ten days from that  
8           date, you would have to file your objection to  
9           the petition -- to the waivers, the motion for  
10          the waivers, and we'll get a hearing date  
11          scheduled for the Committee.

12                 I don't know off the top of my head,  
13          where are we in terms of deadlines for filing  
14          petitions to reconsider intervention? Is that  
15          date gone?

16                 MR. NEEDLEMAN: I thought -- yes, it  
17          passed.

18                 PRESIDING OFCR. IACOPINO: And are we  
19          still within your objections?

20                 MR. NEEDLEMAN: Yes.

21                 PRESIDING OFCR. IACOPINO: Okay. So,  
22          we're still within the objection period for  
23          that. The Applicant will get their objections  
24          in, if they do object to those requests. And

1 those are matters that have to be considered by  
2 the entire Subcommittee as well.

3 So, there will be scheduled at least  
4 on November 2nd, if not before, a Subcommittee  
5 meeting where those two issues will be  
6 addressed. And, as I said, I'm going to  
7 encourage scheduling it earlier.

8 Does anybody have any other questions  
9 that I can help them with with respect to --

10 Mr. Schwartz.

11 MR. SCHWARTZ: Thank you. Just a  
12 minor housekeeping matter. Appreciate Counsel  
13 for the Applicant preparing the proposed order.  
14 I would ask that these types of things be filed  
15 and the list served, so that we do get them  
16 before we arrive. So that I would have the --  
17 I'm fortunate to have my clients here, but I  
18 would have liked to talk to them about this  
19 before I came up, if, in fact, that type of  
20 thing is being put before the Committee.

21 PRESIDING OFCR. IACOPINO: It's a  
22 good point. I will tell you that, in our  
23 practice, it's typically -- it's not unusual  
24 for more than one party to come in with a

1 proposed schedule on the morning of the hearing  
2 and dealing with competing proposals.

3 Oftentimes, we've had Counsel for the Public  
4 have a different idea about how the process  
5 should go.

6 So, it would be nice, I suppose, if  
7 everything could be prefiled, and we could just  
8 come in and -- but, unfortunately, it hasn't  
9 been the practice. Appreciate the thought,  
10 though.

11 And, you know, that's just a point  
12 that everybody should remember, to the extent  
13 that you can file anything in advance, it makes  
14 it easier for everybody to understand what your  
15 position is.

16 And I'll go back to the thing I said  
17 before. Nobody in this room is going to bite  
18 anybody else. If you have questions or if you  
19 need information, you should not be afraid to  
20 pick up the phone and call the folks on the  
21 other side to discuss an issue.

22 If, for instance, you get a data  
23 request that seems to you to be, for some  
24 reason, unreasonable or unacceptable or in

1 violation of some rule or something, before you  
2 start, you know, filing motions with the  
3 Committee, pick up the phone, talk to the other  
4 side. It could be just a matter of a  
5 misunderstanding of what they're looking for.  
6 And, to the extent that you can resolve those  
7 issues on your own, we highly encourage that.

8 I know that these are -- the ultimate  
9 issues in this case are very important to  
10 everybody in the room. They're important to  
11 the Applicant, they're important to the  
12 abutters, to the non-abutters, to the  
13 intervenors, to the various groups that are  
14 involved, the environmental groups, they're  
15 certainly important to the state and to the  
16 public of the State of New Hampshire.

17 But the process on how we get to  
18 those very important issues, we can be very  
19 collegial about it, okay? I have not seen, in  
20 many cases, any real animosity between parties  
21 in these proceedings, and I don't expect to see  
22 any.

23 In my experience, and I've been  
24 representing this Committee since 1998. Folks

1 who appear before this Committee have always  
2 been reasonable with each other and collegial,  
3 and I would encourage everybody to keep that  
4 up.

5 Any other issues that anybody thinks  
6 should be raised, before we adjourn this  
7 prehearing conference?

8 *[No verbal response.]*

9 PRESIDING OFCR. IACOPINO: Seeing  
10 none, we'll adjourn. And, as I said, I'm going  
11 to try to have our Presiding Officer issue this  
12 by Friday, the procedural schedule. Thank you  
13 all.

14 And, as I said before, if anybody  
15 wants to hang out, we have the eleven o'clock  
16 final structuring conference in Antrim Wind.  
17 And, if you want to see what can happen, stick  
18 around.

19 ***(Whereupon the prehearing***  
20 ***conference was adjourned at***  
21 ***10:49 a.m.)***

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