

**STATE OF NEW HAMPSHIRE**  
**SITE EVALUATION COMMITTEE**

**May 29, 2018 - 9:00 a.m.**  
49 Donovan Street  
Concord, New Hampshire

*{Electronically filed with SEC 06-11-18}*

**IN RE:           SEC DOCKET NO. 2015-04**  
**Application of Public**  
**Service of New Hampshire**  
**d/b/a Eversource**  
**Energy for Certificate**  
**of Site and Facility**  
**(Hearing and Deliberations)**

**PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:**

<b>Patricia Weathersby</b> <i>(Presiding Officer)</i>	Public Member
<b>Dir. David Shulock</b>	Public Utilities Comm.
<b>Dir. Elizabeth Muzzey</b>	Div. of Hist. Resources
<b>Charles Schmidt, Admin.</b>	Dept. of Transportation
<b>Christopher Way</b>	Div. of Economic Dev.
<b>Susan Duprey</b>	Public Member

***ALSO PRESENT FOR THE SEC:***

Michael J. Iacopino, Esq. Counsel for SEC  
*(Brennan, Caron, Lenehan & Iacopino)*

Pamela G. Monroe, SEC Administrator

(No appearances taken)

**COURT REPORTER: Cynthia Foster, LCR No. 14**

**APPEARANCES:****Reptg. Counsel for the Applicant:**

Barry Needleman, Esq. (McLane Middleton)

**Reptg. Counsel for the Public:**

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

**Reptg. Town of Durham:**

Douglas Patch, Esq. (Orr & Reno)

**Reptg. University of New Hampshire and Town of Durham:**

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

**Reptg. Conservation Law Foundation:**

Tom Irwin, Esq.

**Reptg. Durham Historic Association:**

Nancy Sandberg

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

*[Upon arrival of all  
Subcommittee members, at  
9:00 a.m. the Subcommittee  
members held a conference  
with SEC Counsel.]*

*(Deliberations commenced at 9:20 a.m.)*

PRESIDING OFFICER WEATHERSBY: Good morning. Welcome to this public meeting of the Subcommittee of the New Hampshire Site Evaluation Committee. This Subcommittee presides over the Application of Public Service Company of New Hampshire d/b/a Eversource Energy for a Certificate of Site and Facility. It's Docket 2015-04.

Our primary purpose for meeting today is to discuss two pending requests. One from the Town of Durham and the University of New Hampshire to hire a horizontal directional drilling expert, and the other from the Conservation Law Foundation to address the Department of Environmental Services' recommendations as part of the adjudicatory process.

I'm Patricia Weathersby. I'm the public

1 member on the Subcommittee and the Chairman for  
2 at least today, and I'd ask the other  
3 Subcommittee members to introduce themselves,  
4 please. Starting with Ms. Duprey.

5 MS. DUPREY: Susan Duprey. Public member.

6 MR. WAY: I'm Christopher Way from the  
7 Department of Business and Economic Affairs.

8 MR. SCHMIDT: I'm Chuck Schmidt from New  
9 Hampshire Department of Transportation.

10 MR. SHULOCK: David Shulock from the Public  
11 Utilities Commission.

12 DIR. MUZZEY: Elizabeth Muzzey from the  
13 Department of Natural and Cultural Resources.

14 PRESIDING OFFICE WEATHERSBY: And sitting  
15 to my right.

16 MR. IACOPINO: Mike Iacopino, counsel to  
17 the Committee.

18 PRESIDING OFFICER WEATHERSBY: Another  
19 critical person to know is Pam Monroe. She's  
20 our Administrator for the Site Evaluation  
21 Committee.

22 For the convenience of everyone present,  
23 I'm going to review some of the relevant history  
24 of this docket.

1           On April 12th, 2016, Public Service Company  
2 of New Hampshire d/b/a Eversource Energy applied  
3 to the Site Evaluation Committee to construct a  
4 new 115 kV electric transmission line,  
5 approximately 12.9 miles in length between  
6 existing substations in Madbury and in  
7 Portsmouth.

8           On February 28th, 2018, New Hampshire  
9 Department of Environmental Services issued a  
10 final decision on parts of the Application  
11 related to the Wetlands Permit, Alteration of  
12 Terrain Permit 41, Water Quality Certificate and  
13 Shoreland Permit.

14           In addition to the conditions applicable to  
15 these permits DES recommended the Subcommittee  
16 to consider having the Applicant conduct a more  
17 thorough evaluation of the horizontal  
18 directional drilling, HDD method for installing  
19 cable under Little Bay and a trial jet plow run  
20 without cable in Little Bay.

21           DES further recommended the Subcommittee to  
22 require the Applicant to submit the HDD  
23 evaluation to the DES Watershed Management  
24 Bureau and the Committee at least 90 days prior

1 to construction of the project in Little Bay.  
2 As to a trial jet plow, DES recommended the  
3 Subcommittee to require the Applicant to submit  
4 a jet plow trial plan for DES approval at least  
5 90 days prior to conducting the trial and also  
6 a report summarizing the jet plow trial to DES  
7 and the Committee at least 90 days prior to the  
8 proposed cable installation.

9 DES further indicated that upon receipt and  
10 review of the reports, it would provide a  
11 recommendation to the Applicant and to the  
12 Committee.

13 On March 16th, 2018, the Town of Durham and  
14 the University of New Hampshire filed a  
15 partially assented to motion requesting the  
16 Subcommittee hire an HDD expert. The Applicant  
17 filed a partial objection to the Town of Durham  
18 and UNH's request on March 26th, 2018.

19 On March 21, 2018, the Conservation Law  
20 Foundation filed a partially assented to motion  
21 requesting the Subcommittee to address DES's  
22 recommendations as part of the adjudicatory  
23 process. The Applicant objected to this request  
24 on March 29, 2018.

1           On March 26th, 2018, Counsel for the Public  
2           responded to the Conservation Law Foundation's  
3           Town of Durham and University of New Hampshire's  
4           request. By order and notice dated April 26th,  
5           2018, a hearing on pending motions was scheduled  
6           in this docket. Subject to the Subcommittee's  
7           review today, the following requests are:  
8           partially assented to motion requesting the  
9           Subcommittee to hire an HDD expert that was  
10          filed by the Town of Durham and UNH, and the  
11          partially assented to motion requesting the  
12          Subcommittee to address DES's recommendations as  
13          part of the adjudicatory process that was filed  
14          by CLF.

15           We received and reviewed the pleadings  
16          filed by the parties. It would be fair to allow  
17          the parties to make statements addressing their  
18          positions. I would ask the parties, however, in  
19          the interest of judicial economy to limit their  
20          statements to the arguments that have not  
21          already been raised in their pleadings.

22           Do the Town of Durham and UNH wish to add  
23          anything that they believe the SEC should  
24          consider?

1           MR. PATCH: Yes. Good morning. My name is  
2 Doug Patch. I'm with the law firm of Orr &  
3 Reno, and I represent Durham and UNH. With me  
4 at the table is Todd Selig who is the town  
5 administrator in Durham, Matt O'Keefe who is  
6 with UNH and Matt Dacey from GeoInsight. So  
7 would you like me to do that now?

8           PRESIDING OFFICER WEATHERSBY: Yes, please.

9           MR. PATCH: Thank you. There are just a  
10 couple of points that we would like to make in  
11 addition to what we put in our motion.

12           In its recommendation to the Committee, in  
13 February DES had recommended a much more  
14 thorough evaluation of the HDD alternative than  
15 what Eversource has done, characterizing their  
16 effort as a relatively brief explanation as to  
17 why HDD was not selected, and DES went on to say  
18 that Eversource did not provide sufficient  
19 information to support their conclusion.

20           DES also provided some very specific  
21 direction on what should be a part of the HDD  
22 evaluation that they recommended. The reason  
23 DES made these recommendations is because they  
24 found that the jet plow technique will result in

1 hundreds of cubic yards of sediment being  
2 temporarily suspended in the water column and  
3 deposited elsewhere in Little Bay.

4 DES also noted that this technique, jet  
5 plowing, has never been done in New Hampshire.  
6 HDD is an alternative that has been done in at  
7 least two instances in the Seacoast area of the  
8 state, both pertaining to the Granite State  
9 Gas transmission line, one of which was reviewed  
10 by this Committee in Docket 2014-01, and that  
11 involved HDD under the Squamscott River between  
12 Exeter and Stratham. The other was reviewed by  
13 the PUC in Docket DG 16-471, and that involved  
14 HDD under Pomeroy Cove and the Piscataqua River  
15 in Dover.

16 As a result of the DES review and  
17 recommendation, Eversource is now trying to make  
18 up for what was a superficial review of the HDD  
19 alternative. What Eversource is asking you to  
20 approve is what they already have which is an  
21 opportunity to rebut the recommendation. They  
22 clearly do not want to do HDD. If you look at  
23 their response to our motion, particularly  
24 paragraph 16, what they are proposing to do in

1 response to the DES recommendation is to file  
2 Rebuttal Testimony. Let's be realistic about  
3 this. All they want is to rebut what DES and  
4 others have said in this docket. They want to  
5 beef up their arguments as to why this should  
6 not be done.

7 Public Counsel in their response to our  
8 motion says that they take no position on  
9 whether the Subcommittee should exercise its  
10 authority to hire an expert, but they do say  
11 that you have the clear authority to do so.  
12 Public Counsel says that they intend to have  
13 their expert witness provide, and I quote,  
14 "generalized information on the HDD  
15 alternative," end quote, but we think this falls  
16 short of what DES had recommended.

17 Public Counsel supports the development of  
18 a full and complete record on HDD alternatives,  
19 and the opportunity for discovery in a Technical  
20 Session on any new testimony.

21 We think it's critical for the SEC to  
22 exercise the authority you clearly have under  
23 the law RSA 162-H:10, V to hire your own  
24 independent expert to do an analysis of the

1 issue. We think this is the ideal situation for  
2 you to do this. We already know how Eversource  
3 feels about the option. What you need to know  
4 and the public has a right to know is what an  
5 independent expert would have to say about all  
6 of the issues DES raises. We believe that the  
7 legislature would not have given you this  
8 authority unless they intended for you to  
9 exercise it.

10 The Town has already investigated  
11 significant amounts of money in this proceeding.  
12 Unlike the Applicant, it does not have unlimited  
13 resources. Part of why it has had to invest so  
14 much in the proceeding is because it has taken a  
15 long time to get through the docket, in large  
16 part because the Applicant has had to supplement  
17 its Application and its studies because arguably  
18 at least they were not done thoroughly to begin  
19 with.

20 In terms of any delays in the schedule, we  
21 would point out that we're already three years  
22 past the time when Eversource first notified you  
23 in April of 2015 of the public information  
24 session required before filing the Application,

1 and this Committee in its April 6, 2018, order  
2 suspending the statutory time frame said that  
3 the time frame for issuing a written order has  
4 been suspended until April 1st of 2019. So  
5 there's really plenty of time to hire an expert  
6 and have the testimony submitted subject to  
7 discovery in a Technical Session. And as that  
8 order said, this Project, quote, "implicates  
9 important environmental concerns that will  
10 require additional time for investigation and  
11 discovery," end quote.

12 In their objection, Eversource tries to  
13 argue that our motion is an improper effort to  
14 appeal the DES ruling. We think that's just  
15 wrong. As soon as we saw what DES said about  
16 this issue, we filed the motion. We worked  
17 through the process like everyone else, and we  
18 waited patiently for the DES recommendation.  
19 The DES recommendation is before you for review  
20 as part of this process, and we are appealing to  
21 you to exercise an authority that you have under  
22 the law to ensure that a thorough evaluation of  
23 the HDD alternative is done.

24 Eversource tries to argue that they were

1 already in the process of conducting a further  
2 evaluation of the issues associated with HDD.  
3 They certainly never said that until after the  
4 DES recommendation came out, and as they freely  
5 admit in their objection to our motion, what  
6 they're conducting is no independent evaluation.  
7 It is putting together a rebuttal with all of  
8 the reasons why this should not be done. It has  
9 nothing to do with the kind of independent  
10 evaluation we think the Committee and everyone  
11 involved and particularly members of the public  
12 should have.

13 They try to argue that DES rejected the  
14 need for analysis of HDD when the language of  
15 the DES recommendation, we think, is very clear.  
16 This is an issue that needs more study and not  
17 more argument from Eversource. The DES analysis  
18 described in considerable detail the potential  
19 problems with the jet plow method for burying  
20 the cable. That is what Eversource is ignoring  
21 when they make their arguments against our  
22 motion.

23 So we implore you to use your authority  
24 that you have under the law to ensure that a

1 thorough independent review of HDD is done. We  
2 urge to you remember that Little Bay is a  
3 priceless and fragile natural resource that  
4 should be protected against adverse impacts. We  
5 also urge you to remember that DES notes the  
6 impact that jet plowing is likely to have on  
7 this natural resource, and we urge you to  
8 remember that HDD could potentially eliminate  
9 many of the negative impacts to Little Bay that  
10 the project is likely to bring.

11 We're not asking you to hire someone who  
12 will say that HDD is the preferred alternative.  
13 We are asking you to hire someone with expertise  
14 who will give you a thorough and independent  
15 review of HDD as an alternative. Thank you.

16 PRESIDING OFFICER WEATHERSBY: Does the  
17 Conservation Law Foundation wish to add  
18 anything?

19 MR. IRVIN: Thank you, Madam Chair, members  
20 of the Committee, my name is Tom Irwin. I  
21 represent the Conservation Law Foundation.

22 We believe the recommendations of DES in  
23 its February 28th letter are significant. The  
24 recommendations related to HDD further

1 evaluation related to a jet plow trial run  
2 underscore the importance of Little Bay and the  
3 need to protect it. They underscore the  
4 complexity of the project as it relates to  
5 Little Bay and the conditions there, and the  
6 recommendations are by no means offhand  
7 recommendations from the agency. They are  
8 detailed, thorough, and well-conceived, making  
9 note that, as Attorney Patch referenced, that  
10 the Applicant with respect to HDD has not  
11 provided sufficient information and that a  
12 further HDD analysis would require an assessment  
13 of crossing the entire Little Bay, a portion of  
14 Little Bay, those portions where only jet, hand  
15 jetting would take place, engaging in an  
16 detailed evaluation of water quality impacts, a  
17 detailed evaluation of costs and feasibility.

18 We similarly believe that the jet plow  
19 trial run is critical for ground truthing the  
20 dispersal of sediments that have been modeled so  
21 far to ensure that modeling is accurate and to  
22 prevent the adverse impacts that would result  
23 from the dispersement of sediment within the  
24 estuary.

1           So we strongly support DES's  
2           recommendations and urge the Site Evaluation  
3           Committee to take them up, but we urge that you  
4           take them up with certain modifications. With  
5           respect to horizontal directional drilling, the  
6           recommendation could be interpreted as requiring  
7           an HDD evaluation as a post-certificate  
8           condition. We urge that the Committee require  
9           this evaluation to take place up front as part  
10          of the adjudicatory process to enable all the  
11          parties to this docket and the public to have a  
12          clear understanding of feasibility and potential  
13          benefits or downsides of HDD in relation to jet  
14          plowing and to ensure that the Site Evaluation  
15          Committee has all the information that it needs  
16          to render a decision whether or not to grant a  
17          certificate and to render that decision based on  
18          a specific technology, jet plowing or HDD.

19          We agree that the Town of Durham's motion  
20          for the SEC to retain a consultant would be an  
21          important element of this, but, regardless, we  
22          think that what DES has laid out at the very  
23          least requiring the Applicant to develop a  
24          further analysis, not as part of a rebuttal

1 testimony, but to provide a further analysis for  
2 DES review is critical.

3 Similarly, we believe a jet plow trial run  
4 will provide crucial information to benefit the  
5 parties to this proceeding and ultimately the  
6 Committee in its decision making. You know, one  
7 practical element that we've raised in our  
8 motion is if the Committee were to determine  
9 that HDD is the preferred alternative, obviously  
10 we would request that a jet plow trial run not  
11 be conducted because there would be impacts  
12 associated with that trial run alone.

13 So DES has provided important detailed  
14 recommendations that we urge the Committee to  
15 follow with the modifications I've described.  
16 Eversource has argued that our motion is somehow  
17 an appeal, a premature, inappropriate appeal of  
18 DES's decision or recommended approval. This is  
19 simply not the case. CLF's motion is about  
20 asking the SEC to exercise its authority to  
21 ensure that it has the information it needs as  
22 part of this process prior to reaching a  
23 determination fully consistent with one of the  
24 stated purposes of the SEC's governing statute,

1 RSA 162-H, which is to provide full and timely  
2 consideration of environmental consequences. So  
3 with that, I have nothing to add. Thank you.

4 PRESIDING OFFICER WEATHERSBY: Thank you.  
5 Before getting to Counsel for the Public, are  
6 there other Intervenors in this docket that  
7 would like to comment on these motions?

8 (No verbal response)

9 PRESIDING OFFICER WEATHERSBY: Hearing  
10 none, Counsel for the Public, Attorney Aslin,  
11 would you like to address this?

12 MR. ASLIN: Thank you, Madam Chair. Very  
13 briefly, my name is Chris Aslin. For those I  
14 haven't met before, I'm from the New Hampshire  
15 Attorney General's office, and I'm designated as  
16 Counsel for the Public for this proceeding.

17 Counsel for the Public's position is  
18 outlined in the response that we filed to both  
19 motions. To add to that, I think the only thing  
20 I need to supplement is with regard to our  
21 expectation from the expert that we hired for  
22 reviewing of the Little Bay crossing, we do plan  
23 to file Supplemental Testimony that will address  
24 the feasibility of HDD as an option, both across

1 the entire stretch of the bay and as a partial  
2 stretch as recommended by DES.

3 To Durham's point, Attorney Patch, that may  
4 not be as fulsome a review as Durham is looking  
5 for because our experts are not designing the  
6 project. They can only comment on the general  
7 feasibility and the kind of plusses and minuses  
8 of using HDD versus jet plow techniques. It's  
9 not within their capacity or the scope of their  
10 position or their role in this project to  
11 actually design something and comment on the  
12 specific design.

13 So at this point, there is no design for an  
14 HDD alternative in the record on which my  
15 experts could comment, but they will be  
16 supplementing their testimony with general  
17 information about feasibility and the risks and  
18 benefits of those different approaches.

19 Other than that, I think my response is in  
20 the filed response so nothing further needs to  
21 be added. Thank you.

22 PRESIDING OFFICER WEATHERSBY: Thank you.  
23 Does the Applicant wish to add anything to its  
24 objection?

1           MR. NEEDLEMAN: Yes. Thank you, Madam  
2 Chair. Good morning. My name is Barry  
3 Needleman. I represent the Applicant in this  
4 matter and appreciate the chance to make a  
5 number of points in connection with this.

6           First of all, I think lost in all of these  
7 motions are some simple facts regarding the DES  
8 approval which is that after a long period of  
9 time and with very significant input from these  
10 other parties who have made these motions, the  
11 DES issued a permit approving the crossing of  
12 Little Bay using the jet plow technology with  
13 certain conditions.

14           At the same time, DES suggested to this  
15 Committee that if it was going to issue a  
16 certificate that it might require additional  
17 information on HDD, and as I'll explain in a  
18 minute, none of that was a prerequisite in the  
19 DES approvals, and I think that these motions  
20 essentially lose sight of that.

21           Speaking first to Durham's motion, in a  
22 sense I think that that motion is moot at this  
23 point, and the reason that I say that is because  
24 the motions were filed in late March, and then

1 on April 6th the Committee issued a procedural  
2 schedule. And when you look at the Prayer for  
3 Relief in the Durham motion, it asks in Prayer A  
4 that this Committee hire its own expert, and in  
5 Prayer B it says in the alternative that it  
6 require the Applicant to provide additional  
7 information as is specified in the DES approval.

8 And in the April 6th procedural schedule  
9 that's exactly what this Committee did. It  
10 ordered the Applicant to provide additional  
11 Supplemental Testimony on HDD including a report  
12 on July 1st that would answer the questions  
13 raised in the DES permits and then to make those  
14 experts available for a technical session which  
15 is going to happen on July 10th.

16 So we argued against that in the procedural  
17 schedule, but the Committee overruled it and  
18 required it presumably pursuant to these  
19 motions. So in a sense we have already  
20 accomplished what these parties seek to  
21 accomplish by introducing that additional  
22 information into the record.

23 Setting that aside for a moment and dealing  
24 with some of the other points, I would note for

1 the Committee that we have significant concerns  
2 about the timeliness of this motion. From the  
3 standpoint of the Applicants and clearly from  
4 the standpoint of the record, HDD is nothing new  
5 to this project. When we filed our Application  
6 over two years ago, we specifically mentioned  
7 that we evaluated and did not select HDD. We  
8 recognized that people think enough information  
9 was not provided on that point and that's being  
10 addressed, but, nevertheless, this has been a  
11 part of the case from the beginning. When you  
12 look at the Supplemental Testimony filed by the  
13 opposing parties, they raised HDD in their  
14 Supplemental Testimony. Mr. Selig from Durham  
15 raised HDD. During the Technical Sessions our  
16 witnesses were questioned about HDD. So the  
17 point being, there's nothing new about this, and  
18 if at any time the parties felt that enough  
19 information wasn't available, they could have  
20 come to the Committee long ago and raised this  
21 issue. There's nothing about the DES approval  
22 that suddenly put HDD into this case when it  
23 wasn't present before. So to raise it now and  
24 ask for the kind of relief that they're asking

1 for where a Committee expert be hired, it throws  
2 a wrench into these proceedings and would  
3 certainly cause delay that we think at this  
4 point is just unfair and certainly untimely.

5 And then, again, with respect to hiring the  
6 expert, at this point given what the Committee  
7 has required of the Applicant with the July 1st  
8 disclosures and Technical Sessions, hiring yet  
9 another expert would not only be duplicative and  
10 inefficient, but at this point it would also, as  
11 I said before, cause that delay. And to have  
12 another party just become involved and do the  
13 same work we don't think would provide any  
14 benefit to the process.

15 Now, Durham says that it would be an  
16 independent evaluation. I don't think there has  
17 been a single docket that this Committee has  
18 ever been involved with that hasn't involved a  
19 multitude of contentious issues, and in every  
20 one of those the Committee looks at the  
21 information provided by the Applicant, it hears  
22 the information provided by the opponents, it  
23 looks at the conditions suggested by the  
24 applicable state agencies, and it makes a

1 determination. I personally can't recall a time  
2 when the Committee hired its own expert, and I  
3 think Durham had to point back to a case 30  
4 years ago for that. So in that sense, it's not  
5 only duplicative, but I think it's extraordinary  
6 relief that isn't merited for any reason in this  
7 context. And so for those reasons, we would ask  
8 that the Durham motion be denied.

9 Let me turn briefly to the CLF motion  
10 because it involves issues that are separate  
11 from the Durham motion. CLF is asking that in  
12 addition to the additional HDD information that  
13 a sequence of events occur where the Applicant  
14 now has to jump through additional hurdles of  
15 first ruling out HDD and then doing additional  
16 jet plow work before we can even get to the  
17 final hearings.

18 Again, what CLF is doing is ignoring the  
19 DES determination which has already been made  
20 and essentially rejected that approach, and I  
21 think it's very important for the Committee to  
22 focus on the materials that we provided that  
23 show the course of dealing here. These parties  
24 interacted extensively with DES prior to the

1 time that DES issued its approval. Durham  
2 submitted information to DES on several  
3 occasions. Durham met with DES. Durham asked  
4 DES to include in the final permit the precise  
5 conditions here that Durham is now asking this  
6 Committee to include which would be a jet plow  
7 run beforehand and other similar conditions.  
8 DES accepted many recommendations from Durham  
9 and its experts, and it rejected some of those  
10 recommendations.

11 And so when we say that this is akin to  
12 essentially appealing the DES permit, that's  
13 precisely what we mean. These parties had a  
14 full opportunity to let their positions be known  
15 with respect to DES, and DES considered their  
16 positions and then issued the approval subject  
17 to that, and so now these parties are here  
18 saying well, they would like you to overrule DES  
19 in that respect.

20 I would call your attention to paragraph 9  
21 of Durham's motion. In that motion, Durham  
22 specifically says, quote, "The Committee is to  
23 give deference to proposed agency terms and  
24 conditions." Well, that's the way it's always

1           been and we agree with that point, but both  
2           Durham and CLF seem to want to have it both  
3           ways. They want you to give deference to the  
4           conditions that DES has issued that they agree  
5           with, but then when they disagree, they don't  
6           want you to give deference and they want you to  
7           overrule them, and that's simply not appropriate  
8           in this context.

9           And then, finally, I want to focus in on  
10          the argument we made about why this is akin to a  
11          backdoor appeal, and the reason that we say that  
12          is because any party in any SEC proceeding is  
13          always entitled to ask that this Committee  
14          overrule agency conditions, add to agency  
15          conditions. I think that that happens  
16          regularly. I think Applicants have done it,  
17          other parties have done it, but it's only  
18          appropriate in the context of the final hearing.  
19          It's not appropriate at this point. And the  
20          reason that I say that is because you need to be  
21          at the final hearing where you have all the  
22          evidence and information being presented to you  
23          so you can make an informed decision about  
24          whether or not to overrule and do something

1 different with respect to those conditions, and  
2 I'm going to give you some concrete examples.

3 In this docket, Counsel for the Public's  
4 expert on this issue, ESS, has said in their  
5 Prefiled Testimony that, quote, "for the most  
6 part, the Applicant has adequately characterized  
7 the potential environmental impacts of the work  
8 associated with the installation of the  
9 submarine cables in Little Bay," close quote,  
10 and, quote, "The potential impacts identified  
11 are generally consistent with the type and  
12 extent of impacts ESS has experienced on other  
13 submarine crossing projects," close quote.

14 So Counsel for the Public's own technical  
15 expert here actually supports the DES conclusion  
16 on the permits about the crossing of Little Bay,  
17 and it undercuts the argument that you should  
18 rule against DES and require something more at  
19 this point.

20 The other thing which we recently learned  
21 in Technical Sessions just a week or so ago and  
22 which you would hear at the final hearing is  
23 that Counsel for the Public's expert, ESS,  
24 itself has been involved in multiple projects in

1 other jurisdictions where jet plow technology  
2 has been used, and I asked them specifically,  
3 have there been trial runs required in those  
4 other projects, and they said yes, there have  
5 been, and they told me that in each case the  
6 trial runs were required in a relatively brief  
7 period of time right before the final run was  
8 required.

9 So again, that sort of information which  
10 would come directly from Counsel for the  
11 Public's own expert would undercut the arguments  
12 here that you should be overruling DES at this  
13 point. And there's more information like that.  
14 But again, if you jump to a premature decision  
15 now about overruling DES, and you don't hear the  
16 full record on that, then it's going to be too  
17 late to consider that sort of information.

18 And finally, I want to point out that with  
19 respect to Counsel for the Public noted and I  
20 would note as well that in the CLF motion in  
21 their sequencing they say that the Committee  
22 should focus on the HDD and require it if it's  
23 technically feasible or the environmental  
24 impacts are less than jet plow.

1           Again, that doesn't provide a complete  
2 picture because, for example, the Committee  
3 would not have the benefit of understanding what  
4 the costs of jet plow versus HDD are which you  
5 will once we submit the supplemental information  
6 on July 1st. The Committee will have absolutely  
7 no understanding of what the impact of HDD would  
8 be on abutters on either side of the bay. You  
9 wouldn't have any information about the other  
10 types of impacts associated with it. So you  
11 would essentially be making this decision in a  
12 vacuum.

13           So for all those reasons, we ask that the  
14 Committee reject both the Durham motion and the  
15 CLF motion. Thank you.

16           PRESIDING OFFICER WEATHERSBY: Thank you.  
17 Would Committee members have any questions for  
18 the Applicant or the movants?

19           I'll start us off. Attorney Needleman, the  
20 HDD expert testimony that you will be filing,  
21 will that include, could you give me a sense of  
22 the breadth of that. Will that include a design  
23 of that alternative, environmental impacts of  
24 that, the cost? How comprehensive is the

1 information that you plan on submitting?

2 MR. NEEDLEMAN: We plan to submit Prefiled  
3 Testimony from several witnesses. That  
4 testimony will be accompanied by a report.  
5 Collectively, the testimony and the report will  
6 address topics like the relative costs of HDD  
7 versus jet plow, the nature of the design and  
8 technical constraints associated with HDD,  
9 issues like what would it require in terms of  
10 bringing equipment to the site for HDD, what  
11 would the laydown areas on both the Durham and  
12 Newington side have to look like, what would the  
13 machinery look like, what would the impacts on  
14 abutters look like in terms of noise and other  
15 types of impacts. It would talk about the  
16 environmental impacts of HDD, potential issues  
17 such as frackouts, things like that. It would  
18 talk about the mechanics of doing something like  
19 this.

20 So we understood the direction from the  
21 Committee to be that it wanted a comprehensive  
22 set of information about HDD, and that's what  
23 we're preparing and what we intend to file.

24 PRESIDING OFFICER WEATHERSBY: Does the

1 nature of that evaluation comport with what DES  
2 requested?

3 MR. NEEDLEMAN: Yes, we believe so. We  
4 were informed both by what DES requested and the  
5 draft permit and what the Committee instructed  
6 us to do in the April 6th order.

7 PRESIDING OFFICER WEATHERSBY: Attorney  
8 Aslin? Counsel for the Public, if you could  
9 respond similarly with regard to your experts  
10 concerning this comprehensive nature of the HDD  
11 testimony they may be giving us.

12 MR. ASLIN: Certainly. I anticipate that  
13 ESS will provide a response to the specifics  
14 that DES has set out in its recommendations in  
15 the letter from February. It will probably not  
16 include some of the specifics that Attorney  
17 Needleman was outlining in terms of potential  
18 laydown areas and construction mechanics, simply  
19 because ESS is reviewing and commenting rather  
20 than designing the project.

21 But it has extensive experience in this  
22 type of work and will be providing sort of more  
23 generalized concepts of how HDD would have to be  
24 set up, what kind of impacts there would be and

1           what benefits it would have in relationship to  
2           the jet plow approach.

3           So I would say it wouldn't be as fulsome a  
4           review as DES had requested because it's not our  
5           project, but our experts will be trying to  
6           address each of the issues that DES has raised.

7           PRESIDING OFFICER WEATHERSBY: Am I correct  
8           that your experts will also be reviewing the  
9           information provided by the Applicant and  
10          commenting on that information?

11          MR. ASLIN: Yes, and that would be  
12          expected. One question would be timing. We  
13          could file our Supplemental Testimony on HDD at  
14          the same time as the Applicant or we could wait  
15          and file it as part of our general Supplemental  
16          Testimony which is due I think 20 days later on  
17          July 20th. The difference being that if Counsel  
18          for the Public's expert files on July 1st they  
19          could also be available for Technical Sessions  
20          on July 10th, whereas if it's just in the  
21          generalized Supplemental Testimony there would  
22          be no Technical Sessions on that testimony.

23          MR. NEEDLEMAN: Madam Chair, if I might.

24          PRESIDING OFFICER WEATHERSBY: Yes.

1 MR. NEEDLEMAN: The simultaneous filing is  
2 certainly not, I think, considered in the order,  
3 but to the extent that Counsel for the Public is  
4 willing to file on July 1st we would certainly  
5 appreciate it and appreciate the chance to be  
6 able to ask some questions as well in Technical  
7 Session.

8 MR. IACOPINO: Do you guys see that as we  
9 leave a hole in the procedural schedule there?  
10 Is that the issue when it comes to the HDD  
11 information? We didn't accommodate for you to  
12 have experts in there, Mr. Aslin. Correct?

13 MR. ASLIN: Yes. I think it was  
14 anticipated that yes, that this group's  
15 Supplemental Testimony filed in the regular  
16 course would address some of these issues, but  
17 we're certainly willing and able to do it  
18 earlier if it is considered more effective by  
19 the Committee.

20 MR. IACOPINO: That way we would have the  
21 Technical Sessions with both sets of experts.

22 MR. ASLIN: Yes.

23 MR. IACOPINO: This is just procedural. Do  
24 any of the parties that are here, I mean, the

1 procedural order is a procedural order. Do any  
2 of the parties here object to that process where  
3 we would have both sets of at least folks who  
4 have identified that they're going to present  
5 experts on HDD at the Technical Session at the  
6 same time? Maybe not together but on the same  
7 day?

8 MR. PATCH: Well, I guess the only thing I  
9 would say is that Durham and UNH stand by their  
10 request that there would be an independent  
11 expert that would fully address all of the  
12 issues, but that having been said, certainly one  
13 of the points that we made in our motion was the  
14 need for further discovery at a Technical  
15 Session. So whatever the Committee decides, we  
16 think that's an important issue and  
17 modifications to the schedule that would  
18 accommodate that we think would be helpful.

19 MR. IACOPINO: Anybody else?

20 MR. IRWIN: I have nothing to add to what  
21 Attorney Patch just stated. Thank you.

22 PRESIDING OFFICER WEATHERSBY: Mr. Way?

23 MR. WAY: Counselor Needleman and Counselor  
24 Aslin, having had the experience of previous

1 projects, and I'm recalling back to the  
2 voluminous amount of information that we had on  
3 horizontal direct drilling, and given what you  
4 said to Ms. Weathersby, is that something we  
5 could likely expect as we go through this  
6 process, that we're going to have a similar  
7 amount of information coming back to us that we  
8 had before so that we can make a decision? It  
9 sounds like that's what's going to happen.

10 MR. NEEDLEMAN: Well, certainly from our  
11 perspective, Mr. Way, I think that what we're  
12 preparing and what we intend to provide to you  
13 will be a concise but substantial amount of  
14 information on this specific topic so that our  
15 hope is you will have everything you need to  
16 understand this issue.

17 MR. ASLIN: And I would say from Counsel  
18 for the Public's perspective, I don't anticipate  
19 that ESS group would file a report specific to  
20 horizontal directional drilling but rather  
21 testimony that discusses the issues raised by  
22 DES. So it may not be as complete as some of  
23 the information that has been seen in other  
24 dockets but sounds like the Applicant will be

1 attempting to do that.

2 MR. WAY: Thank you.

3 MR. IACOPINO: I have one question for  
4 Mr. Patch. Mr. Patch, Mr. Aslin raises the  
5 point that his expert isn't designing the  
6 project, and if the Committee were inclined to  
7 hire an expert, that expert wouldn't be  
8 designing the project either. What is it that  
9 you anticipate that an HDD expert hired by the  
10 Committee would do under those circumstances?

11 MR. PATCH: Well, I understood particularly  
12 from the response that Public Counsel filed and  
13 I think he reiterated today that the kind of  
14 testimony that would be offered and I think he's  
15 asked for \$13,000 more to supplement what's  
16 already been paid to them, but that it would be,  
17 quote, unquote, "general information." And we  
18 think the analysis in order to do what DES has  
19 recommended is more than general information.  
20 We think it requires somebody with specific  
21 expertise to HDD drilling which I'm not sure  
22 Public Counsel's expert has that kind of  
23 specific expertise. I think he's got some  
24 familiarity with it, but I'm not sure he's got

1 the kind of expertise that we think would be  
2 valuable to the Committee.

3 So we just think that's going to be a less  
4 comprehensive review, and I think he's basically  
5 said that this morning than, what we think the  
6 Committee and the public should have before it.

7 MR. WAY: So I heard a lot of "I think" and  
8 "I believe" and the word "general." Counselor  
9 Aslin, your expert, how do you respond to that?  
10 From what I understand, your expert has done,  
11 has had previous experience in this field and  
12 would be considered an expert. What is the  
13 general information that will come out of this?  
14 Because I understand what Mr. Iacopino is saying  
15 is that anybody we hire here is not going to  
16 actually do the design. So now we're quibbling  
17 about what the word "general" means. And I  
18 don't mean the word "quibble." I apologize on  
19 that. But we're debating on what the word  
20 "general" means, and I thinks that's important  
21 here. Can you elaborate on that?

22 MR. ASLIN: I can certainly try. My  
23 experts from the ESS group have project design  
24 and monitoring experience that includes HDD

1 drilling, but they are not an HDD drilling firm.  
2 That would normally be a subcontract type of  
3 work. So they don't perform it themselves, but  
4 they are involved with environmental monitoring  
5 and design of these kind of projects.

6 So I think I'm perhaps not going to be as  
7 helpful as you would like, but I can just  
8 reiterate that there will not be a Technical  
9 Report filed by the ESS group on all the  
10 intricacies of HDD for this Project, but they  
11 will be filing testimony based on their  
12 experience with projects that have used HDD  
13 drilling in similar locations.

14 So I think it is somewhere in between what  
15 Durham is asking for and what the Committee may  
16 be interested in, but it would be more the  
17 Applicant's side of the table that would be able  
18 to provide the specific detailed information.

19 MR. WAY: Thank you.

20 PRESIDING OFFICER WEATHERSBY: Ms. Duprey?

21 MS. DUPREY: Thank you. Mr. Aslin, did you  
22 say that ESS has designed HDD projects before?

23 MR. ASLIN: They have consulted on projects  
24 that include HDD. They are not a technical HDD

1 firm. They may have other expertise beyond the  
2 individuals that we hired for this Project that  
3 have done HDD, but the experts for this Project  
4 are not the kind of design-on-the-ground people.  
5 They're the more environmental monitoring and  
6 compliance side of it.

7 MS. DUPREY: So they're familiar with the  
8 effects of HDD?

9 MR. ASLIN: They are, yes.

10 MS. DUPREY: Because they monitor it?

11 MS. ASLIN: Yes, and they've been involved  
12 in many, many projects that have used HDD.

13 MS. DUPREY: Thank you very much.

14 PRESIDING OFFICER WEATHERSBY: Director  
15 Muzzey?

16 DIR. MUZZEY: Thank you. And also for the  
17 Counsel for the Public, the experts that you'll  
18 be working with, will they give their general  
19 recommendations in a manner that's site  
20 specific? We know the importance of the  
21 environment of Little Bay. Will they be  
22 addressing that in their comments?

23 MR. ASLIN: That's my expectation that they  
24 will be directing their comments to this

1 specific location and this proposed project, and  
2 obviously, that includes the specifics of Little  
3 Bay's ecological importance.

4 DIR. MUZZEY: Thank you.

5 PRESIDING OFFICER WEATHERSBY: Mr. Schmidt?

6 MR. SCHMIDT: Mr. Needleman, I know you  
7 talked about the laydown areas and specifics in  
8 regard to that, but will your report also  
9 include specifics of the Little Bay itself? The  
10 construction? You mentioned frackout, but I  
11 wasn't sure if that was a general term in this  
12 case or if it was specific to known conditions.

13 MR. NEEDLEMAN: General term. So the  
14 expectation is that one of the things the report  
15 will cover will be potential environmental facts  
16 from HDD in this specific location.

17 MR. SCHMIDT: Thank you.

18 PRESIDING OFFICER WEATHERSBY: Any further  
19 questions from the Committee? Mr. Iacopino?

20 MR. IACOPINO: No.

21 PRESIDING OFFICER WEATHERSBY: Okay. So  
22 there being no further questions or further  
23 evidence before this Committee, I think we  
24 should begin deliberation -- oh. We have --

1           yes, ma'am?

2           MS. SANDBERG: I am here on behalf of the  
3           Durham Historic Association.

4           PRESIDING OFFICER WEATHERSBY: Could you  
5           tell us your name, please?

6           MS. SANDBERG: My name is Nancy Sandberg.  
7           I am the curator of the Durham Historical  
8           Association Museum. I am speaking on their  
9           behalf. We would like to say that we feel that  
10          Little Bay is a critical historic resource in  
11          the Town of Durham and that we believe that an  
12          independent evaluation of HDD crossing of Little  
13          Bay is very important for your Committee to have  
14          that evidence before you, and so we support the  
15          Town of Durham and UNH's motion, too. Thank  
16          you.

17          PRESIDING OFFICER WEATHERSBY: Thank you,  
18          Ms. Sandberg. Attorney Irwin?

19          MR. IRWIN: Madam Chair, thank you. Thank  
20          you, Committee members. Just very briefly, I  
21          did want to respond to the concept that these  
22          motions are somehow seeking to overrule DES  
23          findings. I think you know in the normal course  
24          when the Department of Environmental Services

1 conveys its recommendations to the Site  
2 Evaluation Committee, it's under cover of a  
3 letter that's maybe one page long. This is a  
4 three-page letter, two and a half pages of which  
5 relate to specific recommendations which are  
6 essentially an invitation to the Site Evaluation  
7 Committee to engage in further analysis, and I  
8 just wanted to make sure that lost in this  
9 discussion around an independent review that we  
10 don't lose the notion of DES having some further  
11 role. Since as part of their recommendation  
12 they invited the Site Evaluation Committee to  
13 require further analysis, they could go back to  
14 DES for their further review and feedback.  
15 Again, to benefit the Committee. Thank you.

16 PRESIDING OFFICER WEATHERSBY: Thank you.  
17 Anyone else? Okay. Then let's proceed to  
18 deliberations. Would anyone like to begin?  
19 Mr. Way?

20 MR. WAY: I guess as I was reading this and  
21 this goes back to my question, my first question  
22 about what we might expect from the proceedings  
23 as we go forward and recalling back, and a lot  
24 of people weren't there, but recalling back how

1 much information we had before us from both  
2 sides of the equation and that was incredibly  
3 helpful.

4 So I guess my concern is that this might  
5 not be necessary which I think looking at the  
6 statute is one of the requirements, at least at  
7 this point. I'm open to other thoughts, but I  
8 see this as something that will be borne out  
9 through the process.

10 PRESIDING OFFICER WEATHERSBY: Ms. Duprey?

11 MS. DUPREY: I agree with Mr. Way, and  
12 agree with what has just been said, and I would  
13 just state that it is the Applicant's job to  
14 persuade us on these matters and should they  
15 fail to do so that it puts their Application at  
16 risk. So the responsibility and the burden is  
17 on the Applicant to satisfy this Subcommittee  
18 with respect to the technology that it intends  
19 to use, the means that it intends to use to  
20 cross Little Bay, and the protection of Little  
21 Bay. Thank you.

22 PRESIDING OFFICER WEATHERSBY: Mr. Way?

23 MR. WAY: And I think from what I'm hearing  
24 from both sides, and this goes back to my last

1 question about the definition of general and  
2 what the purpose of someone would be from an  
3 independent observer. I feel like I'm  
4 comfortable with the Counsel for the Public's  
5 experts given what they would have to look at.  
6 We would not be having someone that would be  
7 going through the entire design. They do have  
8 experience in monitoring. I'm also comfortable  
9 with the experience of the Applicant, and I  
10 think it will give us foundation for scrutiny  
11 and the appropriate questions will be asked.

12 PRESIDING OFFICER WEATHERSBY: I would  
13 agree. I think that the process here will allow  
14 for sufficient information for this Committee to  
15 make a decision without hiring our own expert.  
16 I think between the Applicant's experts who will  
17 be asked lots of questions by this Committee and  
18 by other parties as to the feasibility of HDD  
19 and its impacts, as well as Counsel for the  
20 Public's expert who will also undergo a  
21 similar -- grilling is too strong a word -- but  
22 questioning, that I think that the Committee  
23 will have enough information to make some  
24 decisions and put in conditions should it decide

1 to approve a certificate.

2 I think there's no doubt that Little Bay is  
3 a critical issue here, probably the critical  
4 issue, we'll see as it unfolds, in that a lot of  
5 attention and scrutiny will be placed on  
6 ensuring that that precious resource isn't  
7 damaged, and I think that information will come  
8 to light without having the Committee hire its  
9 own expert.

10 MR. SHULOCK: I look forward to receiving  
11 the additional information on HDD, and I trust  
12 that between the two experts that we'll be  
13 hearing from, we'll have sufficient information  
14 to make a decision. That decision may be to  
15 place some additional conditions and ask for  
16 more information about HDD before anything  
17 begins. So I think I would deny and then see  
18 how things play out in the hearings.

19 MR. SCHMIDT: I also would agree. I'm  
20 looking forward to hearing both sides. I think  
21 the comparison of the jet plow to the HDD will  
22 enable us to make an educated decision, and I do  
23 believe that's up to the Applicant to provide  
24 that information.

1           PRESIDING OFFICER WEATHERSBY: I guess I  
2 would also just add that if as the hearings  
3 unfold we find we have questions that can't be  
4 answered or we're uncertain of the answers that  
5 we're receiving we can always hire an expert at  
6 that time, someone who can provide that  
7 information to the Committee. So if it is  
8 denied today doesn't mean it's not going to  
9 happen ever. It's just right now that we don't,  
10 I'm getting the sense we don't see the necessity  
11 of hiring one now, but if we find that we do  
12 need one later and it will be helpful to the  
13 process, that one could be hired in the future.  
14 Director Muzzey?

15           DIR. MUZZEY: I agree with that as well.  
16 That it does seem premature to take the step of  
17 the Committee hiring an expert at this point. I  
18 greatly appreciate the care that the community  
19 surrounding Great Bay has extended to that  
20 resource both as a historical resource and a  
21 natural resource as well, but it does sound as  
22 though we'll be getting a good deal of  
23 information, carefully gathered and evaluated  
24 information, by July 1st and then again at the



1 and the other experts as to the relative  
2 benefits of the two before considering a  
3 condition like that.

4 PRESIDING OFFICER WEATHERSBY: I think  
5 what's being asked is that it not wait to be a  
6 certificate condition as DES said but to have  
7 them do one as part of precertificate issue,  
8 should one issue, but no one wants to do it  
9 until we decide whether HDD or jet plowing is  
10 the appropriate technique so it's, it's kind of  
11 a chicken and egg kind of thing.

12 Mr. Schmidt.

13 MR. SCHMIDT: I think it's a good idea. I  
14 do think we need to get more information on the  
15 HDD before we take that step, but I do think it  
16 would potentially provide valuable information  
17 for the rest of us.

18 PRESIDING OFFICER WEATHERSBY: Director  
19 Muzzey?

20 DIR. MUZZEY: I would also add that there  
21 may be environmental consequences to performing  
22 the trial, and so until we decide which  
23 alternative may be appropriate, I would hesitate  
24 to run the trial if it wasn't necessary.

1 PRESIDING OFFICER WEATHERSBY: Mr. Way?

2 MR. WAY: I agree with everything I've  
3 heard. I mean, we've already decided that we  
4 want, I wouldn't say we decided, but we've  
5 suggested that the normal course of events  
6 during these proceedings will give us the  
7 information we need on horizontal direct  
8 drilling versus the other alternative. It would  
9 seem to make sense that at least we wait until  
10 we have that information in and then make that  
11 judgment call at that point or condition  
12 somewhere down the line.

13 PRESIDING OFFICER WEATHERSBY: So you're  
14 saying we can always require one later without  
15 determining its timing presently.

16 MR. WAY: Exactly.

17 PRESIDING OFFICER WEATHERSBY: Any further  
18 comments?

19 (No verbal response)

20 PRESIDING OFFICER WEATHERSBY: Okay. So  
21 we'll have two motions, one at a time.

22 Attorney Patch, do you have a question or  
23 comment?

24 MR. PATCH: I have a quick comment.

1 Obviously, I'm seeing which way the Committee is  
2 going on both of these motions, and I would just  
3 want to point out to you that under the schedule  
4 you have what is essentially sort of bifurcated  
5 hearings. There's a couple of hearing days the  
6 end of August. Then there are more that are  
7 toward the middle or end of September. I think  
8 one thing you could consider would be having the  
9 HDD and the jet plowing testimony first in the  
10 proceeding, and then there would be a bit of a  
11 gap later when you would resume the hearing and  
12 that would give you the option at that point of  
13 taking up perhaps some of the other things  
14 you've talked about.

15 PRESIDING OFFICER WEATHERSBY: Thank you  
16 for that suggestion.

17 Attorney Needleman, you look like you're  
18 dying to speak. Go ahead.

19 MR. NEEDLEMAN: Thank you. I appreciate  
20 it.

21 I'm not quite sure what that suggestion  
22 means, but to the extent that it's suggesting  
23 that it might open the door to do any sort of  
24 trial run before the hearing's concluded, I

1 think it's just important for the Committee to  
2 understand as a practical matter what a trial  
3 run actually means.

4 It would require, I think, significant  
5 input and potential approvals from DES before we  
6 could do it. It's not something that could  
7 happen at all quickly from what I understand  
8 based on our interactions with DES. It is  
9 something that I believe is limited by seasons  
10 and unless DES gave us a waiver there is a  
11 narrow amount of time during the year when we  
12 could do something like that. And then there  
13 are practical issues associated with mobilizing  
14 contractors who need a lot of lead time to be  
15 able to go out and do something like that. So  
16 my point being that it's not something that  
17 happens quickly or easily as a practical matter.

18 PRESIDING OFFICER WEATHERSBY: Thank you  
19 for that comment as well.

20 Unless the Committee has anything, any  
21 further questions or comments, I'd entertain a  
22 motion on the partially assented to motion  
23 requesting the Subcommittee to hire a horizontal  
24 directional drilling expert that was filed by

1 the Town of Durham and UNH.

2 MR. WAY: So moved.

3 PRESIDING OFFICER WEATHERSBY: Is there a  
4 second?

5 MR. SCHMIDT: Second.

6 PRESIDING OFFICER WEATHERSBY: Is there any  
7 further discussion?

8 (No verbal response)

9 PRESIDING OFFICER WEATHERSBY: So your  
10 motion is to deny, just to clarify?

11 MR. WAY: The motion is to deny. Yes.

12 PRESIDING OFFICER WEATHERSBY: And that's  
13 your second, correct?

14 MR. SCHMIDT: Correct.

15 PRESIDING OFFICER WEATHERSBY: So we have a  
16 motion to deny and a second concerning hiring  
17 the HDD drilling expert. Any further  
18 discussion?

19 (No verbal response)

20 PRESIDING OFFICER WEATHERSBY: Hearing  
21 none, all in favor say "aye"?

22 (Multiple members indicating "aye.")

23 PRESIDING OFFICER WEATHERSBY: Opposed?

24 (No verbal response)



1 Iacopino?

2 MR. IACOPINO: No. They would normally be  
3 ruled on by the chair.

4 PRESIDING OFFICER WEATHERSBY: Okay.

5 ADMINISTRATOR MONROE: Okay.

6 MR. IACOPINO: In writing.

7 PRESIDING OFFICER WEATHERSBY: Then a  
8 motion to adjourn?

9 DIR. MUZZEY: So moved.

10 PRESIDING OFFICER WEATHERSBY: Director  
11 Muzzey moves to adjourn. Seconded by  
12 Mr. Schmidt. All in favor?

13 (Multiple members indicating "aye.")

14 PRESIDING OFFICER WEATHERSBY: We are  
15 adjourned. Thank you all.

16 (Hearing adjourned at 10:24 a.m.)

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**C E R T I F I C A T E**

I, Cynthia Foster, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes of the hearing for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Dated at West Lebanon, New Hampshire, this 3rd day of June, 2018.

\_\_\_\_\_  
Cynthia Foster, LCR

