

1 STATE OF NEW HAMPSHIRE

2 SITE EVALUATION COMMITTEE

3 June 14, 2016- 6:10 p.m.

4 Public Utilities Commission

DAY 1

5 21 South Fruit Street Suite 10

DELIBERATIONS

6 Concord, New Hampshire

7 IN RE: SEC DOCKET NO. 2015-05

8 SITE EVALUATION COMMITTEE:

9 Joint Application of New England
10 Power Company d/b/a National Grid
11 and Public Service Company of
12 New Hampshire d/b/a Eversource
13 Energy for a Certificate of
14 Site and Facility.

15 PRESENT:

SITE EVALUATION COMMITTEE:

16 F. Anne Ross, Esq. Public Utilities Commission
17 (Presiding as Presiding Officer)18 Cmsr. Kathryn Bailey Public Utilities Commission
19 Cmsr. Jeffrey Rose Dept. of Resources and20 Dr. Richard Boisvert Dept. of Cultural Resources
21 Division of Historical Res.22 Michele Roberge Dept. of Environmental Serv.
23 Patricia Weathersby Public Member

24 Rachel Whitaker Alternate Public Member

Also Present for the SEC:

Michael J. Iacopino, Esq. (Brennan...)

Pamela G. Monroe, SEC Administrator

COURT REPORTER: Susan J. Robidas, NH LCR 44

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OTHER APPEARANCES:

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Adam Dumville, Esq. (McLane Middleton)

Christopher Allwarden, Esq. (Eversource)

Reptg. National Grid:

Mark Rielly, Esq. (National Grid)

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

2 PRESIDING OFFICER ROSS: All right.

3 We are going to move through a series of topics
4 in our deliberations. And the first topic
5 we're going to deal with are State Agency
6 Permits and Reports. And we need to determine
7 first from DES what permits have been obtained.

8 MR. IACOPINO: And just, if I can
9 just interrupt again, Madam Chair. At 7:35 we
10 will -- well, most people in the room I think
11 are going to be losing their wi-fi access
12 because these numbers -- possibly, possibly
13 not -- these numbers go out. So if you're on
14 your wi-fi and you lose your access, you'll
15 know why.

16 PRESIDING OFFICER ROSS: Okay. So
17 let's turn to the DES permits. I think we have
18 the first is a wetlands permit application. We
19 have one for each of the towns. It includes
20 all four towns: Pelham, Windham, Hudson and
21 Londonderry. And it's my understanding that it
22 has been granted; correct?

23 MR. IACOPINO: Madam Chair, I would
24 just point out for the Committee to understand

1 that, on June 9, 2016, we received a letter
2 that was referenced during the testimony of
3 Ms. Trefry from the Department of Environmental
4 Services. That letter addressed three permits:
5 The wetlands permit, the alteration of train
6 permit and the Section 401 water quality
7 certificate. And in each permit, the
8 Department of Environmental Services recommends
9 approval -- or approved and recommended final
10 conditions. And those are contained in the
11 correspondence of June 9th, which is 11 pages.

12 PRESIDING OFFICER ROSS: So, for
13 purposes of our process here, we would probably
14 be conditioning any certificate we issue on the
15 issuance of these permits and compliance with
16 all of the conditions of the permits. Do we
17 need to do a formal action to that?

18 MR. IACOPINO: Yes. I would
19 recommend that you make a determination whether
20 you want to adopt those permits and the
21 conditions contained in there as conditions of
22 your Certificate of Site and Facility, should
23 you choose to grant one.

24 I would also point out that

1 there's a prior letter that we received from
2 the Department of Environmental Services as
3 well pertaining to the shoreland impact permit,
4 I believe it's called, which was received... I
5 don't have the date right in front of me. But
6 it was received around the 31st of May.

7 MS. ROBERGE: June 1st.

8 MR. IACOPINO: June 1st?

9 MS. ROBERGE: June 9th we received it
10 from DES.

11 MR. IACOPINO: June 9th we received
12 the letter regarding the alteration of terrain,
13 the wetlands and the 401 water quality. Before
14 that, we received --

15 MS. ROBERGE: On March 2nd, I
16 believe, it was.

17 MR. IACOPINO: -- shoreland --

18 (Court Reporter interrupts.)

19 MS. ROBERGE: On March 2nd, I have a
20 copy from DES indicating its outlined draft
21 permit conditions and additional data
22 requirements are needed to make a final
23 decision for the alteration of terrain permit,
24 wetland permit and 401 water quality

1 certificate. Is that what you're referencing?

2 MR. IACOPINO: No, I'm talking about
3 the shoreland impact permit, which is a fourth
4 permit --

5 MS. ROBERGE: Oh, okay. I'm sorry.

6 MR. IACOPINO: -- which was issued on
7 October 1st, 2015, I guess, if you look at the
8 Application, Appendix G1.

9 (Subcommittee reviews documents).

10 PRESIDING OFFICER ROSS: So I would
11 move that we -- that in the event we issue a
12 certificate on this project, that we condition
13 it upon final approval of and compliance with
14 all of the conditions in the four permits from
15 the Department of Environmental Services --
16 that is, a wetland permit, an alteration of
17 terrain permit, a shoreland protection permit,
18 and a 401 water quality. That's the fourth
19 one.

20 MS. ROBERGE: And I just wanted to
21 clarify. In the Department of Environmental
22 Services June 9th, 2016, letter, they
23 reference, "The proposed activity involves the
24 discharge of dredge or fill material into

1 surface waters of the U.S. and, therefore,
2 requires a federal Clean Water Act Section 404
3 permit from the U.S. Army Corps of Engineers."
4 And they reference that this is a general
5 permit, and they reference the certificate --
6 the general permit, which was last issued in
7 2012, which I think the water quality
8 certification by DES perhaps incorporates that.
9 It references that in there. I just wanted to
10 clarify that.

11 MR. IACOPINO: It does. And just as
12 advice to the Committee, if you're inclined to
13 do this, you may want to include compliance
14 with that general programmatic permit as a
15 condition of your certificate.

16 MS. ROBERGE: It's referenced in the
17 letter, so if we can make sure it gets included
18 in there.

19 PRESIDING OFFICER ROSS: Perhaps we
20 should amend the motion that I just made.
21 Would someone like to try it again?

22 DR. BOISVERT: I believe since it
23 didn't have a second, you can construct it as
24 you wish.

1 PRESIDING OFFICER ROSS: Oh, I can go
2 ahead and amend it. I think what I would do is
3 just say the four permits that I listed, as
4 well as the conditions and the Army Corps of
5 Engineer's permit listed in the June 9, 2016,
6 DES letter, and I think that will capture all
7 of them.

8 DR. BOISVERT: I second the motion.

9 MR. IACOPINO: Does that include the
10 programmatic general permit from the Army
11 Corps?

12 PRESIDING OFFICER ROSS: Yes, it
13 does. It's listed as an attachment to the
14 June 9th, 2016, DES letter.

15 MS. ROBERGE: It's just referenced in
16 the letter. They have referenced it as a
17 "Section 404 general permit -- i.e., the New
18 Hampshire Programmatic General Permit." I
19 would just include that in along with the
20 permits.

21 PRESIDING OFFICER ROSS: Okay. I'm
22 not sure -- this is going to be a little
23 garbled in the transcript. So, Michele, would
24 you take a crack at describing this? You seem

1 more comfortable with the language used.

2 MS. ROBERGE: So I would move to
3 include -- and I missed the first part of your
4 motion.

5 PRESIDING OFFICER ROSS: As a
6 condition to a site certificate in this docket,
7 should we issue one.

8 MS. ROBERGE: Should we issue a site
9 certificate relative to this docket, I move to
10 include the conditions that the DES references
11 in their June 9th, 2016, letter relative to the
12 alteration of terrain permit, the wetland
13 permit, the 401 water quality certificate,
14 including reference to the Clean Water Act
15 Section 404 general permit, the New Hampshire
16 programmatic general permit, and the shoreland
17 protection permit.

18 PRESIDING OFFICER ROSS: And I'll
19 second that motion. Any discussion on the
20 motion?

21 [No verbal response]

22 PRESIDING OFFICER ROSS: All in
23 favor?

24 [Multiple members indicating "aye".]

1 PRESIDING OFFICER ROSS: Any opposed?

2 [No verbal response]

3 CMSR. BAILEY: Madam Chair, could I
4 make a motion that we delegate authority to the
5 Department of Environmental Services for
6 modifications and oversight of the
7 conditions -- of their conditions?

8 PRESIDING OFFICER ROSS: Is there a
9 second?

10 DR. BOISVERT: Second.

11 PRESIDING OFFICER ROSS: Any
12 discussion of that?

13 [No verbal response]

14 PRESIDING OFFICER ROSS: I think
15 that's an excellent idea. I think in the
16 normal course they would be overseeing those
17 permits, and they're a good body to continue to
18 do that. So, all right. All -- any other
19 discussion?

20 [No verbal response]

21 PRESIDING OFFICER ROSS: All in favor
22 of that motion?

23 [Multiple members indicating "aye".]

24 PRESIDING OFFICER ROSS: Any opposed?

1 [No verbal response]

2 PRESIDING OFFICER ROSS: Okay. DES
3 will have oversight.

4 The next permit that I'm aware
5 of is the Historical Resources, Department of
6 Cultural Resources and Division of Historical
7 Resources. And I believe this permit is --

8 DR. BOISVERT: Madam Chair, this is
9 Historical Resources.

10 PRESIDING OFFICER ROSS: Could you
11 help me on this?

12 DR. BOISVERT: Yes. We do not have
13 permitting responsibility. However, Historical
14 Resources does have responsibility under
15 federal legislation and the National Historic
16 Preservation Act of 1966. It's generally
17 referred to as "Section 106" for that
18 compliance. It is a standard condition to
19 anything that we approve, should there be any
20 changes in the project designs and so forth,
21 that the Division be notified and allowed to
22 comment as necessary. This can avoid a
23 situation where something may be done in good
24 faith as a good engineering decision to make a

1 change, but may have unfortunate consequences
2 for historic resources. This is a standard
3 step. In addition, there's also the
4 notification of unanticipated discoveries,
5 which would fall into this general category.

6 So I would recommend that we
7 make similar -- let me move that we have a
8 similar motion to give the responsibility to
9 the Division of Historical Resources to deal
10 with any changes in construction or
11 unanticipated discoveries, and that in the same
12 fashion that we granted the handling of those
13 changes to DES, we do the same for DHR, so they
14 will act on behalf of the SEC to respond to
15 those changes, if any.

16 PRESIDING OFFICER ROSS: Thank you.
17 Is there a second to that motion?

18 CMSR. ROSE: Second.

19 PRESIDING OFFICER ROSS: Okay. Is
20 there any discussion?

21 MS. WEATHERSBY: Just so I'm clear,
22 say the route changes. Your office obviously
23 should get involved with any new discoveries
24 along there.

1 DR. BOISVERT: Correct. And it's not
2 so much changes in the route, but possibly
3 changes in a laydown area or an access road,
4 which is much more likely to occur, for
5 whatever reason, if there's a discovery that in
6 the environmental realm says we ought not to
7 take this pathway and you should take a
8 different pathway in. Those are the kinds of
9 changes that more likely happen in the real
10 world. Changing the route of the transmission
11 line is, in my experience, highly unlikely.

12 MS. WEATHERSBY: Right. And that
13 would, of course, open up a whole other can of
14 worms. What I meant was, you know, an access
15 road may change or need to go in a different
16 location. So, modification to the project, not
17 to the route necessarily.

18 So my question, I guess, is your
19 office, obviously, is best equipped to handle
20 those changes with regard to historical and
21 archeological resources. But wouldn't we also
22 want to involve, you know, DES if it's wetlands
23 or -- you know, would there be other agencies
24 that would need to get involved in that

1 situation or -- I'm just afraid we're
2 delegating everything to your office.

3 DR. BOISVERT: No, no. This is only
4 in regard to historical resources.

5 MS. WEATHERSBY: Okay. I'm fine
6 then.

7 DR. BOISVERT: We have enough to do.

8 MR. IACOPINO: I would just point out
9 that the letter from May 9th from DHR requested
10 that the Applicant be required to provide any
11 changes and any work modifications. The
12 language they use is, "If there are any changes
13 in approved plans and specifications, or there
14 is a need for additional work," they wish to be
15 notified. That's the language from their
16 letter. I just wanted to point that out to
17 you.

18 CMSR. BAILEY: And I think we heard
19 testimony that, from time to time while they're
20 constructing, they run into -- they could run
21 into some undetected or previously unknown
22 archeological resource, and there's a process
23 that they're required to go through. So my
24 understanding is that we're delegating that

1 review to --

2 PRESIDING OFFICER ROSS: To DHS.

3 CMSR. BAILEY: -- DHR.

4 PRESIDING OFFICER ROSS: DHR. Excuse
5 me. Department of Historical Resources.

6 CMSR. BAILEY: As well as the other
7 things we discussed?

8 PRESIDING OFFICER ROSS: Yes. I
9 think in the motion pending there was a
10 reference to discovered, "newly discovered" --

11 DR. BOISVERT: Right.

12 PRESIDING OFFICER ROSS: Any further
13 discussion?

14 MS. ROBERGE: I would just clarify
15 that the previous motion about granting DES
16 authority to review certain things, I think
17 we've -- you know, like other changes that may
18 occur, that that would still fall under the
19 purview of DES and not necessarily Historic
20 Resources.

21 DR. BOISVERT: Correct.

22 PRESIDING OFFICER ROSS: Right. It's
23 my understanding that, when we delegate it to
24 an agency, we delegate only those issues within

1 their jurisdiction under the permit that we're
2 referencing, and so each agency has oversight
3 as to certain issues. So, in the event there
4 were any changes or modifications to any of the
5 construction practices or laydown area,
6 whatever it is, there might be multiple
7 agencies involved in reviewing that.

8 MR. IACOPINO: There are two relevant
9 sections of your statute governing your ability
10 to delegate authority to state agencies. The
11 first is at 162-H:4,III, which states that,
12 "The Committee may delegate the authority to
13 monitor the construction or operation of any
14 [energy] facility granted a certificate under
15 this chapter to the administrator or such state
16 agency or official as it deems appropriate, but
17 shall ensure that the terms and conditions of
18 the certificate are met." That's the first
19 delegation authority.

20 And then there's subsection
21 III-a which states, "The Committee may delegate
22 to the administrator or such state agency or
23 official as it deems appropriate the authority
24 to specify the use of any technique,

1 methodology, practice or procedure approved by
2 the Committee within a certificate issued under
3 this chapter, or the authority to specify minor
4 changes in the route alignment, to the extent
5 that such changes are authorized by the
6 certificate for those portions of the proposed
7 electric transmission line or energy
8 transmission pipeline for which information was
9 unavailable due to conditions which could not
10 reasonably have been anticipated prior to the
11 issuance of the certificate." I think the part
12 of that that you're dealing with right now is
13 "the authority to specify the use of any
14 technique, methodology, practice or procedure"
15 and to monitor construction. So, you do have
16 that authority to delegate.

17 PRESIDING OFFICER ROSS: Any further
18 discussion?

19 [No verbal response]

20 PRESIDING OFFICER ROSS: All in favor
21 of the pending motion say "aye."

22 [Multiple members indicating "aye".]

23 PRESIDING OFFICER ROSS: Any opposed?

24 [No verbal response]

1 PRESIDING OFFICER ROSS: Okay. Our
2 next permit is the DOT permit. There are
3 several. There are temporary driveway permits,
4 there are aerial utility permits. And I would
5 suggest that it would be appropriate for us to
6 deal with those as part of the condition to a
7 certification, should we grant one for this
8 project. Looks like there's some railroad
9 crossings and temporary use agreements for the
10 Londonderry Rail Trail as well.

11 MS. WEATHERSBY: Is it my
12 understanding that not all of those permits
13 have been issued yet?

14 PRESIDING OFFICER ROSS: I thought --
15 did we hear that there were some they decided
16 they didn't need? What did DOT tell us?

17 MR. IACOPINO: Our administrator
18 received an e-mail today from DOT, where James
19 Lillis, from the Department of Transportation,
20 advises Mark Suennen at VHB, and Melodie
21 Esterberg, also from DOT, that he will process
22 the two driveway permit applications as soon as
23 possible for Londonderry Route 102 and Route
24 28. And then, yeah, appears they may have

1 already been done by the DOT, according to
2 Mr. Suennen's response.

3 MS. ROBERGE: On the second page,
4 towards the end, I guess there was six,
5 perhaps, in total. And at the bottom, next to
6 the last paragraph, he mentions that he's
7 clarified that the four permit applications
8 listed as unsigned are, in fact, no longer
9 required. So, perhaps just the two?

10 MS. MONROE: Madam Chair, if I may?

11 PRESIDING OFFICER ROSS: Yes, a
12 little information would be helpful.

13 MS. MONROE: Yeah, I just wanted to
14 refer you to the May 31st letter that's in the
15 docket from DOT referencing the Bureau of Rail
16 and Transit has reviewed the application and a
17 crossing agreement is in process, to be issued
18 for the crossing of the Londonderry segment. I
19 believe that's separate from this. And I
20 haven't received notification that those have
21 actually been issued. So we may need to have a
22 condition that those are issued as part of your
23 decision.

24 PRESIDING OFFICER ROSS: Go ahead.

1 CMSR. BAILEY: I would move that, if
2 we grant the application, we grant it subject
3 to the condition that the Applicant obtain all
4 necessary permits and approvals from the New
5 Hampshire Department of Transportation.

6 PRESIDING OFFICER ROSS: And that we
7 delegate to the Department oversight of the
8 permitting process for purposes of meeting that
9 condition.

10 CMSR. BAILEY: I can amend my motion
11 to include that.

12 PRESIDING OFFICER ROSS: Okay.

13 MS. WEATHERSBY: Could we also amend
14 it, that they have to comply with all
15 conditions in such permits?

16 CMSR. BAILEY: Yes, to the extent
17 that there are any such conditions. But I got
18 the impression from the information we have
19 from DOT that they aren't recommending any
20 conditions. But if they --

21 PRESIDING OFFICER ROSS: But there
22 may be some pending the rail use agreement.

23 Is there a second on that?

24 MS. WEATHERSBY: Second.

1 MS. ROBERGE: Second.

2 PRESIDING OFFICER ROSS: I'll let Pat
3 do the second.

4 Okay. Is there any discussion
5 of the DOT permits?

6 [No verbal response]

7 PRESIDING OFFICER ROSS: All of those
8 in favor of the motion indicate by saying
9 "aye."

10 [Multiple members indicating "aye".]

11 PRESIDING OFFICER ROSS: Any opposed?

12 [No verbal response]

13 PRESIDING OFFICER ROSS: Okay. The
14 next set of permits we have are from the Public
15 Utilities Commission. There are a number of
16 crossings, licenses to cross over state waters
17 and state land in Windham and Londonderry.

18 CMSR. BAILEY: Madam Chair.

19 PRESIDING OFFICER ROSS: Yes.

20 CMSR. BAILEY: My understanding is
21 that the Public Utilities Commission granted
22 the crossing license over in the town of
23 Londonderry but has not issued the license to
24 cross in the town of Windham. Typically, those

1 licenses come with conditions that they be
2 built in accordance with the National
3 Electrical Safety Code and maintained in
4 accordance with the National Electrical Safety
5 Code. From time to time there are other
6 conditions.

7 So I would move that, if we
8 grant this application, we grant it subject to
9 the conditions in the PUC's licenses and
10 subject to the PUC granting the license in
11 Windham.

12 PRESIDING OFFICER ROSS: And in that
13 condition, we would also delegate to the PUC
14 oversight of the licenses in compliance with
15 any conditions in those licenses.

16 CMSR. BAILEY: Sure, to the extent
17 that there are any. There usually are not.

18 PRESIDING OFFICER ROSS: Is there a
19 second?

20 DR. BOISVERT: Second.

21 PRESIDING OFFICER ROSS: Is there any
22 discussion?

23 [No verbal response]

24 PRESIDING OFFICER ROSS: All those in

1 favor indicate by saying "aye."

2 [Multiple members indicating "aye".]

3 PRESIDING OFFICER ROSS: Any opposed?

4 [No verbal response]

5 PRESIDING OFFICER ROSS: All right.

6 Now, I think that the next category that we
7 need to consider under the statute is the
8 Applicants' Financial, Technical and Managerial
9 Capability. And we have some specific guidance
10 in the rules which counsel has provided us
11 with. And I'm just going to read it quickly to
12 the Committee before we deliberate.

13 So, on Technical Capability, the
14 Applicants' experience in designing,
15 constructing and operating energy facilities
16 similar to the proposed facility and the
17 experience and expertise of any contractors or
18 consultants engaged or to be engaged by the
19 Applicant to provide technical support for the
20 construction and operation of the proposed
21 facility, if known at the time. So that is as
22 to technical capability.

23 As to Managerial Capability,
24 again, it's the Applicants' experience in

1 managing the construction and operation of
2 energy facilities similar to the proposed
3 facility, and the experience and expertise of
4 any contractors or consultants engaged or to be
5 engaged by the Applicants to provide managerial
6 support for the construction and operation of
7 the proposed facility, if known at the time.

8 MR. IACOPINO: Madam Chair, those
9 regulations are in support of the statutory
10 requirement that the Committee consider whether
11 or not the Applicant has adequate technical and
12 managerial capability to assure construction
13 and operation of the project in continuing
14 compliance with the terms and conditions of its
15 certificate under RSA 162-H:16, IV.

16 PRESIDING OFFICER ROSS: And we did
17 hear testimony, and there was certainly
18 prefiled testimony -- let's see. The witness
19 panel this morning we listened to involved
20 Brian Hudock, David Plante, Jessica Farrell,
21 Garrett Luszcki and Mark Suennen.

22 Any discussion by the Committee
23 members on this?

24 CMSR. BAILEY: The Applicants, I

1 believe, are clearly managerially and
2 technically qualified to design and construct
3 and manage a project like this. This is their
4 business as public utilities. And I believe
5 that they meet the managerial and technical
6 requirements.

7 MS. WEATHERSBY: I would agree with
8 Commissioner Bailey. I think both of the
9 Applicants have operated transmission lines for
10 over a hundred years, and they own and operate
11 thousands of miles of transmission lines,
12 serving I think it was 6 or 7 million customers
13 combined. And I think that their track record,
14 from the evidence we've heard and read as part
15 of this application, clearly indicates that it
16 has the technical and managerial capability.

17 PRESIDING OFFICER ROSS: I personally
18 found the witnesses to be thoroughly versed in
19 the project, and I didn't find any questions
20 that weren't adequately answered in detail,
21 including, you know, construction materials and
22 the way that highway crossings would be
23 handled, and just enough specifics in detail
24 that I felt pretty comfortable that the

1 experience and expertise were there.

2 CMSR. BAILEY: Is this where we might
3 talk about the Counsel for the Public's
4 condition on cost containment? I mean, that
5 has to do with managing the project. But it
6 doesn't really have to do with whether they're
7 managerially and technically competent to
8 construct the project.

9 PRESIDING OFFICER ROSS: It sort of
10 does, though, because if you're managerially
11 competent to construct, aren't you -- can't we
12 assume you're also competent to manage your
13 construction budget? I mean, isn't that a part
14 of managing construction?

15 CMSR. BAILEY: Yes.

16 DR. BOISVERT: Is there not also a
17 requirement that they have the financial
18 capability? Might this be more appropriate
19 under the financial capability?

20 CMSR. BAILEY: I'm not sure I agree
21 with that. I think financial capability is do
22 they have the capital to invest and pay for the
23 project in a way to get a return on their
24 investment, which we can talk about in a

1 minute. I don't think that if they're
2 financially qualified, that necessarily
3 entitles them to recover from ratepayers an
4 unlimited amount of money based on whatever
5 they spend. I mean, it has to be reasonable, I
6 think. So I think I'd make a distinction
7 there.

8 PRESIDING OFFICER ROSS: I actually
9 thought of both categories and was thinking
10 financial, too. But it's almost a combination
11 of the two. I mean, if you're financially
12 competent, then you're competent to manage your
13 costs. So I could see it going in either
14 bucket.

15 DR. BOISVERT: Let me observe that,
16 since the two major parties have agreed to help
17 craft the wording, that in substance they're
18 not opposed to doing this, and as long as the
19 conditions are in the overall approval, it
20 doesn't really matter, in my mind, a lot where
21 we put it. Managerial is fine, too. It's just
22 we need to find an appropriate home and take
23 into account this may serve as a model for
24 future projects. So, put it where we decide it

1 deserves to go best. It could be either. I'm
2 quite willing to be persuaded it's managerial.
3 But I believe it's important that it be a
4 condition. Once it's a condition, I don't
5 think it's that material, but it may be in a
6 future one.

7 MS. ROBERGE: I just wanted to add,
8 looking at this criteria in the rules, Site
9 301.13, which is the criteria relative to
10 finding of Financial, Technical and Managerial
11 Capability under (a)(4), which pertains to
12 financial, it does say "financial commitments
13 the Applicant has obtained or made in support
14 of the construction and operation of the
15 proposed facility." I just put it out there as
16 a criteria.

17 Looking under Technical
18 Capability, Managerial, I suppose it could be
19 under (c)(1) of the same site, 301.13, the
20 Applicants' experience in managing the
21 construction and operation of energy facilities
22 similar to the proposed facility. So, sort of
23 fall into either of those categories based on
24 this.

1 CMSR. BAILEY: The other place that
2 we can talk about it may be in our discussion
3 about is it in the public interest.

4 PRESIDING OFFICER ROSS: Good point,
5 yeah. Why don't we save any conditions for
6 that later category and do these factors
7 without conditions, because I think we can do
8 that as part of our later deliberations.

9 Is there any more discussion on
10 managerial ability? Is there anyone willing
11 to --

12 MS. ROBERGE: I was just going to
13 add, they referenced a lot of their consultants
14 as well that have obviously extensive
15 experience in expertise in those areas. So, to
16 the extent that it goes beyond them as well,
17 they've presented that.

18 PRESIDING OFFICER ROSS: Yeah. Is
19 there anyone who's willing to make a motion on
20 this?

21 DR. BOISVERT: So I move that we find
22 that they have the technical and managerial
23 capability to construct the project.

24 PRESIDING OFFICER ROSS: Do I have a

1 second?

2 CMSR. BAILEY: Second.

3 PRESIDING OFFICER ROSS: Any
4 discussion?

5 [No verbal response]

6 PRESIDING OFFICER ROSS: All of those
7 in favor of the motion indicate so by saying
8 "aye."

9 [Multiple members indicating "aye".]

10 PRESIDING OFFICER ROSS: Any opposed?

11 [No verbal response]

12 PRESIDING OFFICER ROSS: Okay. The
13 next factor that we consider is the Financial
14 Capability. And I will read the rule again.
15 That is the Applicants' experience in securing
16 funding to construct and operate energy
17 facilities similar to the proposed facility;
18 the experience and expertise of the Applicant
19 and its advisors, to the extent the Applicant
20 is relying on advisors; the Applicant's
21 statements of current and pro forma assets and
22 liabilities; and financial commitments the
23 Applicant has obtained or made in support of
24 the construction and operation of the proposed

1 facility. And I note that we did see a
2 reduction in the costs estimated for the New
3 Hampshire portion of the NEP sections, a
4 reduction of \$10- or \$11 million. And as I
5 recollect, the description of the reason had to
6 do with less permitting compliance and general
7 administrative costs associated with the
8 project. Did anyone else remember anything
9 other than that?

10 CMSR. BAILEY: I remember that the
11 testimony was that both companies had very high
12 financial ratings with the financial rating
13 organizations.

14 PRESIDING OFFICER ROSS: Yeah.

15 CMSR. BAILEY: I think one was an A
16 and one was a A minus. They were both of the
17 highest --

18 PRESIDING OFFICER ROSS: Right. We
19 had high ratings for both Eversource and NEP
20 from Standard & Poor's and Moody's. We also
21 had pretty large balance sheets, I want to say
22 \$8 billion in assets for both of the two parent
23 companies.

24 There was quite a bit of

1 testimony from Ms. Huard with regard to the
2 negative working capital. I didn't find it too
3 troubling. It sounded like the explanation was
4 that the cash flow was cyclical, so that at
5 some points during the year the current assets
6 and liabilities showed a mismatch. And given
7 the rating strength, I felt like that one
8 measure didn't seem to be very indicative of
9 their overall financial strength.

10 CMSR. BAILEY: I think the more
11 relevant piece of information is the credit
12 rating agencies, Standard & Poor's and Moody's,
13 of both companies. I'm looking at PSNH's
14 testimony on Page 7 of Exhibit 4 and NEP's
15 testimony on Exhibit 3, Page 5, both of which
16 indicate they have A ratings.

17 PRESIDING OFFICER ROSS: Yes.

18 CMSR. BAILEY: Which means they have
19 access to capital and reasonable financing
20 options.

21 PRESIDING OFFICER ROSS: And the
22 capitalization is higher than I had indicated.

23 MS. ROBERGE: I believe I remember
24 testimony on very favorable interest rates on

1 short-term and long-term for both companies.

2 PRESIDING OFFICER ROSS: Yes, that's
3 right.

4 MS. WEATHERSBY: Also note that
5 Counsel for the Public is comfortable with
6 their financial position or capability.

7 CMSR. BAILEY: That's right. In the
8 Stipulation of Facts, which is Applicant
9 Exhibit 23, Counsel for the Public and the
10 Companies agree that the Applicants have
11 experience securing funding and financing the
12 construction, operation and maintenance of
13 similar transmission line projects.

14 So, based on all of these
15 factors, I would move that we make a finding
16 that the companies are financially capable of
17 designing, constructing and maintaining these
18 transmission lines.

19 PRESIDING OFFICER ROSS: I would
20 second that.

21 Is there any further discussion?

22 MS. ROBERGE: Just a clarification.
23 So we're waiting until the end to talk about
24 any --

1 PRESIDING OFFICER ROSS: Conditions,
2 yes.

3 MS. ROBERGE: All right.

4 PRESIDING OFFICER ROSS: Any further
5 discussion?

6 [No verbal response]

7 PRESIDING OFFICER ROSS: All those in
8 favor indicate by saying "aye."

9 [Multiple members indicating "aye".]

10 PRESIDING OFFICER ROSS: Any opposed?

11 [No verbal response]

12 PRESIDING OFFICER ROSS: Okay. All
13 right. The next area that we need to consider
14 is the Orderly Development of the Region. And
15 we had a panel today -- Robert Varney, Alfred
16 Morrissey, Lisa Shapiro and James Chalmers --
17 to address that issue.

18 MR. IACOPINO: Madam Chair, can I
19 just remind the Committee of the legal
20 requirement for this?

21 PRESIDING OFFICER ROSS: Sure.

22 MR. IACOPINO: The Committee is
23 required to determine whether the proposed
24 project will "unduly interfere with the orderly

1 development of the region, with due
2 consideration having been given to the views of
3 municipal and regional planning commissions and
4 municipal governing bodies." That is from the
5 statute.

6 The administrative rules, in
7 considering that, require you to consider the
8 extent to which the siting, construction and
9 operation of the proposed facility will affect
10 land use, employment and the economy of the
11 region. You are also to consider the
12 provisions of and financial assurances for the
13 proposed decommissioning plan for the proposed
14 facility; and C, the views of municipal and
15 regional planning commissions and municipal
16 governing bodies regarding the proposed
17 facility. So, that's the statutory requirement
18 and the requirement of our rules which
19 interpret the statute.

20 PRESIDING OFFICER ROSS: And I think
21 one of the points that the Applicants made in
22 their closing statement related to this was
23 that none of the towns had appeared or taken
24 any position in opposition to the project,

1 which is good to know. We certainly didn't see
2 them here, and it sounds as if they were --
3 that the Applicants communicated with them.

4 I think, for me, one of the
5 primary reasons that this seems consistent with
6 the orderly development is that it is an
7 existing right-of-way. So, this whole -- and
8 it sounds like these facilities have been there
9 for a long time. So, this whole area has kind
10 of grown around this existing utility use.

11 CMSR. ROSE: I was just going to
12 state, I agree that this is consistent with
13 orderly use and that it is consistent with the
14 activities taking place within that
15 right-of-way. I also think that the fact that
16 we haven't heard from any of the communities is
17 a very important factor, and the fact that
18 oftentimes we would if they had immediate
19 concerns of that. And it's probably the least
20 disruptive of something that has been
21 identified as a "need" by ISO-New England in
22 order to make sure that we have the
23 reliability, so that we can continue to have
24 reliable power for the needs of our economy.

1 And so I believe there is an economic benefit
2 to that, as well as the immediate benefits that
3 we heard about through the REMI modeling, in
4 terms of the impact of the investment that
5 would be made into the communities and the
6 economic GDP output as a result of that type of
7 impact.

8 CMSR. BAILEY: I also recall
9 testimony from Mr. Varney, who said that he
10 reviewed the master plans of the affected
11 towns. And I didn't -- I was convinced that,
12 by the fact that they aren't here, and by his
13 review, that this project is not going to
14 unduly interfere with the region's orderly
15 development.

16 PRESIDING OFFICER ROSS: Did anyone
17 have any thoughts on decommissioning? I know
18 we would have a condition on that, or a
19 proposed one from Counsel for the Public.

20 I was fairly convinced that
21 there isn't an immediate need to decommission,
22 which is why we decided that it didn't need to
23 be -- the plan didn't need to be in the
24 application. But I like the idea of a report

1 back on decommissioning, or some requirement
2 that, in the event there is a retirement in the
3 future or decommissioning for purposes of
4 developing a different facility, that we would
5 need to have some kind of a plan submitted.

6 MS. ROBERGE: I believe Counsel for
7 the Public and the Applicants have agreed on
8 some level to a condition relative to that. I
9 think it was, you know, should at some point a
10 decommissioning of the line be required, then
11 they'd have to notify the SEC and also file a
12 plan. And then I think the only other -- the
13 reporting every 10 years that was requested,
14 that was maybe only an area where the Applicant
15 thought it may not be necessary to do that
16 10-year report on whether the line needed --
17 was going to remain in service. Sounds like
18 they've actually come to an agreement on that.

19 PRESIDING OFFICER ROSS: The
20 Applicant did indicate in the closing that they
21 would agree to give us notice if there were any
22 retirement obligation that arose, and also to
23 provide a decommissioning plan. I think the
24 Applicant was not -- did not agree to a 10-year

1 report, or at least commented they didn't feel
2 it was helpful.

3 DR. BOISVERT: Madam Chair, in regard
4 to the 10-year reporting, in my mind, that is
5 equivalent to the perambulation of the bounds
6 that towns are required to do. It's easy to
7 forget over a long span of time just where
8 things were left and obligations that were
9 made. It's quite likely that, should there be
10 a decommissioning, it would happen when none of
11 us in this room are around to comment on it.
12 And so, leaving something that is a touchstone
13 every 10 years, or some appropriate amount of
14 time, does not seem unreasonable. We might
15 select a different time, but it keeps it there
16 as a reminder. And there will likely be
17 changes in state and federal agencies over
18 time, should this be 60 or 70 years down the
19 road. I would not be surprised if there were
20 not different agencies, and adjusting to that
21 kind of decommissioning would be accommodated
22 when the agencies change. So I think there's
23 some utility to it. As to where we place it,
24 that is a different issue. But if I recall, a

1 few moments ago we thought to put the other one
2 under the Public Good. Seems to me that all
3 the conditions are for the public good, and it
4 may be useful a housekeeping measure to put all
5 the conditions for this project under the
6 Public Good.

7 PRESIDING OFFICER ROSS: Any response
8 to that?

9 That seems like a good idea to
10 me. That said, let's see if we've addressed
11 the other issues. Land use, employment,
12 economy. I think we talked about that. We
13 just touched on decommissioning. Regional and
14 municipal planning we talked about. Are we at
15 a point where we're ready for a motion?

16 DR. BOISVERT: All right. I move
17 that we find that they meet the requirements
18 for the development of the region --

19 CMSR. BAILEY: I'll second.

20 DR. BOISVERT: -- it will not
21 interfere with the orderly development of the
22 region.

23 CMSR. BAILEY: I'll second.

24 PRESIDING OFFICER ROSS: Okay. Any

1 further discussion?

2 [No verbal response]

3 PRESIDING OFFICER ROSS: All in favor
4 indicate by saying "aye."

5 [Multiple members indicating "aye".]

6 PRESIDING OFFICER ROSS: Any opposed?

7 [No verbal response]

8 PRESIDING OFFICER ROSS: All right.

9 MR. IACOPINO: You want me to sort of
10 situate you, Madam Chair?

11 PRESIDING OFFICER ROSS: Sure.

12 MR. IACOPINO: Assuming that the
13 Committee wishes to continue through the
14 statute in the way it is organized, the next
15 consideration that you would be making gets
16 into RSA 162-H:16, and those are the
17 Unreasonable Adverse Effects sections. And the
18 first one is a determination as to whether or
19 not the site and facility will have an
20 unreasonable adverse effect on the aesthetics.
21 And our rules say that, in considering whether
22 the project will have an unreasonable adverse
23 effect on aesthetics, the Subcommittee must
24 consider seven factors, the first being the

1 existing character of the area of potential
2 visual impact. The second factor is that you
3 must consider the significance of the affected
4 scenic resources and their distance from the
5 proposed facility. And please understand that
6 "scenic resources" is a defined term in our
7 rules. The third requirement is that you
8 consider the extent, nature and duration of
9 public uses of the affected scenic resources.
10 The fourth consideration that you must
11 undertake is the scope and scale of the change
12 in the landscape visible from affected scenic
13 resources. The fifth consideration is the
14 evaluation of the overall daytime and nighttime
15 visual impact of the facility as described in
16 the Visual Impact Assessment submitted by the
17 Applicant, and other relevant evidence
18 submitted pursuant to Site 202.24, which is
19 simply our rule about the admission of
20 evidence. Consideration No. 6 is the extent to
21 which the proposed facility would be a dominant
22 and prominent feature within a natural or
23 cultural landscape of high scenic value, or as
24 viewed from scenic resources of high value or

1 sensitivity. And the final consideration is
2 the effectiveness of the measures proposed by
3 the Applicant to avoid, minimize or mitigate
4 unreasonable adverse effects on aesthetics, and
5 the extent to which such measures represent
6 best practical measures.

7 PRESIDING OFFICER ROSS: Could you
8 just refresh my memory. How do we define
9 "scenic resources"? Because everything
10 revolves on that.

11 MR. IACOPINO: "Scenic resources" are
12 defined as, "resources to which the public has
13 a legal right of access that are: (a),
14 designated pursuant to applicable statutory
15 authority by national, state or municipal
16 authorities for their scenic quality; (b),
17 conservation lands or easement areas that
18 possess a scenic quality; (c), lakes, ponds,
19 rivers, parks, scenic drives and rides and
20 other tourism destinations that possess a
21 scenic quality; (d), recreational trails, parks
22 or areas established, protected or maintained
23 in whole or in part with public funds; (e),
24 historic sites that possess a scenic quality;

1 and (f), town and village centers that possess
2 a scenic quality.

3 And "scenic quality" is defined
4 as, "a reasonable person's perception of the
5 intrinsic beauty of land forms, water features
6 or vegetation in the landscape, as well as any
7 visible human additions or alterations to the
8 landscape." Was that helpful?

9 PRESIDING OFFICER ROSS: Yeah. You
10 did run on, but...

11 MR. IACOPINO: Sorry.

12 PRESIDING OFFICER ROSS: So, as I
13 recall, we did not have identified for us any
14 scenic resources in close proximity to the
15 right-of-way throughout the project. Am I
16 recalling that correctly?

17 CMSR. BAILEY: I don't recall any
18 scenic resources being specifically identified.
19 And what I remember about historic sites is
20 that the New Hampshire Resource -- what is it?

21 DR. BOISVERT: New Hampshire Division
22 of Historical Resources.

23 CMSR. BAILEY: Thank you -- said that
24 any historic sites were far enough way, that

1 there wasn't really a significant -- there
2 wasn't an aesthetics impact on them.

3 DR. BOISVERT: That was the opinion
4 given by the consultants. In actuality, it's
5 not quite that. It's a matter of there were no
6 historic resources present, whose reason for
7 being "historic" included their setting. In
8 other words, there might be an historical
9 resource that is important only for its
10 architecture, and its architecture would not be
11 affected by the presence or the view of the
12 transmission line. However, to take an easy
13 example, something that had a large historic,
14 agricultural landscape with buildings, walls
15 and so forth that had been unchanged for 150
16 years would be considered. The setting would
17 be important for its historic value. The
18 research carried out by the consultants did not
19 identify any historic sites that had a setting
20 as an important part of their features.

21 So, that is really the essence
22 of it. Saying that there wouldn't be any
23 effect is getting the cart before the horse.
24 But their findings in their studies showed that

1 there were no resources for which the setting
2 was important. I think that's the key in the
3 aesthetics. We haven't gotten to the
4 historical resources, as such. But as I
5 recall, there were no scenic areas, nor were
6 there any cultural areas whose setting was
7 important. So, I believe that, in effect,
8 there's nothing there. That would simply leave
9 areas where the view of the vegetation was
10 important, and that will be the only area in my
11 mind where the aesthetics would be affected,
12 and that would be a matter of removal of
13 vegetation opening up a new view of the
14 transmission line. And I think we need to
15 decide: Are those an unreasonable adverse
16 effect?

17 And to probe this a little bit
18 more, it appeared, for those property owners
19 who had made the effort to contact the
20 Applicant, the Applicant responded by providing
21 some assurance to mitigate the loss of the
22 large trees by providing landscaping and other
23 measures.

24 So I would feel comfortable

1 personally observing that there was no
2 unreasonable adverse effect on the aesthetics
3 project-wide.

4 MR. IACOPINO: Madam Chair, you asked
5 the question of whether you had any evidence.
6 I would just point out that you do have before
7 you Exhibit AB, which is a Visual Impact
8 Assessment, which is one of the things you're
9 required to consider in the rule. You have the
10 prefiled testimony of Mr. Hecklau.

11 PRESIDING OFFICER ROSS: Just looking
12 at Mr. Hecklau's. Where is Exhibit AB? Is it
13 attached?

14 MR. IACOPINO: It is in Exhibit 1.
15 It is in the application itself. It is
16 Appendix AB. I'm sorry. I said "exhibit." It
17 is Appendix AB to the original application.

18 In addition, Applicants Exhibit
19 No. 21, there were additional photo
20 simulations filed when the Applicant updated
21 its application pursuant to our new rules. And
22 those are contained in Applicants Exhibit 21,
23 which is Supplement No. 3 to the application.
24 So I would just point out that those things are

1 in your record, only because you asked.

2 PRESIDING OFFICER ROSS: Now, finding
3 it is the other challenge.

4 CMSR. BAILEY: While you're looking
5 for it, Madam Chair, I'd like to make an
6 observation about the passion that Ms. Huard
7 had about the existing character of the area of
8 potential visual impact. She clearly believes,
9 I think, that there is an unreasonable adverse
10 effect on the existing character of her
11 particular area. And I'm very sympathetic with
12 her about that point. However, I think as a
13 state committee charged with reviewing the need
14 for energy facilities and balancing them
15 against all of the other possible adverse
16 impacts, I agree with Mr. Boisvert -- Dr.
17 Boisvert, that, overall, if we consider the
18 entire project, I don't believe that it has
19 unreasonable adverse impacts. I believe the
20 Applicant has intentionally designed it to keep
21 it in an existing right-of-way and worked with
22 abutters who have the most impact to their
23 immediate view. And so, for those reasons, I
24 would not find that there is an unreasonable

1 adverse impact on aesthetics.

2 MS. ROBERGE: Madam Chair, I just
3 wanted to add, I remember testimony from Mr.
4 Hecklau about having, I think he called them
5 "KOPs." There were eight key observation
6 points. But I think that was deduced down from
7 a larger number, based on maybe proximity to
8 the right-of-way and whether or not there was a
9 -- whether they were cleared before or not. I
10 could be remembering that incorrectly. But I
11 do remember there were some scenic points of
12 interest and that there were no national parks
13 or national heritage areas, as Dr. Boisvert
14 talked about. But the study involved some
15 areas that they looked at.

16 MS. WEATHERSBY: I think Mr.
17 Hecklau's Visual Impact Assessment indicated
18 there were 13 scenic resources within a
19 half-mile of the right-of-way. But from three
20 of those, views of the project would be distant
21 or mostly obscured. And I think he went into
22 eight key observation points, and he rated them
23 and basically concluded that the visual impact
24 on the scenic resources would be minimal.

1 PRESIDING OFFICER ROSS: Yeah, I
2 thought Mr. Hecklau's testimony was pretty
3 compelling. But I think I echo Kate's sort of,
4 you know, visceral response to Ms. Huard's
5 pleas that there were a few homes that just
6 clearly were really going to have, you know, a
7 view of a lot of power lines and no more
8 screening because they just by accident of
9 their location relative to the right-of-way,
10 and the fact there were 90 feet of a tree
11 buffer that they had for many years and now
12 were going to lose. So I -- but the statute
13 clearly focuses us more generally on more of a
14 community-based view of what a scenic resource
15 is. So I feel like that isn't really what
16 we're testing here.

17 CMSR. ROSE: Madam Chair, if I may.
18 And I agree there is clearly going to be an
19 impact, and the impact is going to be largely
20 due to the cutting of the vegetation. You know
21 whether it's adverse or not is something that
22 does kind of get outlined within the statute.
23 However, I will make note that one thing I
24 found compelling, particularly as a result of,

1 you know, the passion we heard from Ms. Huard,
2 that the Company has brought in a landscape
3 architect to work with some of the property
4 owners, and trying to help mitigate some of the
5 visual impacts I think is relevant. And I
6 think I recall hearing that they would try to
7 leave strips of trees when possible and other
8 measures such as that. Obviously, safety is
9 paramount, and trying to make sure you ensure
10 that you have that safe measure within any
11 right-of-way is, you know, I think first and
12 foremost. But to the extent that they can
13 continue to work with the companies and
14 property owners, and their willingness that
15 they've displayed I think is important and hope
16 that they continue to do so in that same level
17 of cooperation, recognizing that perhaps in
18 totality that we are required to look at as a
19 committee, they may meet that threshold. But
20 it's very personal to some of those individual
21 landowners, and that spirit of cooperation is
22 very relevant and important to try to be a good
23 corporate neighbor.

24 PRESIDING OFFICER ROSS: And I think

1 you're right. I think two of the most striking
2 examples of lack or loss of screening, based on
3 the plans, apparently are being mitigated. And
4 I was interested to hear that they even do
5 things like forming a berm and then planting on
6 top of the berm to help with the screenings.
7 So I think I agree that that mitigation is
8 important. And maybe at the end of this
9 process we could incorporate a condition going
10 forward for continuing to mitigate specific
11 properties that are left with an open view of
12 the power line.

13 DR. BOISVERT: One thing I was
14 somewhat unclear on was how it came to pass
15 that any given property did receive mitigation
16 treatment. I could interpret what they
17 presented as only if a landowner made a strong
18 complaint would they respond. I think some
19 people's personalities are such that they are
20 intimidated or pessimistic or whatever, and
21 there may need to be a more positive approach
22 to ask, "Do you feel that you're losing a
23 significant view?" and to be proactive as
24 opposed to reactive. Now, I'm not -- I don't

1 know the details of all the different
2 circumstances, but it appeared to me that they
3 were responding in a reactive mode. They were
4 making outreach to everyone, and if people
5 decided not to comment, then they let it go.
6 I'm not sure how we would condition something
7 like that. But they were at least responsive
8 to the ones who complained. And that goes, in
9 part, to the fact that some people are more
10 willing to make complaints, and others are, for
11 lack of a better word, shy.

12 PRESIDING OFFICER ROSS: And there
13 just may be a lack of awareness, too. It may
14 be some people won't react until they actually
15 cut trees down and they realize that the
16 change --

17 DR. BOISVERT: At the same time, I do
18 not see that it's possible to construct the new
19 line in certain areas without the removal of
20 substantial numbers of trees. It's simply not
21 safety-wise or engineering-wise possible. So,
22 the alternatives of trying to move it to
23 another place are not there, and that would
24 have had even greater consequences. So, I am

1 persuaded that it's necessary to go on with the
2 way they have planned it and making at least
3 some responses.

4 So, in terms of aesthetics, I
5 think, on balance, I would say there's no
6 unreasonable adverse effect. There are adverse
7 effects, but because of the engineering needs,
8 I think they're reasonable.

9 CMSR. BAILEY: My recollection of the
10 testimony was that they worked with the people
11 who lived on the right-of-way and that there
12 was going to be a significant change in their
13 view. They looked to see which direction the
14 house was pointing in, and they narrowed it
15 down in that respect. These people bought
16 property with rights-of-way on their property.
17 And except for Ms. Huard, they're not here
18 complaining about the aesthetics impact. So I
19 don't think I would include a condition,
20 although I would encourage the Applicant to see
21 if there's anything they can do to make
22 Ms. Huard's view any better. But I'm not sure
23 that there is because she's not even on the
24 right-of-way. So...

1 MS. WEATHERSBY: Just to clarify, we
2 also had the statement of the woman sitting up
3 front -- I'm sorry. I forgot your name -- who
4 I believe also indicated that the project will
5 have an effect on her property as well.

6 So I think a condition might be
7 as simple as, if we are inclined to do one,
8 might be as simple as that the Applicant would
9 continue its outreach efforts to mitigate the
10 effects of the project on properties within a
11 half-mile of the right-of-way, or something
12 like that. I guess it would only be enforced
13 if people complained rather than say you must
14 knock on every door. You know, let them decide
15 what the outreach efforts should be rather than
16 us dictating.

17 MR. IACOPINO: I would just point out
18 and remind you that, if you choose to create
19 such a condition on the certificate, under
20 Section 4 of our statute, you can delegate the
21 authority to administer that condition to your
22 administrator of the Site Evaluation Committee.
23 In some cases there are issues where there is
24 no relevant state agency that has experience in

1 the area. So that is an option that the
2 Committee has as well. Sorry, Pam.

3 MS. MONROE: That's my job.

4 PRESIDING OFFICER ROSS: I would just
5 comment that it would not be a good idea to set
6 a criteria like a distance of a half-mile. I
7 think that the test needs to be whether there's
8 a visual impact, a significant visual impact on
9 a property. That could mean more or less than
10 any set distance. I think it would be better
11 to tie it to something like that. But
12 otherwise, I think it's a good idea.

13 We have -- I think we should
14 probably do a separate decision on each of the
15 different factors, because there are several
16 others. Are we at a point where someone would
17 be comfortable making a motion with regard to
18 the aesthetics on this project?

19 CMSR. ROSE: I'll give it a shot.

20 PRESIDING OFFICER ROSS: Okay.

21 CMSR. ROSE: I make a motion that,
22 based on the information that we've received,
23 that there will not be any unreasonable adverse
24 effects on the -- as outlined within the

1 project. I don't know if I did that justice.

2 MR. IACOPINO: On the aesthetics?

3 CMSR. ROSE: On the aesthetics.

4 Excuse me. I omitted that word. No
5 unreasonable adverse effects on the aesthetics
6 within the project.

7 PRESIDING OFFICER ROSS: Is there a
8 second?

9 DR. BOISVERT: Second.

10 PRESIDING OFFICER ROSS: Any further
11 discussion?

12 [No verbal response]

13 PRESIDING OFFICER ROSS: All those in
14 favor indicate by saying "aye."

15 [Multiple members indicating "aye".]

16 PRESIDING OFFICER ROSS: Any opposed?

17 [No verbal response]

18 PRESIDING OFFICER ROSS: Okay. We
19 can now move to Historic Sites.

20 DR. BOISVERT: Madam Chair, I hate to
21 say it, but we're quickly approaching 7:30. We
22 could probably dispose of Historic Sites fairly
23 quickly, but I think we need to stop and think
24 about our time budget. And if we wish to go

1 further, if we wish to continue on another
2 date, I just would like to raise that --

3 PRESIDING OFFICER ROSS: You're
4 right. I forgot about the time.

5 DR. BOISVERT: -- before we get right
6 to the cliff. I'd just bring that up for
7 discussion.

8 PRESIDING OFFICER ROSS: Yes. I
9 don't think we're going to finish tonight.
10 We've got quite a bit more work to do. So I
11 guess we're going to -- do we have yet a
12 follow-up date yet, Pam? We don't. And how
13 soon will we have a transcript? I'm not sure.
14 I guess we will -- why don't we see if we can
15 get through the historic piece, and then we'll
16 stop. And we will have to continue the
17 deliberations as soon as we can schedule a time
18 that the Committee can meet, and a place.

19 CMSR. BAILEY: I think we're well
20 over halfway. I think we've addressed some of
21 the harder ones.

22 PRESIDING OFFICER ROSS: Okay. Mike,
23 could you give us the statutory foundation for
24 this factor?

1 MR. IACOPINO: Yes.

2 PRESIDING OFFICER ROSS: Thank you.

3 MR. IACOPINO: Historic Sites is the
4 second of the Adverse Effect findings that the
5 Subcommittee is required to make. You must
6 determine whether or not the project, as
7 proposed, will have an unreasonable adverse
8 effect on historic sites. And in undertaking
9 that determination, our rules require that you
10 consider five factors. The first is all of the
11 historic sites and archeological resources
12 potentially affected by the proposed facility
13 and any anticipated potential adverse effects
14 on such sites and resources; No. 2, the number
15 of significance of any adversely affected
16 historic sites and archeological resources,
17 taking into consideration the size, scale and
18 nature of the proposed facility; No. 3, the
19 extent, nature and duration of the potential
20 adverse effects on historic sites and
21 archeological resources; No. 4, any findings or
22 determinations by the New Hampshire Division of
23 Historic Resources, of the Department of
24 Cultural Resources, and, if applicable, the

1 lead federal agency of the proposed facility's
2 effects on historic sites as determined under
3 Section 106 of the National Historic
4 Preservation Act, which is codified at 54
5 United States Code, Section 306108, or New
6 Hampshire RSA 227-C:9. And finally, you must
7 consider the effectiveness of measures proposed
8 by the Applicant to avoid, minimize or mitigate
9 unreasonable adverse effects on historic sites
10 and archeological resources, and to the extent
11 which such measures represent best practical
12 measures.

13 PRESIDING OFFICER ROSS: And we had a
14 witness on historic -- two witnesses -- Steve
15 Olausen and Dianna Doucette. Did we locate
16 any -- we had above-ground and archeological.
17 Did we locate any in the right-of-way or near
18 the right-of-way? I don't recall any.

19 MR. IACOPINO: Madam Chair, I will
20 point out that Appendix AC of the Application,
21 you have a letter in which the New Hampshire
22 Department of Historic Resources is writing to
23 the Army Corps of Engineers indicating that
24 they have reviewed the due diligence reports

1 for above-ground resources associated with the
2 project, and DHR concurs with the Army Corps,
3 that there is no potential to affect
4 above-ground historic properties within
5 Segments 2, 3 and 4, and that no additional
6 above-ground studies were required. That
7 letter was dated June 2, 2015. Segments 2, 3
8 and 4 are all in New Hampshire. Segment 1, I
9 believe, was in Massachusetts. That's
10 above-ground resources.

11 PRESIDING OFFICER ROSS: Okay.

12 DR. BOISVERT: In regard to
13 archeological resources, Dr. Doucette testified
14 that there was only one known site in the
15 right-of-way, and it had been destroyed prior
16 to the project development, and that there
17 was -- by their view, in their Phase 1A
18 assessment, there were no sensitive areas; to
19 wit, there were no known or expected
20 archeological sites within the project area.
21 Not to say there isn't something there, because
22 a below-ground resource is going to be
23 difficult to see.

24 But with that, I am comfortable

1 in finding that there's no unreasonable adverse
2 effect to historic properties.

3 PRESIDING OFFICER ROSS: Would you
4 like to make a motion?

5 DR. BOISVERT: So I move that we find
6 that there's no unreasonable adverse effect to
7 historic properties.

8 PRESIDING OFFICER ROSS: Is there a
9 second?

10 MS. ROBERGE: Second.

11 PRESIDING OFFICER ROSS: Any further
12 discussion?

13 [No verbal response]

14 PRESIDING OFFICER ROSS: All of those
15 in favor of the motion indicate by saying
16 "aye."

17 [Multiple members indicating "aye".]

18 PRESIDING OFFICER ROSS: Any opposed?

19 [No verbal response]

20 PRESIDING OFFICER ROSS: Okay. I
21 think we'll stop. We will have to pick up with
22 air quality -- Air and Water Quality when we
23 continue our deliberations. And we will
24 adjourn for the evening. Thank you all for a

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long day.

(Whereupon Day 1 of Deliberations was
adjourned at 7:34 p.m.)

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