

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

March 22, 2016 - 10:00 a.m.
Holiday Inn
172 North Main Street
Concord, New Hampshire

IN RE: SEC DOCKET NO. 2015-06
Joint Application of Northern
Pass Transmission, LLC, and
Public Service Company of
New Hampshire d/b/a
Eversource Energy, for a
Certificate of Site and
Facility.
(Prehearing Conference)

PRESIDING: Michael J. Iacopino, Esq. (Brennan...)
(Presiding as the Presiding Officer)
Pamela G. Monroe, SEC Administrator

ALSO PRESENT: Iryna N. Dore, Esq. (Brennan...)

COURT REPORTERS: Susan J. Robidas, LCR No. 44
Steven E. Patnaude, LCR No. 52

APPEARANCES

Counsel for the Applicant: Barry Needleman, Esq.
Thomas B. Getz, Esq.
(McLane Middleton)

Counsel for the Public: Peter C.L. Roth, Esq.
Sr. Asst. Atty. General
N.H. Dept. of Justice

Thomas Pappas, Esq.
Elijah Emerson, Esq.
(Primmer Piper...)

NOTE: All other appearances as noted between
Pages 6 through Page 41, and as noted on the
sign-up sheets (see attached hereto) at the
Prehearing Conference.

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P R O C E E D I N G S

PRESIDING OFFICER IACOPINO: This is the prehearing conference in the matter before the New Hampshire Site Evaluation Committee, known as the Joint Application of Northern Pass Transmission, LLC, and Public Service Company of New Hampshire, doing business as Eversource Energy, for a Certificate of Site and Facility. It is Site Evaluation Committee Docket No. 2015-06. Today we are here for a prehearing conference. There are agendas and there are handouts explaining the adjudicative process where you signed in. Again, I don't want anybody to get up now, but please make sure before you leave here today, if you have not signed in, to sign in on the sheets provided. And the reason for that is so that we can double-check your attendance. I am going to take appearances and go through a roll call here in just a minute, but just a couple of other ground rules for when you speak.

Identify yourself, please, every time that you speak, even if you speak a lot during the course of the day today. There are just a

1 lot of parties here, and we are making a record.
2 The record is being made by the court reporters
3 to my right, your left. And as you can see,
4 there are some poles in this room. Sorry about
5 that. But those poles will block the ability of
6 myself, and the court reporters more
7 importantly, to actually see on some occasions.
8 So it's important that you identify yourself.
9 They're not going to be able to see exactly
10 where somebody is speaking from, so they're
11 going to have to get your name from you speaking
12 it.

13 So, with that, I'm going to start off
14 by taking a roll call. And this is going to
15 take a little while, so please bear with me.
16 There are a lot of parties here, a lot of people
17 here, but we do want to get everybody who's here
18 into the record. I'm going to go through my
19 list. If at the end I've forgotten any party or
20 any individual who is an intervenor in this
21 proceeding, please let me know, and we'll take
22 your appearance at that time. I've done my best
23 to narrow -- not to narrow down, but to put the
24 list in order here. So I'm going to start off

1 with the Applicant. Mr. Needleman and Mr. Getz,
2 if you could please tell us who is here on
3 behalf of the Joint Applicants.

4 MR. NEEDLEMAN: Good morning. Is that
5 on? Good morning. Barry Needleman, on behalf
6 of the Applicant, from McLane Middleton. Along
7 with me is Tom Getz, also from McLane Middleton.
8 And to my right from Eversource Legal is Marvin
9 Bellis and Elizabeth Maldonado.

10 PRESIDING OFFICER IACOPINO: Counsel
11 for the Public.

12 MR. ROTH: Good morning, Mike. Peter
13 Roth, Counsel for the Public. And with me is
14 Tom Pappas and Eli Emerson from the Primmer law
15 firm.

16 PRESIDING OFFICER IACOPINO: Thank
17 you. Then I'm going to turn to the group of
18 towns that have been combined, which I've just
19 called for shorthand "The Northern Towns," being
20 Pittsburg, Clarksville, Stewartstown, Colebrook,
21 Northumberland, Whitefield, Dalton, Bethlehem
22 and Littleton. If somebody could raise their
23 hand where that group is. Okay. And if you
24 folks -- just start with the front table. Tell

1 us who is here and who you represent.

2 MS. JENSEN: Cheryl Jensen, Bethlehem
3 Conservation Commission.

4 MR. CRAXTON: Edward Craxton, Dalton.

5 MR. TANGUAY: Shawn --

6 (Court Reporter interrupts.)

7 PRESIDING OFFICER IACOPINO: Speak
8 into that mic.

9 MR. TANGUAY: Shawn Tanguay,
10 representing Northumberland and the Town of
11 Whitefield.

12 PRESIDING OFFICER IACOPINO: And
13 Shawn, could you spell your last name for our
14 court reporters, please.

15 MR. TANGUAY: T-A-N-G-U-A-Y. And as
16 well as Christine Fillmore is with me today as
17 well.

18 PRESIDING OFFICER IACOPINO: Anybody
19 else from that group here?

20 MR. WHITLEY: Yes, sir. Steven
21 Whitley, from Mitchell Municipal Group, for the
22 Town of Littleton.

23 PRESIDING OFFICER IACOPINO: Anybody
24 else here from that group?

1 (No verbal response)

2 PRESIDING OFFICER IACOPINO: Is there
3 anybody here from Pittsburg, Clarksville,
4 Stewartstown or Colebrook?

5 (No verbal response)

6 MR. BAKER: If I might speak on that?
7 My name's Alan Baker.

8 PRESIDING OFFICER IACOPINO: Yes, Mr.
9 Baker.

10 MR. BAKER: Steve Ellis is the
11 representative of Pittsburg, a selectman. He
12 was going to be here, but he broke his wrist.
13 And he was going to speak on behalf of
14 Stewartstown, Clarksville and Pittsburg, and he
15 asked me to relay that to you.

16 PRESIDING OFFICER IACOPINO: Thank
17 you, Mr. Baker.

18 Okay. The next group of towns that I
19 have, I'll just call them the "Middle Towns."
20 Sugar Hill, Franklin, Easton, Woodstock and
21 Plymouth. Where is that group? Okay. Let's
22 start with the table in front here. If you
23 could each identify yourself and which town you
24 represent.

1 MR. GROTE: Yes. Peter Grote,
2 G-R-O-T-E. And I've been asked by the select
3 board to represent Franconia. Did this work?

4 PRESIDING OFFICER IACOPINO: It did
5 work. If you could pass it down to Ms.
6 Pastoriza.

7 MS. PASTORIZA: Kris Pastoriza, Easton
8 Conservation Commission. Last name
9 P-A-S-T-O-R-I-Z-A.

10 PRESIDING OFFICER IACOPINO: Okay.
11 And who's next in that group? There were other
12 hands.

13 MR. TANGUAY: Shawn Tanguay, Gardner,
14 Fulton & Waugh, along with Christine Fillmore,
15 representing the Towns of Sugar Hill, Franconia
16 and Easton.

17 PRESIDING OFFICER IACOPINO: Anybody -
18 -- yes, sir.

19 MR. WHITLEY: Steven Whitley, Mitchell
20 Municipal Group, the Town of Woodstock.

21 PRESIDING OFFICER IACOPINO: Anybody
22 else in that group here?

23 MR. GROTE: Yes. Peter Grote again,
24 representing Dr. Judy Jeffries for the Franconia

1 Conservation Commission.

2 PRESIDING OFFICER IACOPINO: Okay. Is
3 there anybody here from Plymouth? Yes, ma'am.

4 MS. SAFFO: Lara Saffo from the
5 Grafton County Attorney's Office, representing
6 Grafton, which would include Plymouth and all
7 the towns -- not all the towns, but the towns in
8 Grafton, and Martha Richards, one of the
9 commissioners.

10 PRESIDING OFFICER IACOPINO: Okay.
11 But the Town of Plymouth itself has filed a
12 Petition to Intervene. They were granted
13 intervention and combined with these middle
14 group of towns. So I just want to make sure
15 there's nobody here from the Town of Plymouth
16 itself.

17 (No verbal response)

18 PRESIDING OFFICER IACOPINO: Okay.
19 We'll get to the counties in a moment.

20 The next group I have is the Southern
21 Towns, including Holderness, Ashland,
22 Bridgewater, New Hampton, Bristol, Canterbury,
23 Concord, Pembroke and Deerfield. And just
24 before we get into that, these labels that I

1 have put on the towns don't mean anything other
2 than a way to keep track of folks, and so don't
3 read anything into them. It doesn't make any
4 difference with respect to your position in this
5 administrative proceeding.

6 So that group of towns that I've just
7 read, are they located somewhere here in the
8 room? Excellent. I'm going to start over on my
9 far right, your far left, back near Mr. Kucman
10 there. If you could introduce yourselves.

11 MR. KUCMAN: Yes. My name is Taras
12 Kucman. I'm a resident of Concord abutting the
13 Northern Pass right-of-way, and I'm here with my
14 wife Martha.

15 PRESIDING OFFICER IACOPINO: Okay.
16 Wait. Mr. Kucman you raised your hand. Are you
17 here on behalf of a town?

18 MR. KUCMAN: Not officially.

19 PRESIDING OFFICER IACOPINO: Okay.
20 We'll get to you in a minute. I was looking for
21 the people who are here representing these
22 municipalities that I've labeled as the
23 "Southern Towns." So if you folks could raise
24 your hands again because Mr. Kucman's brought me

1 over in this direction. I expected you to be
2 over here. Why don't we start at this table
3 here, the gentleman in the red shirt, please.

4 MR. TOTH: My name is Dave Toth,
5 T-O-T-H, and I'm from the Ashland Water & Sewer
6 Commission.

7 PRESIDING OFFICER IACOPINO: Thank
8 you. Go right down the table, please.

9 MR. BADGER: My name is Eli Badger.
10 I'm the chair of the Ashland Water & Sewer
11 Commission.

12 PRESIDING OFFICER IACOPINO: Thank
13 you.

14 MS. BADGER: Mardean Badger with the
15 Ashland Water & Sewer Commission.

16 PRESIDING OFFICER IACOPINO: Go to the
17 right of that, my left, your right of that
18 table. Mr. Tanguay.

19 MR. TANGUAY: Shawn Tanguay of
20 Gardner, Fulton & Waugh, along with Christine
21 Fillmore, representing the Town of Bristol.

22 PRESIDING OFFICER IACOPINO: Other
23 folks in that group?

24 MR. WHITLEY: Steven Whitley, Mitchell

1 Municipal Group, representing the Towns of
2 Bridgewater and New Hampton.

3 PRESIDING OFFICER IACOPINO: Go ahead.

4 MS. PACIK: Danielle Pacik from the
5 City of Concord's Legal Department, and with me
6 is James Owers from the City of Concord
7 Conservation Commission.

8 PRESIDING OFFICER IACOPINO: Thank
9 you. Yes, sir, in the back.

10 MR. MCGARRY: Fred McGarry, Town of
11 Deerfield Planning Board and the Board of
12 Selectmen.

13 PRESIDING OFFICER IACOPINO: You're
14 going to have to repeat your name again because
15 I don't think we got it.

16 MR. MCGARRY: Okay. It's Fred
17 McGarry.

18 PRESIDING OFFICER IACOPINO: All
19 right. Could you spell that, please, for our
20 reporters?

21 MR. MCGARRY: M-C-G-A-R-R-Y.

22 PRESIDING OFFICER IACOPINO: Thank
23 you. Anybody else in that group of towns
24 representing the town or municipality?

1 (No verbal response)

2 PRESIDING OFFICER IACOPINO: Is there
3 anybody from the Town of Canterbury here?

4 (No verbal response)

5 PRESIDING OFFICER IACOPINO: Is there
6 anybody from the Town of Pembroke here, either
7 the board of selectmen or the conservation
8 commission?

9 (No verbal response)

10 PRESIDING OFFICER IACOPINO: Okay.
11 City of Franklin, are they here?

12 (No verbal response)

13 PRESIDING OFFICER IACOPINO: I don't
14 see them.

15 Okay. County Commissioners. I see
16 Ms. Richards, and I know Ms. Saffo. If you want
17 to start with the Grafton County Commissioners,
18 please.

19 MS. SAFFO: County Attorney Lara Saffo
20 and Commissioner Martha Richards.

21 PRESIDING OFFICER IACOPINO: Thank
22 you.

23 And Rick Samson from the Coos -- I see
24 him just rolling in. Mr. Samson, spell your

1 name for the record and tell us who you
2 represent.

3 MR. SAMSON: Rick Samson, S-A-M-S-O-N,
4 Coos County Commissioner for District 3.

5 PRESIDING OFFICER IACOPINO: Thank
6 you.

7 Okay. We're going to get into the
8 property owners now. Some are abutters and some
9 are not. We're going to start with the group
10 that we -- I'm sorry. Oh, I'm sorry, ma'am.

11 MS. JENSEN: Cheryl Jensen from
12 Bethlehem. I don't know whether I should have
13 said that I'm also representing the Board of
14 Selectmen from Bethlehem.

15 PRESIDING OFFICER IACOPINO: That's
16 good to know. Thank you.

17 I'm informed that I didn't keep my
18 computer on long enough, so we'll deal with that
19 in a minute. Let's finish going through the
20 roll call.

21 Who am I looking for? Behind the
22 pole. Okay. See if you can find a microphone
23 so our court reporters can get this.

24 MS. HARTNETT: I'm sorry to be late.

1 I'm Kate Hartnett, representing the Town of
2 Deerfield, and the conservation commission and
3 planning board if I have to. I'm on both.
4 Thanks.

5 PRESIDING OFFICER IACOPINO: Thank
6 you. Is there anybody else from the towns?

7 (No verbal response)

8 PRESIDING OFFICER IACOPINO: Okay.
9 We're going to go to what I have just referred
10 to as the "Northern Abutting Property Owners,"
11 that at least to me appear to be between
12 Clarksville and Dalton on the underground route.
13 Start with Charles or Donna Jordan.

14 (No verbal response)

15 PRESIDING OFFICER IACOPINO: Sally
16 Zankowski.

17 (No verbal response)

18 PRESIDING OFFICER IACOPINO: Jon or
19 Lori Levesque.

20 MR. LEVESQUE: Here.

21 PRESIDING OFFICER IACOPINO: If you
22 could just tell us who you are and how to spell
23 your last name.

24 MR. LEVESQUE: Jon Levesque,

1 L-E-V-E-S-Q-U-E. We have a camp on Bear Rock
2 Road in Stewartstown and --

3 (Court Reporter interrupts.)

4 PRESIDING OFFICER IACOPINO: You're
5 going to have to speak right into that
6 microphone, sir. You can sit down. It's okay.

7 MR. LEVESQUE: We have a camp on Bear
8 Rock Road in Stewartstown.

9 PRESIDING OFFICER IACOPINO: And I
10 take it that's Lori?

11 MS. LEVESQUE: Lori Levesque,
12 L-E-V-E-S-Q-U-E.

13 PRESIDING OFFICER IACOPINO: Thank
14 you. How about Roderick and Donna McAllaster?

15 (No verbal response)

16 PRESIDING OFFICER IACOPINO: Lynne
17 Placey?

18 (No verbal response)

19 PRESIDING OFFICER IACOPINO: Arlene
20 Placey?

21 (No verbal response)

22 PRESIDING OFFICER IACOPINO: Brad and
23 Daryl Thompson? Go ahead, sir. Tell us your
24 name and where you're from.

1 MR. THOMPSON: Bradley Thompson,
2 residence on Bear Rock Road, burial site looking
3 directly at Transition No. 4.

4 PRESIDING OFFICER IACOPINO: Thank
5 you.

6 I'm probably going to mess up this
7 last name. David Schrier, S-C-H-R-I-E-R?

8 MR. BAKER: Alan Baker. I have an
9 appearance for Mr. Schrier. He has a residence
10 on Old County Road in Stewartstown.

11 PRESIDING OFFICER IACOPINO: Thank
12 you.

13 And Nancy L. Dodge?

14 (No verbal response)

15 PRESIDING OFFICER IACOPINO: Okay.
16 I'm next going to go to what we have just
17 labeled as the "Northern Abutters" that appear
18 to live in Dummer, Stark, Northumberland,
19 Whitefield and Dalton. This is labeled as an
20 "overhead portion of the line." Start off with
21 R. Eric Jones and Margaret J. Jones.

22 (No verbal response)

23 PRESIDING OFFICER IACOPINO: How about
24 Elmer Lupton and Claire Lupton?

1 (No verbal response)

2 PRESIDING OFFICER IACOPINO: Mary
3 Boone Wellington?

4 (No verbal response)

5 PRESIDING OFFICER IACOPINO: Bruce or
6 Sondra Brekke, B-R-E-K-K-E? All the way in the
7 back. If you can make sure you have a mic, Mr.
8 Brekke.

9 MR. BREKKE: My name is Bruce Brekke.
10 I'm from Whitefield.

11 PRESIDING OFFICER IACOPINO: Thank
12 you.

13 Elaine Olson?

14 (No verbal response)

15 PRESIDING OFFICER IACOPINO: I'm
16 sorry, Mr. Baker.

17 MR. BAKER: Alan Baker, representing
18 Elaine Olson, Eric Olson and Joshua Olson, as
19 trustees. They have property in Dummer on
20 the -- abutting on the right-of-way of PSNH on
21 the Coos Loop.

22 PRESIDING OFFICER IACOPINO: Thank
23 you.

24 Kevin Spencer. Mr. Cunningham or Mr.

1 Spencer.

2 MR. CUNNINGHAM: Arthur B. Cunningham,
3 representing Kevin Spencer and Mark Lagasse.
4 And with me also is Karen Spencer.

5 PRESIDING OFFICER IACOPINO: Okay.
6 And Mr. Cunningham, do you also represent the
7 LLC?

8 MR. CUNNINGHAM: I do.

9 PRESIDING OFFICER IACOPINO: Thank
10 you.

11 Rodrigue and Tammy Beland,
12 B-E-L-A-N-D? Mr. Baker.

13 MR. BAKER: Alan Baker, representing
14 Rod and Tammy Beland. Sorry. You threw me off.

15 PRESIDING OFFICER IACOPINO: I'm
16 sorry.

17 MR. BAKER: They have property in
18 Stark on Route 110 where the PSNH Coos Loop
19 crosses 110. They're on the north side.

20 PRESIDING OFFICER IACOPINO: Thank
21 you.

22 Susan Percy and Percy Summer Club?
23 (No verbal response)

24 PRESIDING OFFICER IACOPINO: Robert

1 Heath?

2 (No verbal response)

3 PRESIDING OFFICER IACOPINO: James and
4 Judy Ramsdell?

5 (No verbal response)

6 PRESIDING OFFICER IACOPINO: Charles
7 and Cynthia Hatfield?

8 (No verbal response)

9 PRESIDING OFFICER IACOPINO: Donald
10 and Betty Gooden, G-O-O-D-E-N?

11 (No verbal response)

12 PRESIDING OFFICER IACOPINO: Tim or
13 Brigitte Whitefield?

14 (No verbal response)

15 PRESIDING OFFICER IACOPINO: Okay.
16 I'm going to move on to the next group. And
17 like I said, these groups are in no meaningful
18 order. This is the "Non-Abutting Property
19 Owners," which we believe are between
20 Clarksville and Bethlehem. We'll start off with
21 Robert Martin.

22 (No verbal response)

23 PRESIDING OFFICER IACOPINO: Okay.
24 The following is a group that filed for

1 intervention together: Roderick "Rod" Moore,
2 Joseph Dunlap, Shawn Brady and Christopher
3 Thompson.

4 MR. BAKER: Alan Baker, representing
5 the four that you just mentioned. They have
6 property off of Heath Road, with a right-of-way
7 under the proposed transmission line where
8 Northern Pass wishes to erect towers.

9 PRESIDING OFFICER IACOPINO: And the
10 next group in this group have identified
11 themselves as the "Dixville Notch-Harvey Swell
12 Location Residents": Martin Kaufman, Brad
13 Thompson, John Petrofsky and 44 other residents.
14 Yes, sir.

15 MR. THOMPSON: Bradley Thompson,
16 representing the Dixville Notch-Harvey Swell
17 Group, of which 10 are direct abutters. All 44
18 have a direct view of the Heath Road towers, Big
19 Diamond Pond Road area.

20 PRESIDING OFFICER IACOPINO: Thank
21 you, sir.

22 Next is Mark Orzek or Susan Orzek,
23 O-R-Z-E-K.

24 (No verbal response)

1 PRESIDING OFFICER IACOPINO: John
2 Davidge, D-A-V-I-D-G-E, for Prospect Farm
3 Lancaster, LLC.

4 (No verbal response)

5 PRESIDING OFFICER IACOPINO: Linda
6 Upham-Bornstein?

7 (No verbal response)

8 PRESIDING OFFICER IACOPINO: Rebecca
9 Weeks, Sherill Moore for Weeks Lancaster Trust.

10 (No verbal response)

11 PRESIDING OFFICER IACOPINO: Richard
12 M. McGinnis.

13 (No verbal response)

14 PRESIDING OFFICER IACOPINO: Frederic
15 P. Fitts.

16 (No verbal response)

17 PRESIDING OFFICER IACOPINO: Gerald or
18 Vivian Roy.

19 (No verbal response)

20 PRESIDING OFFICER IACOPINO: Edward A.
21 Piatek, P-I-A-T-E-K?

22 (No verbal response)

23 PRESIDING OFFICER IACOPINO: Frank or
24 Kate Lombardi?

1 (No verbal response)

2 PRESIDING OFFICER IACOPINO: Marsha
3 Lombardi?

4 (No verbal response)

5 PRESIDING OFFICER IACOPINO: Alexandra
6 Dannis and James Dannis?

7 (No verbal response)

8 PRESIDING OFFICER IACOPINO: David Van
9 Houten.

10 MR. VAN HOUTEN: David Van Houten.
11 I'm a landowner in Bethlehem. I also recently
12 purchased a piece of property across --

13 (Court Reporter interrupts.)

14 PRESIDING OFFICER IACOPINO: Start
15 with, "I also recently purchased property..."

16 MR. VAN HOUTEN: I also recently
17 purchased a property adjacent to my home which
18 will be crossed by the proposed power line. You
19 have the spelling of my name? Okay. Thank you.

20 PRESIDING OFFICER IACOPINO: Wendy
21 Doran, D-O-R-A-N.

22 (No verbal response)

23 PRESIDING OFFICER IACOPINO: Andrew
24 Dodge.

1 MR. DODGE: Yup. Andrew Dodge. I own
2 property in Bethlehem.

3 PRESIDING OFFICER IACOPINO: Oh, good
4 morning. Thank you, sir.

5 The next group of intervenors which
6 has been consolidated by the Chair is what I
7 call the "Middle Abutting Property Owner Group,"
8 that goes from Bethlehem to Plymouth.

9 Nigel Manley and Judy Ratzel,
10 R-A-T-Z-E-L.

11 (No verbal response)

12 PRESIDING OFFICER IACOPINO: Russell
13 or Lydia Cumbee, C-U-M-B-E-E.

14 MR. CUMBEE: Yes, Russell and Lydia
15 Cumbee, abutters on Route 116 in Franconia.

16 PRESIDING OFFICER IACOPINO: Thank
17 you, sir.

18 Walter Palmer or Kathryn Ting?

19 MR. PAMLER: Yes. My name is Walter
20 Palmer, P-A-L-M-E-R, and I am the duly-appointed
21 spokesperson for this group and representing all
22 members of the group, including those who could
23 not be present here today.

24 PRESIDING OFFICER IACOPINO: Thank

1 you, sir. I'm still going to go through the
2 group, though, just so we have the record and
3 folks can let us know.

4 Peter Grote.

5 MR. GROTE: Yes, Peter Grote, Easton
6 Road in Franconia.

7 PRESIDING OFFICER IACOPINO: And is
8 Mary Grote here as well?

9 MR. GROTE: No, but I represent her.
10 Thank you.

11 PRESIDING OFFICER IACOPINO: Thank
12 you.

13 Paul or Dana O'Hara?

14 (No verbal response)

15 PRESIDING OFFICER IACOPINO: Virginia
16 Jeffreys.

17 MR. GROTE: Virginia Jeffreys could
18 not be here today. I represent her. Peter
19 Grote, G-R-O-T-E.

20 PRESIDING OFFICER IACOPINO: Carol
21 Dwyer.

22 (No verbal response)

23 PRESIDING OFFICER IACOPINO: Gregory
24 and Lucille Wolf.

1 (No verbal response)

2 PRESIDING OFFICER IACOPINO: Susan
3 Schibanoff.

4 MS. SCHIBANOFF: Susan Schibanoff.

5 PRESIDING OFFICER IACOPINO: I'm
6 sorry.

7 MS. SCHIBANOFF: That's okay. I own
8 national-registered property in Franconia on
9 Route 116, which is the site of the proposed
10 underground route. You need a spelling of that
11 name?

12 PRESIDING OFFICER IACOPINO: That
13 would be great.

14 MS. SCHIBANOFF: S-C-H-I-B, as in
15 blue, A-N-O-F-F, as in Franklin.

16 PRESIDING OFFICER IACOPINO: Thank
17 you. If I look a little wide-eyed up here, it's
18 because sometimes when some of you are speaking,
19 I don't know where you're speaking from. So I'm
20 just listening, okay.

21 The next I have is Ken and Linda Ford.

22 (No verbal response)

23 PRESIDING OFFICER IACOPINO: Dr.
24 Campbell McLaren?

1 (No verbal response)

2 PRESIDING OFFICER IACOPINO: Eric and
3 Barbara Meyer?

4 (No verbal response)

5 PRESIDING OFFICER IACOPINO: Robert
6 Thibault T-H-I-B-A-U-L-T. And I may have
7 actually even spelled that wrong.

8 (No verbal response)

9 MR. THIBAUT: No, you spelled it
10 correctly.

11 PRESIDING OFFICER IACOPINO: Thank
12 you.

13 MR. THIBAUT: Bob Thibault, I live on
14 Easton Valley Road in Easton, and I'm an abutter
15 to the underground portion.

16 PRESIDING OFFICER IACOPINO: Thank
17 you.

18 Dennis Ford? All right, sir.

19 MR. FORD: Dennis Ford, Easton. I'm
20 an abutter on Route 116.

21 PRESIDING OFFICER IACOPINO: Thank
22 you, sir.

23 Carl Lakes and Barbara Lakes?

24 MR. LAKES: Yes, Carl Lakes. I'm here

1 for Barbara Lakes as well. I'm an abutter on
2 Route 116.

3 PRESIDING OFFICER IACOPINO: Thank
4 you.

5 Bruce Ahern?

6 MR. AHERN: Bruce Ahern, A-H-E-R-N.
7 Route 3 runs through my property south of
8 Plymouth.

9 PRESIDING OFFICER IACOPINO: Thank
10 you.

11 MR. AHERN: Representing myself and my
12 wife Janet.

13 PRESIDING OFFICER IACOPINO: Thank
14 you.

15 And Frank Pinter?

16 (No verbal response)

17 PRESIDING OFFICER IACOPINO: Okay.
18 I'm now going to move to the next group that we
19 have listed, which is the "Middle Non-Abutting
20 Property Owners," which runs generally from
21 Bethlehem to Plymouth. The first folks in this
22 group, I have a Lee Sullivan and Steve Bizzell
23 or Buzzell.

24 (No verbal response)

1 PRESIDING OFFICER IACOPINO: The next
2 group is Timothy and Rebecca Burbank; Edward
3 Cenerizio, C-E-N-E-R-I-Z-I-O; Deborah Corey,
4 C-O-R-E-Y; and Matthew Steele, individually and
5 as owners of 41 Dyke Road, LLC. Anybody here
6 from that group?

7 (No verbal response)

8 PRESIDING OFFICER IACOPINO: Okay.
9 The next group that I have is the "Southern
10 Abutting Property Owners," and these run from
11 Ashfield [sic] to Deerfield. We'll start with
12 Carol Currier.

13 (No verbal response)

14 PRESIDING OFFICER IACOPINO: Mary A.
15 Lee?

16 (No verbal response)

17 MS. LEE: Oh, I'm here.

18 PRESIDING OFFICER IACOPINO: You can
19 sit down and just speak into the microphone.
20 Probably easier that way.

21 MS. LEE: I'm Mary Lee, representing
22 Northfield as a landowner.

23 PRESIDING OFFICER IACOPINO: Thank
24 you.

1 Craig or Corinne Pullen.

2 (No verbal response)

3 PRESIDING OFFICER IACOPINO: Anybody
4 from the McKenna's Purchase Unit Owners
5 Association? Yes, ma'am.

6 MS. KLEINDIENST: Michelle
7 Kleindienst, K-L-E-I-N-D-I-E-N-S-T, representing
8 McKenna's, who has an easement on the side of
9 their property, along with...

10 MR. CHALOUX: Patrick Chaloux,
11 C-H-A-L-O-U-X, representing McKenna's Purchase,
12 and also an abutter to the easement.

13 PRESIDING OFFICER IACOPINO: Thank
14 you.

15 Mr. and Mrs. Kucman.

16 MR. KUCMAN: My name is Taras Kucman.
17 I'm representing myself as a Concord resident.

18 MS. KUCMAN: Martha Kucman, East
19 Concord.

20 PRESIDING OFFICER IACOPINO: And
21 you're from Concord as well, I take it. Okay.

22 Kelly Normandeau?

23 (No verbal response)

24 PRESIDING OFFICER IACOPINO: Laura

1 Bonk.

2 (No verbal response)

3 PRESIDING OFFICER IACOPINO: Philip
4 and Joan Bilodeau. I saw Mr. Bilodeau.

5 MR. BILODEAU: Philip Bilodeau,
6 B-I-L-O-D-E-A-U, representing Philip and Joan
7 Bilodeau, Deerfield, New Hampshire. We take
8 exception to being associated with this group.
9 We are not abutters to the power line. We are
10 abutters to the ending 9-acre substation as
11 presented by the Applicant at their many
12 meetings. Thank you.

13 PRESIDING OFFICER IACOPINO: Thank
14 you.

15 Erick Berglund and Kathleen Berglund.

16 MR. BERGLUND: Erick Berglund,
17 Deerfield, New Hampshire. And we are abutters
18 on Nottingham Road for about 200 feet of
19 right-of-way, and representing my wife Kathleen
20 as well.

21 PRESIDING OFFICER IACOPINO: Thank
22 you.

23 Rebecca Hutchinson.

24 (No verbal response)

1 PRESIDING OFFICER IACOPINO: Torin
2 Judd and Brian Judd, J-U-D-D.

3 (No verbal response)

4 PRESIDING OFFICER IACOPINO: JoAnne
5 Bradbury.

6 MS. BRADBURY: I'm JoAnne Bradbury,
7 spelled B, bravo, R-A, D, delta, B, bravo,
8 U-R-Y. I'm from Deerfield.

9 PRESIDING OFFICER IACOPINO: Thank
10 you.

11 Jeanne Menard. I saw her somewhere.

12 MS. MENARD: Jeanne Menard,
13 J-E-A-N-N-E, M-E-N-A-R-D. I'm representing the
14 Menard Family Limited Partnership. It's a
15 forestry partnership. Also an appearance with
16 my brother, Peter Menard, and his wife, Anne
17 Burnett.

18 PRESIDING OFFICER IACOPINO: Thank
19 you.

20 Kevin and Lisa Cini, C-I-N-I. Yes,
21 sir.

22 MR. CINI: Kevin Cini, C-I-N-I,
23 representing myself and my wife Lisa, property
24 owners on 20 Mountain Road.

1 PRESIDING OFFICER IACOPINO: You would
2 think a guy named Iacopino would know how to say
3 it correctly, right.

4 Bruce Adami and Robert Cote. Adami is
5 spelled A-D-A-M-I.

6 (No verbal response)

7 PRESIDING OFFICER IACOPINO: Eric and
8 Sandra Lahr, L-A-H-R.

9 (No verbal response)

10 PRESIDING OFFICER IACOPINO: Okay.
11 Next intervenor, Society for the Protection of
12 New Hampshire Forests.

13 MS. MANZELLI: Good morning. Amy
14 Manzelli and Jason Reimers from the law firm of
15 BCM Environmental and Land Law, here with Wil
16 Abbott from the Forest Society. Thank you.

17 PRESIDING OFFICER IACOPINO: The next
18 combined group we have is what we've referred to
19 as "Environmental NGOs." Appalachian Mountain
20 Club.

21 MR. PLOUFFE: I'm William Plouffe, an
22 attorney from Drummond Woodsum, representing the
23 Appalachian Mountain Club. Here with me is Ken
24 Kimball from the Appalachian Mountain Club.

1 PRESIDING OFFICER IACOPINO: Thank
2 you.

3 Conservation Law Foundation.

4 MS. BICHARD: Hi. Thank you. Melissa
5 Birchard for Conservation Law Foundation.

6 PRESIDING OFFICER IACOPINO: Sierra
7 Club, New Hampshire Chapter.

8 (No verbal response)

9 PRESIDING OFFICER IACOPINO: And
10 Ammonoosuc Conservation Trust.

11 MR. EVELYN: Douglas Evelyn,
12 representing the Ammonoosuc Conservation Trust.

13 PRESIDING OFFICER IACOPINO: Thank
14 you.

15 MR. EVELYN: E-V-E-L-Y-N.

16 PRESIDING OFFICER IACOPINO: Thank
17 you, sir.

18 The next combined group is what we've
19 labeled as "Historic NGOs." Sugar Hill
20 Historical Museum.

21 MS. WILLIAMSON: Hi. My name's Sharee
22 Williamson. I'm actually with the National
23 Trust for Historic Preservation. And I'll let
24 you know that none of the other preservation

1 intervenors are here today. I'm here with my
2 colleague, Betsy Merritt.

3 PRESIDING OFFICER IACOPINO: Thank
4 you.

5 Cate Street Capital, City of Berlin?

6 MR. BOLDT: City of Berlin's here.
7 Chris Boldt, Donahue, Tucker & Ciandella, for
8 the City of Berlin only.

9 PRESIDING OFFICER IACOPINO: Thank
10 you.

11 Anybody from the International
12 Brotherhood of Electrical Workers, IBEW?

13 MR. RAFF: Alan Raff, Primary Legal
14 Solutions, representing the International
15 Brotherhood of Electrical Workers. And Alan
16 Raff is A-L-A-N, R-A-F-F, as in french fry.

17 PRESIDING OFFICER IACOPINO: Next
18 intervenors, Coos Business and Employers Group.
19 Yes, ma'am.

20 MS. WILLEY: Leigh Willey from --

21 (Court Reporter interrupts.)

22 PRESIDING OFFICER IACOPINO: You're
23 going to have to repeat and spell your name for
24 us.

1 MS. WILLEY: L-E-I-G-H, W-I-L-L-E-Y.

2 PRESIDING OFFICER IACOPINO: And your
3 law firm?

4 MS. WILLEY: Bianco Professional
5 Association.

6 PRESIDING OFFICER IACOPINO: Thank
7 you.

8 North Country Chamber of Commerce.

9 MS. NANASI: Yvonne Nanasi,
10 N-A-N-A-S-I. I'm representing North Country
11 Chamber of Commerce and am a member of the board
12 of directors.

13 PRESIDING OFFICER IACOPINO: Dixville
14 Capital and Balsams Resort.

15 MR. BELIVEAU: Attorney Mark Beliveau,
16 B, as in boy, E-L-I-V-E-A-U, from the law firm
17 of Pierce Atwood, representing Dixville Capital
18 and Balsam Resort Holdings.

19 PRESIDING OFFICER IACOPINO: Wagner
20 Forest Management.

21 (No verbal response)

22 PRESIDING OFFICER IACOPINO: And the
23 Pemigewasset River Local Advisory Committee.

24 MR. STAMP: Max Stamp, Bristol,

1 representing Pemigewasset River Local Advisory
2 Committee.

3 PRESIDING OFFICER IACOPINO: Now, is
4 there anybody here who was granted intervenor --

5 AUDIENCE MEMBER: There's more.

6 PRESIDING OFFICER IACOPINO: Oh, I'm
7 sorry. Go ahead.

8 MR. DRAPER: Barry Draper and Gretchen
9 Draper from the Local Advisory Council also.

10 PRESIDING OFFICER IACOPINO: My
11 apologies.

12 MR. DRAPER: And we're from New
13 Hampton.

14 MS. MENARD: Mr. Chairman, there's a
15 southern --

16 (Court Reporter interrupts.)

17 PRESIDING OFFICER IACOPINO: Hold on.
18 You have to tell us your name first so they
19 can --

20 MS. MENARD: Jeanne Menard,
21 M-E-N-A-R-D. There's a southern grouping of
22 non-abutters that has been omitted.

23 PRESIDING OFFICER IACOPINO: Oh,
24 that's my fault. I must have just skipped over

1 that in my list.

2 So, Joanna and Robert Tuveson.

3 (No verbal response)

4 MR. TUVESON: Bob Tuveson,
5 representing myself and my wife, from
6 Holderness.

7 PRESIDING OFFICER IACOPINO: Thank
8 you.

9 Nina and Elisha Gray.

10 MR. GRAY: Elisha Gray, representing
11 myself and wife, Nina Gray, from New Hampton,
12 New Hampshire.

13 PRESIDING OFFICER IACOPINO: Thank
14 you, sir.

15 Rodney and Laura Felgate.

16 MR. GRAY: This is Elisha Gray.
17 They've asked me to represent them. We're
18 neighbors.

19 PRESIDING OFFICER IACOPINO: The
20 Webster Family Group.

21 MS. MUMFORD: Margaret Mumford,
22 representing the Webster Family, along with my
23 cousin. We are property abutting the
24 Pemigewasset River.

1 MS. TOWNSEND: I'm Heather Townsend,
2 also representing the Webster Group.

3 PRESIDING OFFICER IACOPINO: Lawrence
4 Phillips and Maxine Phillips.

5 (No verbal response)

6 PRESIDING OFFICER IACOPINO: How about
7 Lisa Wolford or Pamela Hanglin?

8 (No verbal response)

9 PRESIDING OFFICER IACOPINO: F.
10 Maureen Quinn?

11 (No verbal response)

12 PRESIDING OFFICER IACOPINO: Madelyn
13 or Thomas Foulkes, F-O-U-L-K-E-S?

14 MR. FOULKES: Thomas Foulkes,
15 26 Nottingham Road, Deerfield.

16 PRESIDING OFFICER IACOPINO: Thank
17 you.

18 MS. FOULKES: Madelyn Foulkes,
19 26 Nottingham Road, Deerfield.

20 PRESIDING OFFICER IACOPINO: Thank
21 you.

22 And then, Ms. Menard, we've already
23 got you. But you're also here as a managing
24 member of the Pawtuckaway View, LLC?

1 MS. MENARD: That is correct. Thank
2 you.

3 PRESIDING OFFICER IACOPINO: All
4 right. Is there any other person who was
5 granted intervenor status that I did not call or
6 that missed the call? Yes, sir.

7 MR. WOLF: My name's Greg Wolf.

8 PRESIDING OFFICER IACOPINO: You're
9 going to have to find a microphone, Mr. Wolf.

10 MR. WOLF: My name is Greg Wolf. I
11 live --

12 (Court Reporter interrupts.)

13 PRESIDING OFFICER IACOPINO: You have
14 to speak right into that. We can't hear you up
15 here.

16 MR. WOLF: My name is Greg Wolf. I'm
17 here representing my wife, Lucille, and myself.
18 We live in Franconia on 116.

19 PRESIDING OFFICER IACOPINO: Thank
20 you.

21 Is there anybody else who was granted
22 intervenor status who we did not go through?

23 (No verbal response)

24 PRESIDING OFFICER IACOPINO: Okay.

1 MR. ROTH: This is Peter Roth, Counsel
2 for the Public. Do you intend to create a score
3 card, so to speak, with everybody's name and
4 contact information based on the people who made
5 an appearance today, or who otherwise somehow
6 identified themselves as being a spokesperson
7 for a particular one of the groups that have
8 been created for them?

9 PRESIDING OFFICER IACOPINO: Yes,
10 something will be created once we have
11 everything ironed out and our administrator is
12 back from vacation. My guess is that we will
13 have a list of the parties that will have both
14 mailing and e-mail information. And my guess is
15 we will also put together an e-mail distribution
16 list that will be able to be copied from the web
17 site and used for the parties during the course
18 of the adjudicative portion of this proceeding.
19 That's one of the reasons why we have the
20 sign-up sheets, and it's one of the reasons why
21 we go through the roll call is to see who is
22 here and make sure we have a record of it. So I
23 do expect there will be something. It won't be
24 available tomorrow, but it will be available in

1 the short term.

2 MR. ROTH: As a follow-up, if I may.
3 Do you expect there to be a date by which the
4 grouped parties have to organize and determine
5 who's going to speak for them?

6 PRESIDING OFFICER IACOPINO: It's on
7 our agenda to discuss today, and we'll get to
8 it. It's No. 3 on the agenda.

9 Before we get to that, I do want to
10 point out what the purpose of this proceeding
11 here is today. This is a prehearing conference.
12 On the agenda that was passed out when you
13 walked in -- I'm sorry. On the front side of
14 that is a little quip from R.S.A. 541-A that
15 explains what a prehearing conference is. That
16 doesn't give you very much information. In
17 essence, what we do at the Site Evaluation
18 Committee with respect to prehearing conferences
19 is we use this as an informal opportunity to
20 address the issues that may come up during the
21 course of this proceeding. As some of you are
22 aware, we, at least in recent times, have never
23 had a proceeding with this many parties in it.
24 So we are working somewhat on a new template, if

1 you will. However, we do have to abide by the
2 statutes and rules in all of our proceedings.
3 So I have listed the typical things that a
4 prehearing conference is used for, and that
5 is -- they're on the front side of that agenda.
6 Basically, it's to consider offers of
7 settlement; simplification of issues;
8 stipulations or admissions as to issues of fact
9 or proof, by consent of the parties; limitations
10 on the number of witnesses; changes to standard
11 procedures desired during the hearing, and
12 consented to by the parties; consolidation of
13 examination of witnesses by the parties; and any
14 other matters which aid in the disposition of
15 the proceeding. Those identified areas are
16 straight from the Administrative Procedures Act
17 in New Hampshire, and they're also included
18 within the Administrative Rules of the Site
19 Evaluation Committee.

20 Given the size of this docket and the
21 size and the number of parties involved, we may
22 do things a little bit differently. But
23 everything that we do is going to be done so
24 that we can expand due process to the parties as

1 opposed to constraining it.

2 Our process today is going to be
3 somewhat informal. Just so you all know, this
4 is not a hearing at which we take testimony.
5 This is not an advocacy hearing, okay. This is
6 a hearing at which we discuss the manner in
7 which this proceeding is going to take place.
8 I've tried to prepare an outline as best I could
9 as to what I believe an agenda should contain
10 with respect to this proceeding. If you note,
11 down at the bottom, No. 11, there's a spot there
12 for any additional things. If you have
13 something that is not contained in the first 10
14 chapters of the agenda, that's the time to
15 discuss it. My guess is, though, by the time we
16 get through this agenda, we will probably have
17 addressed most of the issues that are of concern
18 to folks.

19 As far as the process and procedure
20 goes, I am not a member of the Site Evaluation
21 Committee. I cannot make substantive decisions.
22 I cannot rule on motions here today. What I
23 will do is, at the end of the day, I will
24 prepare a report for the Committee of what

1 occurred in this prehearing conference. It is
2 likely that the Chairman of the Committee will
3 then issue a procedural schedule, based at least
4 in part, if not in total, on what comes out of
5 this prehearing conference here today. So
6 that's the way that it works. I don't get to
7 make the decision. I get to report what we
8 discuss so that the Chairman of the Committee
9 and the Committee itself, on some issues, has
10 the ability to set forth a formal order with the
11 procedure.

12 So that's what we're doing here today.
13 So please don't think of this as a place to
14 advocate for your point of view on any
15 particular issues because I can't change
16 anything. I just don't have the authority to
17 change things. There will be opportunities to
18 do that.

19 I'll give you an example. I know
20 there are many people in this room who are
21 dissatisfied with either their denial of
22 intervention status or the manner in which they
23 are grouped, okay. There is a process for that.
24 Some of you have already undertaken that

1 process. But we will discuss that process in a
2 couple of minutes. Now is not the time, for
3 instance, to argue that you're grouped in the
4 wrong group because I can't change it. But now
5 is the time for us to get a handle for how many
6 people believe that they might be grouped
7 incorrectly, and that would go into the report.
8 So all of those issues can be addressed, but I
9 don't have the final say on what occurs with
10 them.

11 Again, ground rules for our hearing
12 today: Please identify yourself. Please use
13 the microphone. It's probably better if you sit
14 at the table. I think the folks who have tried
15 to stand, it hasn't worked as well. So you're
16 fine to speak from a seated position. And if
17 your name is not a common last name, please
18 spell it for our court reporters.

19 So we've gotten through the first two
20 agenda items, and we've been 46 minutes into it.
21 The next agenda item is the organization of
22 intervenor groups and the designation of
23 temporary spokespeople. And I guess what I
24 wanted to do, at least for today, was to

1 understand who is -- if you can -- and we might
2 want to take a few minutes. But for the
3 intervenor groups, especially the larger ones,
4 it would be most efficient if you could identify
5 somebody to address for your group here today in
6 this prehearing conference. It doesn't have to
7 be the person who ultimately is going to speak
8 for any particular intervenor group. It would
9 just make today go easier. And with that, what
10 I'm going to ask that we do is we take a
11 10-minute break for those intervenor groups to
12 caucus. And then we'll come back from the
13 10-minute break and we'll see if you guys have
14 had the ability to designate a temporary
15 spokesperson for today, just to make it easier
16 for everybody. It is not anything that is
17 binding going forward, and it is not -- and by
18 participating in this, you do not in any way
19 lose your ability to file an appeal or ask for a
20 review of your intervenor status. This is
21 purely for the purpose of efficiency during
22 today's hearing.

23 So it is 10:44. We'll come back at
24 10:54 -- 10:55. So let's take a break. And I'd

1 ask that the intervenor groups please caucus and
2 come up with somebody to -- yes, ma'am. Before
3 we break, hold on.

4 MS. BICHARD: I'm sorry. Melissa
5 Birchard for Conservation Law Foundation. While
6 I think everybody's happy to expedite the
7 process here today, I'm concerned about our
8 ability to develop consolidated positions on
9 such short notice and without knowledge of the
10 details of what's going to come up in the
11 agenda.

12 PRESIDING OFFICER IACOPINO: Well, I
13 don't think anybody is asking you to come up
14 with final positions with respect to anything
15 with regard to the hearing. I mean, hopefully
16 at end of the day we'll have an idea of perhaps
17 some kind of broad schedule. But we're not
18 asking for you to -- we're not asking for you to
19 come to complete agreement with the members of
20 your group on any particular issue. We're just
21 trying to make this more efficient. There will
22 be, as most of you are aware, a process for
23 realignment, if that's found to be in the public
24 interest by the Chair or by the Committee,

1 depending upon the filings. What I'm trying to
2 do is just make today more efficient. Does that
3 answer your question?

4 MS. BIRCHARD: Agreed, yes. And
5 that's a great plan. I guess I would ask that
6 in the event there is a difference of opinion,
7 more than one spokesperson be allowed to --

8 PRESIDING OFFICER IACOPINO: Oh,
9 absolutely. If there's something that folks
10 just cannot agree on, or even somebody -- look,
11 we've done this in virtually every Site
12 Evaluation Committee proceeding that we've ever
13 had. We've always had intervenors that have
14 been grouped. They don't always agree with each
15 other. If you note in the intervention order,
16 it specifically pointed out that any intervenor
17 can file their own prefiled testimony. And
18 we'll get to that later in our agenda today.
19 But you certainly have the opportunity to make
20 your own individual views known. What we are
21 trying to do is develop a process so that gets
22 done in a more efficient manner, so that these
23 things are -- I mean, the point is we can't have
24 160 parties. We just can't do it. So that's

1 the point here. Mr. Bilodeau.

2 MR. BILODEAU: I would also take
3 exception to one spokesman for the group. We
4 just found out on Friday, and today's Tuesday,
5 in that period of time to even recognize and
6 acknowledge who the other 16 people are in that
7 group. Some people live in Ashland, some people
8 live in Deerfield. How could we have ever
9 gotten together to have a spokesperson?

10 PRESIDING OFFICER IACOPINO: That's
11 why we're taking a break and allowing you to
12 caucus -- if I may finish, sir -- and come up
13 with a temporary spokesperson. Thank you.

14 Yes, ma'am.

15 MS. JENSEN: Cheryl Jensen, Bethlehem.
16 I have never been to one of these before. I
17 don't know what a spokesperson will responsible
18 for doing here today. I don't even know many of
19 the people in the municipal group I'm in or
20 where they are here today. And the other thing
21 is, does that mean no one else from the group
22 can ask questions? I'm just --

23 PRESIDING OFFICER IACOPINO: No, no,
24 it does not. As I said before, we're trying to

1 just do it as efficiently as possible. We have
2 a single spokesperson temporarily for each group
3 for today. But if somebody disagrees or has a
4 different viewpoint, or even has a new idea,
5 everybody's got a microphone in front of them.
6 We're going to allow that to happen. But we're
7 just trying to allow you to -- that's why we're
8 going to take a break to caucus with the folks
9 you've been grouped with so that you can meet
10 each other and perhaps address things on a more
11 efficient basis.

12 Yes, sir.

13 MR. WHITLEY: Steven Whitley, Mitchell
14 Municipal Group --

15 (Court Reporter interrupts.)

16 PRESIDING OFFICER IACOPINO: Steven
17 Whitley, Mitchell Municipal Group.

18 MR. WHITLEY: Just going to suggest
19 that we designate areas within this room where
20 particular groups should designate to make the
21 10 minutes most efficient.

22 PRESIDING OFFICER IACOPINO: Good
23 idea.

24 MR. WHITLEY: Thank you. I would

1 suggest that the municipalities come to this
2 side of the room, because selfishly I'm sitting
3 over here. But if you have a better idea, that
4 is certainly fine as well.

5 PRESIDING OFFICER IACOPINO: No, that
6 is a good idea.

7 Yes, ma'am, in the back.

8 AUDIENCE MEMBER: Thank you very much
9 for that idea, the geography question of where
10 we should go.

11 But the second point is, what's the
12 job description of the spokesperson? Is it
13 legal? Is it technical? What's the job
14 description?

15 PRESIDING OFFICER IACOPINO: It is
16 merely for efficient communication at this
17 proceeding today. That's all it is. Once there
18 is a permanent spokesperson for each permanent
19 group, that person will have the responsibility
20 for the group, to get any motions that
21 individual members of the group want to file
22 filed; to get prefiled testimony for the group
23 filed; if the group intends to hire any kind of
24 expert witnesses or anything like that, they

1 will handle that part of the proceeding and get
2 what's filed -- get what needs to be filed on
3 behalf of the group for that. When it gets down
4 to the examination of witnesses during the
5 actual trial or adjudicative hearings, that
6 person will be the primary spokesperson for
7 questions for the various witnesses that would
8 be cross-examined during the adjudicative
9 hearing.

10 Yes, ma'am.

11 AUDIENCE MEMBER: Just a follow-up
12 observation. That permanent spokesperson sounds
13 like an enormous job for volunteers. Do I have
14 that right?

15 PRESIDING OFFICER IACOPINO: It is a
16 big job. But there is a proceeding that is
17 going to occur. And if a group wants to
18 participate, it has to do all those things. So,
19 having a spokesperson is actually somebody that
20 you can funnel the -- there's nothing that stops
21 you from collaborating in your group. But
22 having a single voice actually helps you make a
23 presentation at the time. There is no
24 prohibition on any group hiring counsel, or any

1 individual hiring counsel for that matter. And
2 we actually encourage folks who intervene before
3 the SEC to do so.

4 There was another hand up here. Yes,
5 sir.

6 MR. PLOUFFE: Bill Plouffe,
7 Appalachian Mountain Club. Following up on a
8 comment just a minute ago with respect to this
9 spokesperson conducting cross-examination, are
10 you saying that the one spokesperson for the
11 consolidated group -- we have four organizations
12 in our group -- is the only person who can
13 cross-examine all of the Applicant's witnesses?
14 Or alternatively, as we would do in court, can
15 we not split between attorneys each witness, but
16 it can be different attorneys or spokespeople or
17 persons examining different witnesses of the
18 Applicant?

19 PRESIDING OFFICER IACOPINO: In the
20 past, the Site Evaluation Committee has allowed
21 that to actually happen, and in fact has
22 encouraged that, just what you said, where
23 certain individuals within a group -- for
24 instance, somebody is designated as a scenic

1 person, and they cross-examine the scenic
2 witnesses; somebody is designated the
3 environmental person. That is something that we
4 have allowed. And I'm sure, although it hasn't
5 been raised to the Committee yet, but I'm sure
6 that's a process that will be allowed in this
7 particular proceeding. However, the Committee
8 has still required a spokesperson because it is
9 always easier to have communications go through
10 one particular party. Now, in that particular
11 instance that the gentleman is speaking about,
12 what's happened in the past is he would stand up
13 and he would say, "Oh, the cross-examination for
14 these visual impact experts is going to be
15 Dr. Kimball," and then Dr. Kimball takes over.
16 Appalachian Mountain Club has appeared in a
17 number of our proceedings. They've seen it
18 happen like that. And I don't think it would
19 happen any differently in this proceeding.

20 MR. PLOUFFE: Will that be explained
21 in the order?

22 PRESIDING OFFICER IACOPINO: It will
23 be explained in an order at some point. I don't
24 know if it will be in the initial procedural

1 order. I don't know if it's going to get that
2 detailed. But at some point those types of
3 ground rules will be laid out for all the
4 parties who are participating in this
5 proceeding.

6 MR. PLOUFFE: Thank you.

7 PRESIDING OFFICER IACOPINO: Way in
8 the back there.

9 AUDIENCE MEMBER: In terms of --

10 PRESIDING OFFICER IACOPINO: We need
11 your name.

12 MS. MUMFORD: Margaret Mumford.

13 PRESIDING OFFICER IACOPINO: Thank
14 you.

15 MS. MUMFORD: In terms of appointing
16 the spokesperson and other rights, intervenors
17 that are not here, have they lost their rights
18 by not being here, other than participating in
19 today's decisions?

20 PRESIDING OFFICER IACOPINO: No,
21 absolutely not.

22 MS. MUMFORD: Thank you.

23 PRESIDING OFFICER IACOPINO: Any other
24 questions?

1 (No verbal response)

2 PRESIDING OFFICER IACOPINO: Okay.

3 Going to ask that we take 10 minutes. Now it's
4 10:54. So why don't we come back at five past
5 eleven, and hopefully we have somebody -- yes,
6 sir.

7 MR. DODGE: Are you going to designate
8 places? I mean, I don't know any of the other
9 intervenors in the group.

10 PRESIDING OFFICER IACOPINO: Sure, I
11 will do that. Okay. We're going to have the
12 towns, whether you're northern, middle or
13 southern, go to the far side of the room over by
14 the water. Franklin's not here.

15 I guess the county commissioners and
16 Mr. Samson, you guys have a table there. I
17 think you can probably caucus right from there.

18 The abutting property owners from
19 Clarksville to Dalton, why don't you come up in
20 the upper -- your left-hand corner up here.

21 And then in the next set of seats
22 where these folks are sitting over here, why
23 don't we have the abutting property owners on
24 the overhead portion of the northern route.

1 And then in the far corner to your
2 left over there, I've got non-abutting property
3 owners from Clarksville to Bethlehem.

4 And I notice some people holding signs
5 up. I assume that's where you want to be.
6 Okay. So hold those signs up. We've got
7 southern abutters right here, southern
8 non-abutters right behind them.

9 It looks like the historic and
10 environmental groups are together near each
11 other.

12 Okay. Who needs a place?

13 (No verbal response)

14 PRESIDING OFFICER IACOPINO: Okay.
15 Northern abutters on the overhead route, right
16 over there where she's holding up that placard.

17 (Whereupon a brief recess was taken at
18 10:55 a.m. and the hearing resumed at
19 11:18 a.m.)

20 PRESIDING OFFICER IACOPINO: It's now
21 11:18 a.m. We're going to start up again, okay.
22 Thank you.

23 The first substantive issue that I'm
24 going to ask us to sort of grapple with here is

1 something the Committee is well aware of. There
2 is some dissatisfaction with both the rulings on
3 petitions to intervene, as well as the groupings
4 that were made by the order on intervention,
5 that eventually there will be firm, designated
6 groups. The order that has come out is the
7 first attempt by the Chair of the Committee to
8 do that. The manner in which it was done was we
9 reviewed all of the petitions to intervene that
10 were filed. There were approximately 160 of
11 them. And we looked for -- and the Chairman
12 looked for the manner in which to group them
13 that tended to make sense, okay. Now, of
14 course, every one of you who filed a motion to
15 intervene probably wanted to be their own party
16 and not be grouped with anybody else. That's
17 just not realistic with this many people
18 involved. However, it doesn't mean that the
19 groupings that the Chair eventually did are the
20 final result, and it doesn't mean that you're
21 stuck with that. There is a process by which
22 you can seek an appeal from the current ruling,
23 and that is contained in R.S.A. 162, Section 4,
24 Subsection V, which states that any party

1 aggrieved by a decision on a petition to
2 intervene may, within 10 calendar days, request
3 that the Committee review such decision. What
4 that means is that the full committee will be
5 convened to review any, we call them "appeal,"
6 from this decision on the intervention for a
7 full committee review. Some of you have already
8 filed, either by e-mail or otherwise have
9 already filed a request. I want to point a
10 couple things out because I've read some of
11 those things.

12 Please be very specific in what you
13 want if you choose to request a review by the
14 full committee. Many of you have been very
15 polite in the e-mails that you've sent, but they
16 don't really tell us what it is that you're
17 looking to happen. We appreciate the
18 politeness, but you also have to be direct and
19 polite and tell us what it is that you want.
20 There are other folks who have done it and made
21 it exactly that way. Just so you know, if you
22 have filed an e-mail or another filing with the
23 Committee where you have suggested that you
24 are -- well, first of all, if you were

1 improperly excluded from intervening, or if you
2 were granted intervention but grouped with the
3 wrong party, if there's even a hint of that, my
4 recommendation to the Committee is we're going
5 to consider that as a request for the full
6 committee to review that. However, we do
7 appreciate if you ask directly, okay, and give
8 us the reasons why. Obviously, if you've been
9 prohibited from intervening -- I don't know if
10 there's very many public members here who have
11 been prohibited from intervening -- obviously,
12 you want to restate the reasons why you might
13 want to intervene. If it's a matter of
14 grouping, and you have a different idea for
15 grouping, we're going to talk about a little bit
16 about that in a minute. Put your idea in there
17 and let us know what it is you're suggesting.
18 And, of course, if you are suggesting that you
19 should be a party all by yourself, make sure you
20 make that clear in your e-mail or your motion,
21 whatever you want to call it, your request for
22 review by the Committee.

23 One of the difficulties with the Site
24 Evaluation Committee is that we are not

1 permitted to go back in a room and sit down with
2 all these motions. And, of course, obviously
3 the Applicant will have an opportunity to
4 object. But the Committee doesn't get a chance
5 to go back into a room and sort of sift through
6 all the paperwork and converse about it and make
7 a decision that way. They have to hold a
8 hearing that has to be public, has to be noticed
9 under R.S.A. 91-A, and they have to do all their
10 consideration in public. So that would be the
11 next step. That step is going to occur because
12 we do have folks who have already filed requests
13 for review of their intervention status. And
14 there will be a notice that will be published as
15 to when that public hearing will occur. Whether
16 or not there will be argument taken at that
17 hearing has not yet been decided. And what I
18 mean by that is this: There's two different
19 ways the Site Evaluation Committee can operate
20 with respect to these types of issues. They
21 have to meet in public to decide anything. When
22 they meet in public, however, they can simply
23 start going over the paperwork that has been
24 filed and not take any arguments from the public

1 or from the folks who are seeking review; they
2 can simply decide on the papers. Or the
3 Chairman can decide as a procedural matter that
4 he will hear argument from potential intervenors
5 at that hearing. In other words, you'll get an
6 opportunity to make a pitch, so to speak. And,
7 of course, every party would have the
8 opportunity to respond to that -- to your motion
9 and to the request that you make at that
10 hearing.

11 So that has not yet been decided.
12 However, it is clear that there will be a
13 proceeding, all right. And there is a deadline
14 in the statute for anybody who wishes to change
15 their intervention status, and that is 10 days,
16 10 calendar days, not business days, 10 calendar
17 days from the date of the decision, which was
18 March 18th. So if you want to ask the full
19 committee to either allow you to intervene if
20 you've not been permitted to intervene, or to
21 change the combination of groups or designation
22 that you've been in, you need to file that in
23 writing with the Committee before the end of
24 business, which is 4:30 on March 28th. If you

1 have already filed something, whether you think
2 we're going to consider it as a request for
3 review, although some of them don't really
4 request that -- some of the e-mails that we
5 received basically asked the Chairman to
6 reconsider. He's not going to do that. It will
7 be the entire committee -- the Subcommittee in
8 this case.

9 So, with that being said, and
10 understanding that there is a level of
11 dissatisfaction out there with respect to the
12 combinations that have been taken, I have been
13 asked by the Chair to canvas this group and ask
14 you all -- and we've got to do this obviously in
15 an orderly fashion -- if you think there's a
16 better way in which intervenors can be grouped.

17 What I'm going to do is, I'm going to
18 start on my far left and go through table by
19 table back, and I'm going to end with Counsel
20 for the Public and then the Applicant, okay.
21 You don't have to have an opinion, just so you
22 know. You don't have to speak here. But if
23 somebody's got -- thinks they have a better idea
24 for combinations, you know, let's hear it. And

1 it may make a difference to the Committee
2 ultimately.

3 So I'm going to start with the first
4 table, with the IBEW. Obviously, you were
5 granted full intervention status. I assume you
6 don't have any position.

7 MR. RAFF: I do not. Thank you.

8 PRESIDING OFFICER IACOPINO: Mr.
9 Boldt.

10 MR. BOLDT: Chris Boldt, Donahue,
11 Tucker & Ciandella, for the City of Berlin.
12 I'll leave it to greater minds than mine on how
13 we herd these cats. Unfortunately, I do say
14 that I will be filing an objection on our very
15 minor grouping. But I've already spoken to
16 Attorney Needleman.

17 PRESIDING OFFICER IACOPINO: Thank
18 you.

19 Mr. Whitley, anything from your table
20 there?

21 MR. WHITLEY: Yes, thank you. In the
22 towns that I represent -- again, it's Steven
23 Whitley, Mitchell Municipal Group -- and those
24 are the towns of Littleton, Woodstock, New

1 Hampton, Bridgewater -- we do feel that there's
2 a better way to group the intervenors. We do
3 plan on filing a motion to that effect before
4 the SEC to consider.

5 But just to summarize it real quickly,
6 we understand the desire to have this proceeding
7 as efficiently as possible. This is obviously
8 a large, large project, unprecedented in the
9 state. So there's going to be some bumps in the
10 road to get this all figured out. But we would
11 recommend that within the municipal groups that
12 there be established some sort of a committee
13 where there's one representative from each
14 municipality who would work with the other
15 municipalities in the group to decide on
16 discovery issues, questions proposed to the
17 Applicant, or to request documents, things of
18 that nature. Other than discovery, we would ask
19 that the towns, the individual municipalities,
20 be allowed to cross-examine and file pleadings
21 and do everything else in an individual
22 capacity, because within each group, even though
23 the towns may geographically be in the same
24 place, there's no guaranty that the overlapping

1 of interests is to the degree that everyone
2 agrees on the questions to ask the Applicant's
3 witness, to ask questions of the Applicant, the
4 appropriate motions to file. And I think
5 that -- I mean, I can only speak for the towns
6 that I represent. We don't want to needlessly
7 delay this process. So, to the extent there is
8 some consistency, we would work together so that
9 the Applicant and the SEC are not dealing with
10 duplicative motions and duplicative questioning
11 and those sorts of things. But I think that the
12 individual towns need to have the option and the
13 discretion to represent their residents and
14 their interests before the SEC. And the current
15 grouping in the intervention order I believe
16 defeats that.

17 And the last thing I'll say about it
18 is, ethically, it puts the counsel that are
19 representing towns in a very difficult position
20 because obviously we cannot represent the towns
21 that we don't represent. And I think that it
22 penalizes those towns that haven't hired
23 counsel. And I understand the suggestion of the
24 SEC is to obtain counsel. But it's obviously

1 not a requirement to do so. And so other than
2 those comments, I don't think I've missed
3 anything.

4 I don't know if you're going to be
5 taking comments on other matters. I have a
6 letter that I've been asked to read on behalf of
7 the Towns of Pittsburg, Clarksville and
8 Stewartstown which does speak to this issue.
9 But I can read it into the record later on today
10 if that's more appropriate.

11 PRESIDING OFFICER IACOPINO: Does it
12 speak just to the issue of consolidation or --

13 MR. WHITLEY: I think that's primarily
14 what it addresses.

15 PRESIDING OFFICER IACOPINO: How long
16 is it?

17 MR. WHITLEY: It is about a page and a
18 half.

19 PRESIDING OFFICER IACOPINO: This is a
20 prehearing conference. You can give that to our
21 reporters, and we'll make sure that it gets
22 posted in the record. But do you have any
23 problems just summarizing it for everybody?

24 MR. WHITLEY: I will, with the caveat

1 that I don't represent any of these towns, so
2 I'm only doing it as the designated spokesperson
3 of this group.

4 PRESIDING OFFICER IACOPINO: Why don't
5 you just read it then. There's nobody from
6 those three towns here; right?

7 MR. WHITLEY: No.

8 PRESIDING OFFICER IACOPINO: Why don't
9 you just read it. Thank you. Slowly.

10 MR. WHITLEY: I'll do my best. This
11 is from Steve Ellis, select person from
12 Pittsburg, on behalf of the Towns of Pittsburg,
13 Clarksville and Stewartstown.

14 "Dear Ms. Monroe: Pittsburg,
15 Clarksville and Stewartstown authorized me,
16 Steve Ellis, to communicate on their behalf at
17 the SEC scheduling conference being held today.
18 Unfortunately, my attendance at this meeting has
19 been derailed by an accident that requires me to
20 seek medical attention for a broken wrist.
21 Accordingly, I ask this letter be read into the
22 record. Our three towns would each like to have
23 hard copies of all documents filed by the
24 Applicants in this matter. We cannot download

1 many of the documents online, and some of our
2 residents do not have Internet. We want to make
3 hard copies available in our town offices for
4 all residents. We also will need the hard
5 copies to use in our preparation for the
6 evidence phase of this proceeding. Please have
7 the Applicants deliver hard copies to our three
8 town offices as soon as practicable. Each town
9 plans to offer evidence in this case, and we
10 will also want to participate in discovery. It
11 will take us substantial time to review and
12 prepare for these activities, so we ask for as
13 much time as possible to meet the deadlines,
14 especially since our towns have been
15 involuntarily grouped with other towns and we
16 will need to meet to determine what action to
17 take if the groupings are not altered. Frankly,
18 we do not presently see how this grouping can be
19 accommodated by volunteer selectmen, who each
20 have many other obligations to employers, family
21 and communities. For instance, it is an hour
22 [sic] to hour-and-a-half drive from Pittsburg to
23 Littleton. And our issues here in the North
24 Country are totally different than those of the

1 intervenors who are south of us. For instance,
2 we are the only municipal intervenors opposed to
3 the Project whose towns would have brand new
4 transmission corridors cut through them by the
5 Applicant's proposed project. We fail to
6 understand why the three of our towns were not
7 made into one group with our own representative
8 authorized to communicate with the SEC [sic].
9 We therefore, ask the SEC [sic] to review and
10 reconsider the groupings... Thank you and the
11 SEC [sic] for your cooperation and attention to
12 these requests." And I'll come turn this in.

13 PRESIDING OFFICER IACOPINO: Thank
14 you. And actually, I've seen that letter. It
15 came in yesterday or at some point before today.
16 We have received it. But that's an example of
17 review by the full committee. This letter, even
18 though it doesn't specifically cite to that
19 particular statute that's up on the screen right
20 now, will be considered to be a request for
21 review as I discussed before. It's easier for
22 the Committee staff and for the Committee
23 itself, though, if you do cite the statute and
24 do say, "I am requesting the Committee review

1 this pursuant to R.S.A. 162-H, Section 4, Roman
2 Numeral V." But nonetheless, like I said, even
3 though this doesn't specifically say that, this
4 is the type of thing we will consider as a
5 request for review.

6 Who's the group behind you there, Mr.
7 Whitley? With respect to groupings, is
8 anybody -- okay. To your left. Ms. Pacik.

9 MS. PACIK: Danielle Pacik from the
10 City of Concord. I would note that as the
11 attorney for the City of Concord, I could only
12 represent the interest of the City of Concord.
13 And being grouped with other municipalities does
14 place us into a difficult position, especially
15 if I was to be assigned spokesperson. I could
16 not represent other communities. So what we
17 would recommend is, while we're happy to try to
18 coordinate discovery, we do want to be able to
19 file our own pleadings, and we want to be able
20 to do cross-examination on issues that are
21 unique to Concord.

22 PRESIDING OFFICER IACOPINO: Thank
23 you. Was there another party at that table?

24 MS. PACIK: He's also from Concord.

1 PRESIDING OFFICER IACOPINO: Okay.
2 And how about -- which group is behind you
3 there? I'm sorry. I can't see the placard, if
4 there is one.

5 MR. TANGUAY: This is Shawn Tanguay,
6 Gardner, Fulton & Waugh, representing Municipal
7 Group 2 as spokesman today, also representing
8 several towns in each of the sections. We have
9 no objection to the groupings of municipalities
10 in the three groups. We just support what
11 Attorney Whitley has indicated, that an
12 executive committee or a steering committee
13 makes more sense in terms of performing and
14 conducting discovery. As you can well imagine,
15 it's difficult for attorneys who have clients,
16 but being in a group with other non-represented
17 towns -- some of those towns don't even have
18 town administrators -- it's going to be very
19 difficult for us to work with non-represented
20 towns, both ethically and practically speaking.
21 So we would support some sort of a steering
22 committee for each group. That would help to
23 facilitate discovery; this way, there isn't 50
24 requests going to the Applicant instead of

1 coming from the committee itself. It's sort of
2 the same concept as the spokesperson who just --
3 it helps alleviate some of our ethical issues,
4 as well as I think it helps the burden being
5 shouldered by multiple parties. This is a
6 daunting task. It is a large project. There
7 are a lot of groups, and a lot of different
8 interests as well. So I think a committee makes
9 much more sense for purposes of discovery. I'd
10 also support the notion that any dispositive
11 pleadings or examination of witnesses be done by
12 the individual parties and not by a spokesperson
13 on a committee. And that's essentially it.

14 PRESIDING OFFICER IACOPINO: Is there
15 somebody who can -- is there anybody in your
16 group, Mr. Tanguay, that wants to speak, that
17 has something different to say or is of a
18 different mind?

19 MR. TANGUAY: I don't believe there
20 is. I'm looking in their direction. I don't
21 see anybody --

22 PRESIDING OFFICER IACOPINO: Okay.
23 Thank you.

24 MS. PASTORIZA: I do.

1 MR. TANGUAY: There's one person. I'm
2 sorry.

3 PRESIDING OFFICER IACOPINO: I'm
4 sorry. Ms. Pastoriza.

5 MS. PASTORIZA: Yup. Kris Pastoriza,
6 P-A-S-T-O-R-I-Z-A.

7 PRESIDING OFFICER IACOPINO: Speak
8 right into the microphone.

9 MS. PASTORIZA: I would suggest the
10 grouping of Sugar Hill, Easton and Franconia for
11 municipalities.

12 PRESIDING OFFICER IACOPINO: Okay.
13 Thank you.

14 What about from Municipal Group 3,
15 that southern group? Is there somebody who can
16 speak first for them?

17 MS. PACIK: Attorney Iacopino --

18 PRESIDING OFFICER IACOPINO: Oh, okay.

19 MS. PACIK: Concord actually is --

20 (Court Reporter interrupts.)

21 PRESIDING OFFICER IACOPINO: Hold on.
22 This is Danielle Pacik from Concord.

23 MS. PACIK: I'm from Concord. I was
24 designated as the temporary spokesperson. I've

1 already given Concord's position. But I do know
2 that other municipalities have their own
3 concerns, so I would just defer to them.

4 PRESIDING OFFICER IACOPINO: That's
5 where I'm getting to. Others in that group?
6 Yes. One at a time. You, way in the back
7 first. Identify yourself, please.

8 MR. MCGARRY: Fred McGarry, Town of
9 Deerfield. Although we share the transmission
10 lines in our town, as do many of the other
11 communities, we have a rather unique position,
12 in that we have a substation located in
13 Deerfield. So we may -- I'd have to check with
14 the members of the planning board and board of
15 selectmen to see if they want to have a special
16 status for Deerfield separate from the other
17 groups.

18 PRESIDING OFFICER IACOPINO: You
19 understand you'll have to file something within
20 that 10-day timeframe, Mr. McGarry.

21 MR. MCGARRY: Yes. Yes, I'm aware of
22 that. Thank you.

23 PRESIDING OFFICER IACOPINO: Ma'am.

24 MS. HARTNETT: Kate Hartnett, also

1 from Deerfield Conservation Commission. I have
2 four comments and a recommendation.

3 Deerfield has 4,000 people. We're a
4 smaller town. We have a select board. We have
5 a town administrator. We're all subject, as the
6 SEC is, to 91-A, which means we've got a very
7 slow process as well to deal with a lot of this
8 decision-making within the select board, as Fred
9 represented, and the planning board, and the
10 conservation commission that I represent. So I
11 hear you saying about 91-A, but it's broader
12 than just SEC, my point No. 1.

13 Secondly, this is a legal process, and
14 many of us have no legal counsel available
15 because we have no budget for legal counsel --

16 (Court Reporter interrupts.)

17 PRESIDING OFFICER IACOPINO: Can you
18 raise your voice, please, ma'am?

19 MS. HARTNETT: I'm speaking right in
20 the microphone. Do I need to repeat what I
21 said?

22 PRESIDING OFFICER IACOPINO: You said
23 you have no budget for legal counsel --

24 MS. HARTNETT: As a small town.

1 Correct. None of us have it in our budget.

2 Point No. 3. And did you get the
3 thing about 91-A?

4 PRESIDING OFFICER IACOPINO: Yeah, we
5 got that.

6 MS. HARTNETT: No. 3, the interests of
7 the planning board are different than the
8 conservation commission, or even than the select
9 board -- and we are all volunteers just
10 internally in our little town of 4,000 people --
11 because our jobs are different as volunteers.

12 No. 4, as Fred mentioned, Deerfield is
13 absolutely unique because of the terminus
14 substation and perhaps another substation
15 proposed in our town, which puts us in a unique
16 standing, in my view, along the transmission
17 corridor. But, you know, I'm not an attorney.
18 But we are unique.

19 So, finally, it seems to me that if we
20 can make recommendations -- and I've already
21 heard comments about how inherently unfair this
22 process is, especially for small towns, this SEC
23 process -- is there any possibility of getting
24 an appointed legal expert, at no cost to small

1 towns, to advise us on this process, and also
2 allow the groupings to be much smaller and
3 finer-grained so that like towns could be
4 represented with like towns and like
5 organizations with like organizations?
6 Grouping's a great idea, but we think they're
7 too macro. Thank you.

8 PRESIDING OFFICER IACOPINO: Thank
9 you. Actually, just before -- which group are
10 you with, sir, in the middle?

11 MR. BADGER: Eli Badger, Ashland Water
12 and Sewer Commission.

13 PRESIDING OFFICER IACOPINO: Okay. Go
14 ahead.

15 MR. BADGER: Group 3. We will be
16 requesting a review by the Committee because --
17 we all speak of "uniqueness" -- well, Eversource
18 is putting 10 towers -- wants to put 10 towers
19 through our water aquifer and next to our
20 lagoons, which are right next to the
21 Pemigewasset River. And that makes us unique,
22 what damage it could cost. And we would like to
23 be considered on a separate issue. Thank you.

24 PRESIDING OFFICER IACOPINO: I was

1 going to go -- yes, sir. Are you from one of
2 the towns?

3 MR. CRAXTON: Municipal Group 1.
4 Edward Craxton from Dalton. In addition to what
5 our temporary spokesperson, Attorney Whitley,
6 put forth, I wanted to suggest a natural
7 grouping of like towns, as was just mentioned,
8 of Dalton, Whitefield, Bethlehem and Littleton.
9 I understand we will have to file something to
10 that regard, but I wanted that on the record.

11 PRESIDING OFFICER IACOPINO: What's
12 the commonality there that you're looking for?

13 MR. CRAXTON: It's certainly
14 geographic and the ability to get
15 representatives together to agree on discovery
16 questions and whatever the issues might be. And
17 there are some local geographic commonalities as
18 well.

19 PRESIDING OFFICER IACOPINO: Okay.
20 Yes, ma'am.

21 MS. JENSEN: Cheryl Jensen from
22 Bethlehem. We think that the geographic
23 groupings are far too broad as well.
24 Geographically, I mean, we're talking about one

1 of the towns, I think it was Pittsburg, saying
2 that people up there don't even have Internet.
3 And so we would go for a smaller grouping.
4 Possibly Bethlehem, Dalton, Whitefield and
5 Littleton. But also, Bethlehem is unique, in
6 that we not only have transition lines --
7 transmission lines, sorry, burial and a
8 transition station. So I'm putting that out
9 there, for what it's worth.

10 PRESIDING OFFICER IACOPINO: Is there
11 anybody from any of those three town groups that
12 wanted to speak up?

13 (No verbal response)

14 PRESIDING OFFICER IACOPINO: I'm going
15 to go to the County Commissioners. We've got
16 two counties represented back there. Speak
17 right into that microphone, please.

18 MS. SAFFO: My name's Lara Saffo, and
19 I'm the spokesperson for today only for Grafton
20 and Coos Counties.

21 Grafton and Coos Counties are happy to
22 work together; however, we think we should be
23 separate groupings. Similar to what other towns
24 have expressed, we have no interest in seeing

1 issues duplicated and so forth. But both
2 Grafton and Coos County have over 1700 square
3 miles to begin with, numerous towns, city and so
4 forth. And putting us in one group puts
5 3400 square miles in one group. We don't feel
6 that's appropriate. We think Grafton and Coos
7 County should each be their own separate group.

8 PRESIDING OFFICER IACOPINO: Let me
9 ask you this: Have you given any thought to
10 whether or not Grafton or Coos might want to, as
11 a group, might want to participate with some of
12 the municipal members that are in your counties?

13 MS. SAFFO: I think that's a
14 possibility as well.

15 PRESIDING OFFICER IACOPINO: Do you
16 have any ideas as to what that might be?

17 MS. SAFFO: Yeah, I think we have to
18 sit down with the towns and identify the issues
19 and then look at the groupings after the issues
20 are identified. And the reason why I think
21 that's important is because, for example,
22 Ashland clearly has a very unique issue, a very
23 unique water and sewer issue that isn't the same
24 issue in other towns. So I think the towns

1 should be separate and have the ability to be
2 separate if they so desire. If towns want to be
3 grouped together, if the town selectmen meet and
4 decide they want to group, if Bethlehem,
5 Littleton and Dalton decide they want to group
6 together, I think that's fine. And maybe give
7 everybody -- the Right To Know Law applies. So,
8 give everybody as much time as we need to make
9 sure we put a proper notice in the papers and so
10 forth, and let the selectmen make the decisions
11 as to whether or not they want to group. And
12 then, that way, the towns that do have these
13 really unique issues -- everybody's unique, to
14 be clear there. But some towns might feel
15 comfortable grouping and then some towns might
16 not. Deerfield clearly is kind of in its own
17 category. So I think we should actually maybe
18 give everybody 21 days to decide if they want to
19 group with the proposed groupings, see what
20 people come up with, and then the Committee can
21 decide whether that will work or not. Again,
22 I'm kind of talking off the top of my head --

23 PRESIDING OFFICER IACOPINO: I
24 understand.

1 MS. SAFFO: -- but that's just one
2 idea. And again, Grafton and Coos are more than
3 happy to talk and make sure they're not
4 duplicating issues. We just feel like just
5 talking for 10 minutes, that we identified
6 numerous different issues from the beginning.
7 And so we sat there and said, jeez, we really
8 don't think we can be one group for the purposes
9 of the whole proceeding. For today, sure. But
10 moving on, no.

11 PRESIDING OFFICER IACOPINO: Let me
12 move on to the --

13 MS. SAFFO: One quick question.

14 PRESIDING OFFICER IACOPINO: Sorry,
15 Mr. Samson.

16 MR. SAMSON: Yes, Mr. Chairman. I'd
17 like to also reiterate what she said and dispel
18 one of the previous rumors. There are Internet
19 connections in Pittsburg; however, they are
20 dial-ups, so...

21 [Laughter]

22 MR. SAMSON: The Towns of Pittsburg,
23 Stewartstown and Clarksville, before this
24 notice, had formed a unit together, a grouping,

1 if you will. And as a county commissioner for
2 that district, we have absolutely no
3 transmission lines whatsoever in Coos County.
4 So that's one -- probably the most unique
5 situation of this whole proceeding. And I would
6 agree that we are more than willing to work with
7 Grafton County and appreciate their help and
8 information. But I do believe that we should
9 be, as the Coos County representative said, feel
10 we should be in our own group. Thank you very
11 much.

12 PRESIDING OFFICER IACOPINO: Thank
13 you.

14 I'm going to move on now to the
15 Abutting Property Owners from Clarksville to
16 Dalton, the Underground Group. That's the group
17 that contains, amongst others, Mr. and Mrs.
18 Jordan. Mr. and Mrs. Levesque I believe were
19 over here. Have you guys got somebody to speak
20 for you here?

21 MR. LEVESQUE: Yes, this gentleman
22 over here.

23 PRESIDING OFFICER IACOPINO: Go ahead,
24 sir. Tell us your name first.

1 MR. THOMPSON: Brad Thompson, Bear
2 Rock Road in Stewartstown. There are seven or
3 eight direct abutters of the roads in
4 Stewartstown and Clarksville that at this point
5 I'll be representing: The Levesques, Nancy
6 Dodge, the Jordans, Rod McAllaster, Lynne
7 Placey, Arlene Placey, myself and one more.
8 Anyway, there are eight abutters.

9 PRESIDING OFFICER IACOPINO: Okay.
10 And is there dissatisfaction with that grouping?

11 MR. THOMPSON: That grouping is fine.
12 Thank you.

13 PRESIDING OFFICER IACOPINO: How about
14 the overhead portion in the areas from
15 Clarksville to Dalton? That's the group that
16 contains Mr. and Mrs. Jones, Mr. and Mrs.
17 Lupton, the Olsons. Is there somebody
18 designated to speak for that group?

19 MR. CUNNINGHAM: Mr. Chairman, Art
20 Cunningham.

21 PRESIDING OFFICER IACOPINO: I'm
22 sorry. I just didn't see you back there, Art.

23 MR. CUNNINGHAM: I'm back here.

24 PRESIDING OFFICER IACOPINO: Speak

1 right into that microphone so that you're heard.

2 MR. CUNNINGHAM: Thank you. I've been
3 retained to represent Kevin Spencer and Mark
4 Lagasse. I do not represent the group. I don't
5 know anybody that does. Let me express my
6 concern for the record.

7 My hire by these clients was based on
8 the fact that they have a substantial investment
9 in the property --

10 PRESIDING OFFICER IACOPINO: You're
11 going to need to speak right into that mic
12 because you're behind that pole and the court
13 reporter can't see your lips.

14 MR. CUNNINGHAM: Sorry, Mike.

15 So, my concern is that of a lawyer.
16 If a group leader is appointed, and it's not a
17 group leader that is answerable to me as an
18 attorney, how can I effectively represent Mark
19 Lagasse and Kevin Spencer if a group thing or
20 group decision interferes with what my judgment
21 is to effectively represent these folks? That
22 will create seriously substantial difficulties
23 for my ethical responsibilities for them and my
24 advocacy responsibilities to them. So on their

1 behalf, I'm going to file a motion to have them
2 separated so that the group or group thing or
3 the group leader does not in any way impair my
4 ability to effectively represent my clients.

5 PRESIDING OFFICER IACOPINO: Okay. Is
6 there anybody -- I understand that, Mr.
7 Cunningham. Obviously, it's not a decision that
8 I can make. It's a decision that will, once you
9 file, will fall to the full committee to make,
10 and they will have to consider those concerns in
11 making their decision. Obviously, your
12 primary -- your only allegiance is to your own
13 clients. No question about that. Whether or
14 not there is a way to deal with that within a
15 group is a different issue that the Committee
16 will have to consider.

17 Is there anybody else from that group
18 of intervenors who wishes to speak? Mr. Baker?

19 MR. BAKER: Yes. I happen to be in a
20 position where my four clients have been grouped
21 in three groups. I thought I was doing a favor
22 to everyone by representing four, at great risk
23 to conflict problems that could arise in the
24 future. I'm very concerned about that issue

1 with respect to the groupings, and I have
2 declined to represent any more clients in this
3 process, other than the four that I was retained
4 by I think four and a half years ago. My bad.
5 In any event, I'm here representing those four.
6 I have instructions from some of them to seek
7 review so that they can stay together. They do
8 have some common issues legally which I will
9 spell out in the motion for review. And I will
10 also spell out as best I can the ethical issues
11 that I see. Perhaps there's a way for the
12 Committee to help me resolve those. But I'm at
13 the point where I'm filled up with clients and
14 won't be representing any more than the four
15 I've got.

16 PRESIDING OFFICER IACOPINO: And
17 understand that just because you may be
18 grouped -- or your clients may be grouped
19 doesn't mean that the order is requiring any
20 attorney to represent individuals who have not
21 retained that attorney. It just means the group
22 will be represented through the grouping for the
23 various purposes of the Site Evaluation
24 Committee at whatever stage we're at at the

1 time. The order as it exists now, and any
2 subsequent order I'm fairly sure, will not be
3 requiring any counsel, any lawyer, to represent
4 somebody who he or she has not been hired by.
5 And I don't think that's the intent of the order
6 as it exists today, just so that everybody
7 understands that. I understand, however, that
8 your clients may want different groupings. We
9 welcome your petition for review by the full
10 committee with respect to the groupings that
11 exist today. It would be nice if everybody --
12 if every lawyer had several clients and we could
13 just do it by lawyer and group them that way,
14 but unfortunately, as we know, it's not the
15 case.

16 Anybody else in this group of
17 intervenors from the overhead portion of the
18 Project from Dummer -- from Clarksville through
19 Dalton that wanted to speak? Yes, sir, way in
20 the back. And please make sure you speak into
21 the microphone and tell us your name.

22 MR. BREKKE: Yes. My name is Bruce
23 Brekke. I'm from Whitefield, and I'm not an
24 attorney. And I don't yet fully understand

1 these proceedings. I'm learning a lot here.
2 Many of our group are individuals that are not
3 present today. And the question I have is how
4 does one go about rounding up the 17 parties
5 listed in the group to gather opinions and
6 consensus for a true representation? I think
7 that Committee appointment of a legal
8 representative be assigned to coordinate the
9 group should be considered.

10 PRESIDING OFFICER IACOPINO: Okay. Is
11 there anybody else from that group?

12 (No verbal response)

13 PRESIDING OFFICER IACOPINO: I can
14 tell you -- and this isn't good news -- there is
15 no right to the group to court-appointed
16 counsel, so to speak. There is no right to
17 anybody to have counsel appointed for them and
18 not be paid for by themselves. So that's about
19 as much as I can say about that at this point.
20 It's not something that the Committee has
21 traditionally done, nor has -- and the next
22 question, I'm sure, is, "Why isn't the Applicant
23 paying for my lawyer?" That's not something
24 that has traditionally been done before the

1 Committee. The public's interests have
2 generally been represented by Counsel for the
3 Public. And folks who have chosen to intervene,
4 who seek intervention and are allowed to
5 intervene, generally have been required to hire
6 their own lawyer if they wish to be represented
7 by a lawyer. So I just point that out because
8 it's the second time that somebody's mentioned
9 court-appointed -- not court-appointed, but
10 appointed counsel. And by the same token, it
11 was mentioned by one of the municipalities as
12 well; the same thing goes for municipalities.

13 I do want to address the other part of
14 your question, though, about getting in touch
15 with people. Everybody who -- and this isn't
16 going to be a popular statement either. But
17 everybody who seeks to intervene has a
18 responsibility as well to participate and to be
19 involved. If you want to intervene, and you've
20 gone through what I'm sure has been a hassle for
21 most of you so far, there is a responsibility to
22 proceed and to do that. And one way is by
23 talking to other parties and talking to other
24 people within your intervenor group and sharing

1 the workload. That's one of the reasons why
2 these groupings in other cases that we've had
3 before the Site Evaluation Committee have worked
4 fairly well. In the Antrim Wind docket of
5 2012 -- there's been several of them, but the
6 one where the application was actually denied --
7 the certificate was denied after an adjudicative
8 hearing. There were, I believe, I think it was
9 17 grouped parties or something like that.
10 Maybe it was 11. The hearing was 11 days and
11 maybe there were 17 parties. And they were
12 grouped. But they did a very nice job of
13 working with each other, albeit a smaller
14 geographic area. The town of Antrim is not
15 quite Coos or Grafton County. It's not
16 192 miles long. But they did a very nice job,
17 and it worked very well. And indeed, they also
18 brought witnesses to the proceedings that were
19 extremely helpful to the Subcommittee in that
20 particular case.

21 So, you know, I understand this is a
22 foreign process to many folks in the room today
23 and somewhat scary, but it can work. But it
24 does take the members of your group to work with

1 each other.

2 So the best answer that I can give to
3 the first part of your question is to get in
4 touch with those folks either by e-mail or by
5 phone, or by whatever other means is available
6 to you, and try to meet with them and try to do
7 the legwork that it takes to be a party to this
8 proceeding, or any other proceeding, whether
9 it's in a courtroom or before an administrative
10 agency.

11 You had something to add. I'm sorry.
12 I spoke too long.

13 MR. BREKKE: You covered it. I was
14 just going to point out the geographic
15 constraint, that from Dummer to Dalton is a lot
16 different than just citizens that are --

17 PRESIDING OFFICER IACOPINO: And
18 please understand that is not lost on the
19 Chairman of the Committee or the Committee
20 itself, okay. We understand that it is an
21 immense project.

22 Was there anybody else from that
23 group -- which is the Dummer, Stark,
24 Northumberland, Whitefield, Dalton -- Abutting

1 Property Owners Group, that wanted to speak with
2 respect to this issue of consolidation?

3 (No verbal response)

4 PRESIDING OFFICER IACOPINO: Okay.
5 I'm going to move on to the Non-Abutting Owners
6 from Clarksville to Bethlehem. That's the group
7 that has Mr. Martin; Mr. Moore, Jr.; Mr.
8 Kaufman, the Orzeks. That group. Is there a
9 spokesperson for that group somewhere, first
10 off, from our caucusing? Mr. Thompson.

11 MR. THOMPSON: Brad Thompson again.
12 We've been -- this is a very, very large group.
13 And we have started communications, but we do
14 not a spokesman at this point. I'm not sure how
15 we feel about breaking the group down into
16 tighter geographical areas, but we know we have
17 until the 28th to respond.

18 PRESIDING OFFICER IACOPINO: I would
19 encourage you to do the best you can to
20 coordinate as much as you can with respect to
21 that group.

22 I'm going to move on to Abutting
23 Property Owners from Bethlehem to Plymouth.
24 That's the group that includes Mr. Manley and

1 Ms. Ratzel, the Cumbees, Mr. Palmer, Mr. Grote,
2 Mr. Wolf, Ms. Schibanoff. Is there somebody,
3 first, who can speak for that group? Yes,
4 ma'am.

5 AUDIENCE MEMBER: I have a question --
6 (Court Reporter interrupts.)

7 PRESIDING OFFICER IACOPINO: Your
8 name, please.

9 MS. JENSEN: Cheryl Jensen. Is there
10 any way to have an extension of that 10 days to
11 whatever it is to appeal these groupings? I
12 mean, listening to what other people are saying
13 also, I'm not sure if we want to get together
14 with the other towns that we can just do it by
15 e-mail. I guess we have to have a meeting. So
16 I'm just throwing that out there.

17 PRESIDING OFFICER IACOPINO: There is
18 a way where you can make a procedural motion to
19 the Chair of the Committee and ask for an
20 extension of the deadline. I can't speak for
21 what the Chair will do. Obviously, other
22 parties in the proceeding, including the
23 Applicant, have the right to object to that
24 request.

1 And that actually goes to one of the
2 issues that we have in the case. We do have
3 statutory deadlines, and this case is supposed
4 to be resolved within 365 days of acceptance.
5 And the reason why is because one of the main
6 purposes of RSA 162-H is to provide a timely
7 response, timely consideration of new energy
8 facilities. And the legislature over the years
9 has gone back and forth on how short or how long
10 that timeframe should be. For this particular
11 case, it's 365 days from the date of acceptance,
12 which means that we have to complete this
13 docket, including a written decision, which I
14 expect will be well in excess of 100 pages, by
15 December 18th, I believe it is, or something
16 like that. And that's the timeframe that the
17 Committee has to work within. We're going to
18 talk a little bit about scheduling and
19 timeframes in more detail in a little bit on the
20 agenda. But as a general rule, that's what we
21 are dealing with here is a one-year process. So
22 I hope that answered your question.

23 Is there anybody from this group,
24 though --

1 MR. PALMER: Yes. My name is Walter
2 Palmer. I'm the spokesman for this group. Our
3 group hasn't had an opportunity -- our group has
4 not had an adequate opportunity to consider this
5 issue completely. However, several members of
6 the group have already expressed to me that they
7 feel the grouping is unworkable because of the
8 size and the disparity of the issues faced by
9 the members of the group. I know at least two
10 members of the group intend to file petitions to
11 the Committee for reconsideration of the
12 grouping. One of them wishes to speak right
13 now, Susan Schibanoff.

14 PRESIDING OFFICER IACOPINO: That's
15 fine. But before we go to Ms. Schibanoff, Mr.
16 Palmer, is there any discussion -- I know you
17 guys were back there talking for a while. Is
18 there any discussion about any breakdown within
19 the group?

20 MR. PALMER: Some ideas of maybe
21 considering breaking down according to town, or
22 perhaps breaking down according to separating
23 abutters who are on the main street of a town
24 from those abutters who are out in a rural area,

1 because people on main streets of towns face
2 very different issues from the people who are
3 out in the residential and rural areas.

4 PRESIDING OFFICER IACOPINO: Ms.
5 Schibanoff.

6 MS. SCHIBANOFF: Thank you. I believe
7 I have already filed this for review. But
8 listening to your comments --

9 PRESIDING OFFICER IACOPINO: You're
10 going to need to speak into --

11 MS. SCHIBANOFF: I believe I have
12 already filed this request for review. But
13 listening to your comments today, I will
14 reiterate this more clearly. I will request the
15 creation of a group that, as far as I can tell,
16 has not been recognized, does not exist. It
17 will be abutters and non-abutters on the legally
18 required alternative overhead route, Bethlehem
19 to Ashland.

20 PRESIDING OFFICER IACOPINO: And
21 who -- do you know from our list here which
22 parties would be sort of shifted into that
23 group?

24 MS. SCHIBANOFF: I know of at least

1 two people, I believe, who filed on these
2 grounds and were denied. And I believe that
3 there would be other people, if the group
4 exists, who would now file late petitions.

5 PRESIDING OFFICER IACOPINO: Okay.
6 All right. Well, they're certainly free to do
7 that. But my question is, are there people
8 already been granted intervention status and
9 have been grouped, but would be, at least in
10 your view, if this group is created, shifted
11 into that particular group?

12 MS. SCHIBANOFF: I would be in both
13 groups. I would be in the Middle Abutter
14 Underground by virtue of nationally registered
15 property that I own along 116. I would be in
16 the new group as well by virtue of property I
17 own in Easton that was on the preferred route
18 for five years until the new route was
19 preferred; yet, that former preferred route
20 remains an alternative in the SEC application.

21 PRESIDING OFFICER IACOPINO: Is there
22 anybody else in the room who thinks that they
23 would better fit into that group that Ms.
24 Schibanoff just described? And we'll start with

1 Ms. Pastoriza.

2 And what's your name, sir?

3 Microphone, please.

4 MR. TUVESON: Bob Tuveson, Holderness.

5 PRESIDING OFFICER IACOPINO: Thank
6 you, Ms. Schibanoff.

7 Is there anybody else from this group
8 who wanted to address the grouping issues?

9 AUDIENCE MEMBER: Mr. Chairman, one of
10 the --

11 (Court Reporter interrupts.)

12 PRESIDING OFFICER IACOPINO: Mr.
13 Palmer, if you can say your name again and speak
14 right into that microphone, please.

15 MR. PALMER: I'm sorry. This is
16 Walter Palmer. One other idea that came up
17 during our discussion was separating the group
18 and breaking it down according to those people
19 who actually own land underneath the road
20 right-of-way, separating those from people who
21 own land right up to the edge of the
22 right-of-way, because the people who own land
23 underneath the right-of-way feel that their
24 property rights are being infringed upon and

1 have different issues from those who do not --

2 (Court Reporter interrupts.)

3 PRESIDING OFFICER IACOPINO: You're
4 going to have to repeat that last part of your
5 sentence. "From those who do not..."

6 MR. PALMER: People who own land under
7 the right-of-way feel that they have an issue of
8 having their property rights infringed upon,
9 which is separate from the issues faced by
10 people who do not own land underneath the
11 right-of-way.

12 PRESIDING OFFICER IACOPINO: If
13 somebody is going to file a request with the
14 Committee to do that, they need to be specific
15 about who is who, okay, because that's one of
16 the issues that is difficult to determine
17 amongst the petitions to intervene that have
18 been filed. So, just a word of advice. And it
19 goes back to what I said before about being as
20 specific as possible.

21 Anybody else from this group?

22 (No verbal response)

23 PRESIDING OFFICER IACOPINO: Okay.
24 I'm going to move on, then, to the Non-Abutting

1 Property Owners from Bethlehem to Plymouth.
2 This was the group that was a relatively small
3 group that included Mr. Sullivan -- or I'm
4 sorry -- Lee Sullivan, Stephen Buzzell, Tim and
5 Rebecca Burbank, 41 Dyke Road, LLC. Is there
6 somebody to speak for this particular group?

7 (No verbal response)

8 PRESIDING OFFICER IACOPINO: Okay.
9 Now for the Abutting Landowners from Ashland to
10 Deerfield. Where is that group located here?
11 Okay. Have you -- were you guys successful in
12 pointing out a temporary spokesperson? Ms.
13 Menard.

14 MS. MENARD: Yes, thank you. A few
15 comments from our group.

16 We as a group respect Phil and Joan
17 Bilodeau's request to seek individual standing
18 in the process, and we support his efforts to do
19 so.

20 Deerfield, we discussed the fact that
21 Deerfield has a large number of intervenors, as
22 does Michelle, representing McKenna's Purchase,
23 and whether or not it would be an advantage to
24 separate out those groups. We have not come

1 to -- we'd like further questions answered,
2 however, before making formal subgroups. So
3 they may be best served by forming a geographic
4 grouping. But before deciding, we do recognize
5 that there are several members of the group that
6 are not present here today, so we would want to
7 have their opinions weighed in on. If forming
8 smaller groups for purposes of expediency limits
9 us in any way, such as, you know, does it affect
10 in any way our ability to request data, you
11 know, during the SEC process, we would like to
12 be advised of how forming smaller groups might
13 affect us and have that discussion before making
14 that final decision.

15 Similarly, one last comment. If
16 grouping prohibits a single member or other
17 members of one group from participating in
18 discussion or issues of importance in other
19 groups in any way, we would like to be advised
20 of this reality. And I'll give an example. For
21 instance, I might be very concerned about the
22 Applicant's representation that they have a
23 legal right to use the right-of-way. This is a
24 hot topic, and maybe there's a group in the

1 north that is very active and that is their
2 primary concern. You know, how does one be
3 allowed to, you know, separate out and join in
4 that discussion? So there are a few questions
5 that we would like to be advised on before
6 formally, you know, splitting off into these
7 geographic subgroups.

8 PRESIDING OFFICER IACOPINO: I can't
9 give you legal advice, but I can tell you that
10 the order that was issued does not limit any of
11 the intervenor groups from weighing in on any
12 particular subject. So the intervenor group
13 that is the Non-Abutting Property Owners from
14 Ashland to Deerfield, certainly at least at this
15 point in the proceeding, have the opportunity to
16 address issues of right-of-ways in the North
17 Country. There is -- the Chair is permitted
18 under the Administrative Procedures Act to limit
19 participation by issue like that. However, the
20 current order that has been issued does not do
21 that; it simply groups in combinations of
22 individuals. That doesn't mean it's going to be
23 that way all the way through. If things change
24 and the chairperson believes that there's some

1 reason to place limitations on issues, issue by
2 issue, you know, he has that authority to do
3 that under the Administrative Procedures Act.
4 But right now, that's not what the order does.

5 MS. MENARD: Okay. Thank you. I
6 might add that our group may benefit from
7 another short-term caucus, and we might have
8 further discussion about the subgroups,
9 Deerfield, McKenna's Purchase, and how that
10 affects other groups if possible.

11 PRESIDING OFFICER IACOPINO: Well, I
12 promised our court reporters that we would stop
13 at 1:00 for lunch. So you'll have that
14 opportunity over lunch, okay.

15 MS. MENARD: Thank you.

16 PRESIDING OFFICER IACOPINO: The next
17 group is the Non-Abutters from Ashland to
18 Deerfield. This is the group that includes --
19 oh, I'm sorry. Back to the prior group.

20 I understand Ms. Menard was speaking
21 on behalf of some folks from Deerfield. I
22 understand there's some folks from Concord here,
23 and I understand Mr. Bilodeau has a separate
24 issue. Other than those -- other than Mr.

1 Bilodeau and Concord, is there anybody from that
2 group -- okay, Ms. Lee. Okay. All right. I'm
3 going to go with Mr. Bilodeau and then -- what
4 town are you from, ma'am?

5 MS. LEE: Northfield.

6 PRESIDING OFFICER IACOPINO: Northfiel
7 d. I'll go to you, and then I'll go to anybody
8 from Concord that wants to address from this
9 group.

10 Mr. Bilodeau.

11 MR. BILODEAU: Thank you, Mr.
12 Iacopino. I would just repeat the position of
13 Joan and Phil Bilodeau and indicate that we have
14 filed the appeal to request a reconsideration of
15 the order for petition to intervene. Thank you.
16 The letter's been sent.

17 PRESIDING OFFICER IACOPINO: Mr.
18 Bilodeau, one question. Is there anybody in
19 proximity to your property that had moved to
20 intervene, was granted intervention, that is in
21 a similar position?

22 MR. BILODEAU: Not to my knowledge. I
23 have not been able to find anyone in Deerfield.
24 And I don't know if Franklin has anyone next to

1 their structure. I do not know that, sir.

2 PRESIDING OFFICER IACOPINO: Okay.

3 Thank you.

4 Ms. Lee from Northfield.

5 MS. LEE: I am alone in the list from
6 Northfield, and some of the caucus conversation
7 revolved around where is Northfield. Just to
8 tell everybody, it was considered the "northern
9 field" of Canterbury, and it was divided quite a
10 while ago.

11 As an individual, I don't know who the
12 other people are in my group of abutting
13 property owners from Ashfield [sic] to
14 Deerfield. So our spokesperson, Jeanne Menard,
15 did a good job in summarizing that we have to
16 have another caucus and see where the interests
17 lie. I find that the bullet points that she
18 read off for the group in Deerfield don't
19 exactly represent what I would be concerned
20 about, but they're close enough.

21 PRESIDING OFFICER IACOPINO: Well,
22 work with her and that would be great.

23 Okay. And then I said I know there's
24 a fair number of folks from Concord in that

1 group as well. Did anybody want to speak from
2 Concord or from any other town in that group?
3 Okay. Let's start with McKenna's Purchase.

4 MS. KLEINDIENST: McKenna's Purchase,
5 Michelle Kleindienst. We may or we may not stay
6 within the grouping, and if we choose not to,
7 we'll file the request with the SEC.

8 PRESIDING OFFICER IACOPINO: Okay.
9 Mr. Kucman.

10 MR. KUCMAN: I have no objections to
11 being a member of a group with my neighbors.
12 Thank you very much.

13 PRESIDING OFFICER IACOPINO: Okay.
14 There was somebody to my left. Yes, ma'am.

15 MS. HARTNETT: I'm sorry. I was just
16 doing my geography. Again, Kate Hartnett from
17 Deerfield. Mr. Bilodeau actually shares being
18 an abutter with the Town of Deerfield with a
19 town/forest conservation easement. And I don't
20 know if that was your question. I thought I
21 would mention it. But that's adjacent to the
22 substation.

23 PRESIDING OFFICER IACOPINO: Okay.
24 Thank you. The next group is the Non-Abutters

1 from Ashland to Deerfield. This is the group
2 that includes the Tuvesons, the Grays, the
3 Felgates, the Webster Family Group, the Foulkes.
4 Where is -- is that group somewhere? Okay.

5 MS. MUMFORD: This is Margaret Mumford
6 from the Webster Family Group. I'm --

7 PRESIDING OFFICER IACOPINO: You need
8 to speak right in. You're not coming in over
9 the loud speakers up here.

10 MS. MUMFORD: Margaret Mumford from
11 the Webster Family Group, representing today
12 this group as temporary spokesman.

13 First, I'd ask that the record,
14 whenever "Ashfield" is stated, that that be
15 entered into the record correctly as "Ashland,"
16 New Hampshire. And there have been several
17 instances. So that's okay.

18 And I'd like to acknowledge that we
19 appreciate the recognition of the impacts upon
20 our properties that results in our intervenor
21 status. We do have concerns about the
22 geographic disparity and the different interests
23 from Bridgewater especially down to the terminus
24 down in Deerfield. But those of us that are

1 here for now are agreeable to our grouping.
2 Note that we have several members that are not
3 here.

4 We would also like to observe that,
5 effectively, legal counsel as spokespeople is
6 being discouraged in the current scenario due to
7 the perceived ethical conflicts and conflicts of
8 interest, and that would be unfortunate because
9 they're much more well-spoken than folks like
10 me.

11 PRESIDING OFFICER IACOPINO: Well,
12 it's nobody from the Committee who is
13 discouraging anybody from obtaining counsel.
14 You are all encouraged to obtain counsel. The
15 issue of the consolidation of groups for the
16 purposes of appearing before administrative
17 agencies is not a new issue for counsel. It's
18 been addressed by lawyers many times. It is a
19 process that is permitted. And there are ways
20 that counsel can deal with the ethical issues
21 that counsel face under those circumstances,
22 just so you know. So if some lawyer is saying
23 to you, "I don't want to do it because I don't
24 want to be faced with these ethical issues,"

1 well, I would keep shopping, because there are
2 ways in which it can be done. Is it the normal
3 course? No, it's not normal. But it can be
4 accomplished, and it is accomplished very often
5 in front of the SEC, in front of the PUC, in
6 front of many state agencies where there is a
7 combination of intervenors.

8 MS. MUMFORD: Thank you for addressing
9 that concern.

10 PRESIDING OFFICER IACOPINO: Okay. I
11 guess we move on to the NGOs. I'll turn over to
12 the Forest Society. Did you want to weigh in at
13 all on the groupings of intervenors?

14 MS. MANZELLI: No. Thank you, Mike.

15 PRESIDING OFFICER IACOPINO: The
16 Environmental NGOs, which include Appalachian
17 Mountain Club, Conservation Law Foundation,
18 Sierra Club and Ammonoosuc Conservation Trust.

19 MS. BIRCHARD: Hi, Melissa Birchard.
20 I have to put on two hats. So, first of all,
21 I'll put on my Conservation Law Foundation hat,
22 and then I'll put on a hat that serves as
23 spokesperson for the group here.

24 PRESIDING OFFICER IACOPINO: Thank

1 you.

2 MS. BIRCHARD: First, Conservation Law
3 Foundation does have great reservations about
4 its consolidation in this matter, and it intends
5 to file an objection to that effect.

6 Second hat. We're a little concerned
7 that it may be inappropriate to collect input as
8 to groupings before the parties have a more
9 complete sense of what it means to be
10 represented by a designated individual. That
11 said, we do have some provisional suggestions.

12 We would suggest that the Committee
13 designate two points of contact to convey
14 written pleadings, without a requirement that
15 all members of each group reach a consensus on
16 all those pleadings. The benefit of two points
17 of contact would be to share the burden, to
18 allow for conflicts with vacations, among other
19 benefits of two points of contact.

20 Secondly, all members of the groups
21 should be able to participate individually at
22 cross-examination and in technical sessions. I
23 think you spoke earlier to cross-examine and
24 confirmed that this would be the case. It would

1 also be advantageous to confirm this is the case
2 as to technical sessions.

3 PRESIDING OFFICER IACOPINO: And just
4 while you're on that issue, at technical
5 sessions we've done that as well, where groups
6 have shared so-called "spokesperson duties" at
7 the technical session, in that one person took
8 the load on, say the environmental issues, and
9 another person, you know, carried the weight on
10 the visual and things like. So there have
11 been -- in the past, that's something we are
12 used to and have done during technical sessions.

13 For those of you who don't know what a
14 technical session is, we're going to talk about
15 that in a little bit. So we'll get to it. But
16 Ms. Birchard is well familiar with them, so I
17 wanted to let her know that we do indeed do that
18 during the course of our technical sessions, and
19 it has been done in many of our cases.

20 MS. BIRCHARD: That's the extent of
21 our comments at this point.

22 PRESIDING OFFICER IACOPINO: Is there
23 anybody else from that particular group that
24 wishes to weigh in? If not, I'm going to turn

1 to the Historical NGOs. The National Trust for
2 Historic Preservation, where was that
3 representative? Thank you.

4 MS. WILLIAMSON: Sharee Williamson,
5 National Trust for Historic Preservation.
6 Currently our groups do not have a plan to file
7 an objection to being grouped together, but that
8 final decision hasn't been made. And I also
9 would support the recommendations just made by
10 Ms. Birchard, in terms of how to handle sharing
11 the load for technical sessions, and also
12 appointing possibly two points of contact, even
13 if that might be, in our case, two people from
14 National Trust, just for coverage in the sense
15 for things like vacations as she mentioned. So,
16 thank you.

17 PRESIDING OFFICER IACOPINO: Okay.
18 I'm going to go down to the grouping -- this
19 isn't a grouping, but the business
20 organizations. I think we've already heard from
21 the City of Berlin. I don't believe anybody's
22 here from Cate Street Capital. We've already
23 heard from IBEW.

24 Coos County Business Group? Is there

1 somebody here, and do they want to weigh in on
2 those grouping issues?

3 (No verbal response)

4 PRESIDING OFFICER IACOPINO: North
5 Country Chamber --

6 AUDIENCE MEMBER: Excuse me.

7 PRESIDING OFFICER IACOPINO: Yes,
8 ma'am.

9 MS. WILLEY: Lee Willey, on behalf of
10 the Coos County Business and Employers Group.
11 We take no issue with the groupings.

12 PRESIDING OFFICER IACOPINO: Okay.
13 Thank you.

14 Ma'am, over here. Please repeat your
15 name. We didn't get it.

16 MS. NANASI: Yvonne Nanasi,
17 N-A-N-A-S-I, with the North Country Chamber of
18 Commerce. We appreciate our current status and
19 certainly hope to retain it. Thank you.

20 PRESIDING OFFICER IACOPINO: I don't
21 believe anybody was -- oh, I'm sorry, Mark.
22 Mark Beliveau. Any position with respect to the
23 groupings on behalf of Dixville and Balsams?

24 MR. BELIVEAU: No, we have no comment.

1 PRESIDING OFFICER IACOPINO: And I
2 don't think we had a representative from Wagner
3 Forest here. Has that changed?

4 (No verbal response)

5 PRESIDING OFFICER IACOPINO: And then
6 the Pemi River Local Advisory. Any comments on
7 groupings?

8 MR. STAMP: At this stage of the
9 process, we're content with our position. Thank
10 you.

11 PRESIDING OFFICER IACOPINO: Is there
12 any group that I've missed?

13 (No verbal response)

14 PRESIDING OFFICER IACOPINO: Okay. I
15 will reiterate only one thing because I think
16 we've got an idea of what people are thinking.
17 One thing I'll reiterate is that I don't get to
18 make this decision. It's going to be made by
19 the full committee. And if you want a change in
20 your status or a change in the way you're
21 grouped, or if you have been denied intervention
22 and wish to appeal that to the full committee,
23 right now the deadline is the 28th, okay. So,
24 thank you all for participating.

1 I will tell you this seems a little
2 stilted than the more typical type of prehearing
3 conference that we have, where we have maybe
4 only three or four or maybe five parties. This
5 takes a little more of an informal way, and it's
6 not as much of a turn-by-turn.

7 Ms. Menard, do you have a question?

8 MS. MENARD: Yes, thank you. Jeanne
9 Menard. If, for instance, a group of Deerfield
10 intervenors decided to ask for separate
11 intervenor status as a group, do we all do that
12 individually, or can one motion be made on
13 behalf of a group? What would be -- how do we
14 handle something like that?

15 PRESIDING OFFICER IACOPINO: You can
16 do that either way. But I have to leave it to
17 you to decide what best represents your
18 interests. That would be legal advice. I can't
19 give you that. But you --

20 MS. MENARD: Okay.

21 PRESIDING OFFICER IACOPINO: You can
22 do it either way.

23 MR. ROTH: Mike, if I may?

24 PRESIDING OFFICER IACOPINO: Yes, sir.

1 MR. ROTH: Peter Roth, Counsel for the
2 Public.

3 PRESIDING OFFICER IACOPINO: I'm
4 sorry. I didn't ask you. What's your view,
5 Peter?

6 MR. ROTH: There's only one thing that
7 I wanted to speak to, and that was your
8 suggestion that Counsel for the Public
9 represents the public interests. And while that
10 is true, I don't think -- and I think I've been
11 very plain about this repeatedly in the public
12 meetings where I've spoken on it. We don't
13 represent any individual intervenors or any of
14 the intervenor's interests. The approach that
15 we take to a case may coincide or harmonize with
16 a particular intervenor's needs or views, but we
17 don't have a mission to represent those
18 interests in any way and to protect them. So
19 it's important that every intervenor not say,
20 "Well, Counsel for the Public is looking out for
21 us. We don't need to worry about it." They
22 need to be vigilant for their own purposes. And
23 I would recommend anybody in this process with a
24 sane and sound mind retain counsel. And that

1 may drive their counsel to madness as well,
2 but... I just wanted to make sure there's no
3 misunderstanding about my role.

4 That said, I have been and will
5 continue to be responsive to people who look for
6 information about the process itself and how to
7 participate in it. I cannot give legal advice
8 to anybody. But I have been and will continue
9 to be helpful to people who have particular
10 questions about how this process works.

11 PRESIDING OFFICER IACOPINO: I
12 appreciate that. I second the advice that if
13 you can employ a lawyer, employ a lawyer, and
14 also to have a dialogue with Mr. Roth. He is
15 very experienced in these matters. And although
16 he can't represent individuals, he is a -- he's
17 got a lot of information about the process that
18 he can share with you and a lot of observations,
19 I'm sure.

20 I want to turn to the Applicant --
21 yes, Commissioner Samson.

22 MR. SAMSON: Yes, Mike. Rick Samson
23 again. I just have a question on the appeals
24 timeframe. Would it be appropriate now, or

1 should I wait until No. 6?

2 PRESIDING OFFICER IACOPINO: Now would
3 be the best time to ask the question. What's
4 the question?

5 MR. SAMSON: Okay. The question, or
6 thought, I guess, would be that I received this
7 notice at 4:30 p.m. on Thursday, and four days
8 have already gone by in the 10-day appeal time.
9 So I would respectfully request that the
10 Committee look at and possibly grant an
11 extension, because I believe that an extension
12 would not cause any obstacle to the Applicant,
13 but it does cause a significant hindrance to the
14 intervenors. So I would respectfully ask that
15 that be --

16 PRESIDING OFFICER IACOPINO: As I said
17 before, I'm not in a position to rule on
18 anybody's motions. And that motion to be made
19 actually has to be made in writing, so that if
20 anybody is inclined to make such a motion, which
21 is basically to extend that deadline, you will
22 have to do it in writing, and it will be ruled
23 on by the Chair of the Subcommittee.

24 MR. SAMSON: As a follow-up, Mike?

1 PRESIDING OFFICER IACOPINO: Yes, sir.

2 MR. SAMSON: Would they consider a
3 motion from each individual, or would they
4 consider a number of those motions as a group?
5 In other words, if I was to apply for an
6 extension, would they consider that an extension
7 just for me, or would they consider it an
8 extension for the entire group?

9 PRESIDING OFFICER IACOPINO: I suppose
10 it depends on what you request in the motion and
11 the way you request it. But I don't want
12 anybody out there to get the wrong idea that
13 they should not file their own motion if they
14 believe they need the additional time, just so
15 you know, because I wouldn't want anybody to get
16 the wrong idea that somebody else is doing this
17 and then it doesn't happen, if that's something
18 somebody wants to do.

19 So the takeaway for everybody is, you
20 know, this is an individual, not a group thing.
21 You all filed motions to intervene. That's why
22 you're here. If you need -- if you feel the
23 need to appeal that for some reason, you do have
24 to represent your own interests and file your

1 own motions with the Committee to represent your
2 interests in whatever fashion you believe is
3 necessary, whether that's filing and requesting
4 an appeal of your grouping or seeking additional
5 time to file something. You have to represent
6 your own interests, and you should not rely on
7 that somebody else might do it.

8 Yes, Ms. Mumford.

9 MS. MUMFORD: Yes. Is the question of
10 the definition of "abutter" versus "non-abutter"
11 status up for reconsideration during this
12 process?

13 PRESIDING OFFICER IACOPINO: You can
14 certainly raise it in a motion. I mean, I think
15 that's obviously the way that the Chair broke
16 out the groups. If you think that's an
17 inappropriate way to do it, or it wasn't
18 accurate in terms of putting people who are
19 truly abutters or not truly abutters in the same
20 group, you're certainly free to raise that in
21 your motion for review by the Committee. So, is
22 it -- yes. I mean, it's something that you're
23 free to raise.

24 Okay. I'll now turn to the Applicant

1 and ask them for their position. We've heard a
2 roomful of positions with respect to the
3 groupings and the manner in which intervenors
4 should be combined. Does the Applicant take a
5 position?

6 MR. NEEDLEMAN: Just a couple of
7 thoughts. I'm not going to address all of the
8 different proposals that we've heard today. To
9 the extent that we need to do that, we'd do that
10 at the appropriate time. There are certainly
11 some things we've heard that we agree with and
12 there's some things we've heard that concern us.
13 I would say that we think that obviously it's a
14 significant challenge to figure all this out for
15 the Committee, and we believe that the order
16 that the Committee issued on Friday essentially
17 got this right. There is substantial precedent
18 in Committee practice for grouping parties.
19 There is also significant precedent in other
20 context, other administrative context in civil
21 litigation, for these kinds of groupings.

22 We are also concerned that at this
23 point we are at the outer bounds of the number
24 of parties that a proceeding like this could

1 accommodate and still really be handled in an
2 orderly and efficient manner. And so, to the
3 extent that this process were to result in a
4 significant number of additional parties being
5 created, that would be of grave concern to us.

6 We very much appreciated some of the
7 ideas that were raised here today. For example,
8 I would say that Mr. Whitley's idea of some sort
9 of discovery steering committee is attractive
10 and worth exploring. In fact, anything that
11 helps bring efficiency to this process is worth
12 exploring. And I would say to every party in
13 this room, as this process goes forward with the
14 SEC, that the Applicant is happy to talk with
15 them, is happy to try to work with them to make
16 their participation in the process more
17 efficient. If that means some type of informal
18 sharing of information or other things that can
19 make both of our lives easier, we're happy to
20 explore that. We've already started to do that
21 with some parties. Conversely, I would also say
22 that anything that inhibits efficiency at this
23 point -- and there are some things I heard today
24 that I'm afraid do inhibit the efficiency -- are

1 things we would not be supportive of.

2 So, going forward, we would urge the
3 Committee, as it thinks about it, to do what
4 it's already done, which is to try as best to
5 strike a balance between the needs of all the
6 parties to participate in a reasonable manner
7 and the requirements of the statute to make
8 certain that the application is processed in an
9 efficient and expeditious manner.

10 PRESIDING OFFICER IACOPINO: Okay.
11 Thank you.

12 I'm going to challenge everybody here
13 for a moment. I'd like to move on to the next
14 matter on the agenda, which I would like to
15 resolve very quickly so that we can break at
16 about 1:00. Here is the issue as I see it. And
17 I'm the person who authored the agenda.
18 Actually, let me just back up.

19 Again, if you're going to file a
20 petition to appeal your intervention status,
21 right now that date is the 28th, okay. And
22 please follow the rules that are published on
23 the web site in doing so, which means please
24 make sure that when you file, you send a copy to

1 all the parties on the distribution list. If
2 you're seeking an extension of time, you need to
3 file a motion seeking that extension, and you
4 probably need to do it sooner rather than later
5 so that the Chair can rule on that. The Chair
6 will rule on the procedural issues of any
7 extension. The Committee will be ruling on the
8 substantive issue of whether or not your
9 particular intervention is going to be changed
10 based upon your request. So that takes care of
11 grouping and interventions.

12 What I'd like to do is, there's no
13 secret that there have been two motions pending
14 for a very long time in this docket. One is a
15 motion for protective order and confidential
16 treatment of what's been referred to, I believe
17 it's Appendix 37, if I'm correct. It contains
18 the economic report. And the other is the
19 request for a waiver of rules of certain rules
20 that has been filed by the Applicant on the date
21 of their supplemental filing. Normally under
22 our rules, when a motion is filed, such as a
23 motion for protective order and confidential
24 treatment, or a motion to waive a rule, there is

1 a 10-day window in which to object -- in other
2 words, you have to object within 10 days. And
3 that is our general rule.

4 Understanding that many of you do not
5 know what your status has been or will be, we
6 are going to set a date right now for objections
7 to those two motions filed by the Applicant.
8 But before I do that, I know one of the things
9 that is -- and Barry, correct me if I am wrong
10 here. But as I understand it, one of the
11 considerations in the motion for confidential
12 treatment is whether or not folks will be
13 willing to sign a confidentiality agreement if
14 an order allowing it is issued by the Committee.
15 And I would like to just get a show of hands of
16 those who would be agreeable. What that would
17 mean is that you'd be signing an agreement
18 saying that you're not going to share this with
19 anybody else, other than the need to do so
20 before the Committee in this proceeding. I
21 mean, the reasons why they're seeking
22 confidential treatment is in their motion. And
23 I don't want to litigate it. Just trying to get
24 an idea from the group, from the assembled

1 group, how many folks would be inclined to sign
2 a confidentiality agreement in that regard, at
3 least with that concept. If you could raise
4 your hand if you would be inclined to do so.

5 MS. MANZELLI: Excuse me. Can I speak
6 to that briefly?

7 PRESIDING OFFICER IACOPINO: Where are
8 you?

9 MS. MANZELLI: We're over here. Amy
10 Manzelli for the Forest Society. Before I put
11 my hand up, it's the Forest Society's position
12 that there's no reason that that exhibit -- or
13 that appendix should be confidential. So our
14 position is that it should not be confidential.
15 If the Committee disagrees with that position,
16 then we would be willing to sign a
17 confidentiality agreement. Thank you.

18 PRESIDING OFFICER IACOPINO: And, of
19 course, just so everybody knows, there would be
20 no confidentiality agreement presented to you
21 unless the Committee ruled that way. But I'm
22 trying to get an idea, in terms of whether this
23 is something there's going to be a great deal of
24 cooperation on or not. So, again, I would just

1 ask for a show of hands. And this does not bind
2 you. This does not bind you. There is no --
3 you can change your mind in five minutes if
4 you'd like. I'm just trying to get a general
5 idea. Yes, sir.

6 MR. BOLDT: One question for you.
7 Chris Boldt, Donahue, Tucker & Ciandella, for
8 the City of Berlin. While generally we're very
9 supportive of the concept of a confidentiality
10 agreement as it facilitates the process,
11 obviously we came in after this filing date --
12 October 19th I believe was the date it was
13 actually filed, and it is on the electronic
14 docket -- depending upon its terms, and if there
15 is a grouping, obviously that information is
16 shared within the grouping and with any parties
17 within this proceeding. It's outside of this
18 proceeding that normally the confidentiality
19 agreements are viewed as taking place.

20 PRESIDING OFFICER IACOPINO: I suspect
21 that the confidentiality agreement would be to
22 anybody who is going to review it, whether
23 they're -- for instance, if somebody is going to
24 review it and go over the protected document,

1 that they're going to agree not to take it out
2 of the proceeding. For instance, if you have
3 somebody in your group who agreed to sign and
4 somebody who doesn't agree to sign, I'm assuming
5 the Applicant's position -- and you can correct
6 me if I'm wrong, Mr. Needleman -- would be that
7 it can't be shared with the person who will not
8 sign the confidentiality agreement.

9 Is that a correct statement of your
10 position?

11 MR. NEEDLEMAN: I think that's
12 absolutely correct. And I think there's an
13 additional level here, and we don't have to
14 cross that bridge today. But I would say that,
15 with respect to some of the information in that
16 report, it's highly sensitive with respect to an
17 ongoing competitive bid process. And to the
18 extent that that particular information were to
19 become public, even despite the presence of the
20 confidentiality agreement, it would be
21 significantly damaging, and there would really
22 be no adequate remedy. And so we're going to --
23 I think it's a little premature to discuss it
24 now, because as Tom can explain in a moment, our

1 hope is to submit a new, redacted version that
2 dramatically pairs down the amount of material
3 that's redacted. And perhaps that will satisfy
4 some, maybe not all. But I think that's the
5 proper departure point. And then if we get to a
6 point where we need to talk about the
7 confidentiality agreement, I think we would need
8 to look at it on a party-by-party basis.

9 PRESIDING OFFICER IACOPINO: All
10 right. I'm going to back up then. I was hoping
11 to maybe get a general consensus of what it
12 looked like out there. And it sounds like I may
13 be putting too many people on the spot doing
14 that on both sides of the coin, so forget about
15 the show of hands.

16 What I do want to do, though, is I
17 want to set -- there's still a motion pending
18 for a protective order and confidential
19 treatment, and there's still a request for
20 waiver of the rules. I'm going to ask that all
21 objections to either of those two motions be
22 filed within 10 days of today, okay. As I say,
23 you generally have just -- just a moment. Even
24 if your objections -- obviously, most of you

1 will have -- or some of you are going to have
2 pending appeals on the grouping --

3 MR. ROTH: Mike, that's a Saturday.

4 PRESIDING OFFICER IACOPINO: We'll get
5 to what the rule says about Saturdays.

6 But if your group doesn't agree, or
7 you disagree with your group on that particular
8 objection, feel free to file on your own. If
9 you feel that you don't even want to discuss it
10 with your group and you wish to object, feel
11 free to file the objection on your own.

12 Understand that, as I've said, these groups are
13 not set in cement yet. But this is an issue
14 that we do need to get resolved.

15 So, 10 days apparently falls on a
16 Saturday. Under our rules, it's the following
17 Monday.

18 MR. BOLDT: Mr. Chairman.

19 PRESIDING OFFICER IACOPINO: Yes, sir.

20 MR. BOLDT: Could it possibly be based
21 on the date Mr. Needleman files his amended
22 motion?

23 PRESIDING OFFICER IACOPINO: Is there
24 going to be a new motion for protective order?

1 MR. BOLDT: That's what I thought he
2 just said.

3 PRESIDING OFFICER IACOPINO: No, I
4 think he's going to file something redacted, I
5 understood, which was just going to be filed.
6 It wasn't going to be subject to a protective
7 order.

8 MR. GETZ: Mr. Iacopino, if I could
9 report the status.

10 PRESIDING OFFICER IACOPINO: Please
11 do.

12 MR. GETZ: Tom Getz for the Applicant.
13 With respect to Appendix 43 -- and this is the
14 testimony and report of Julia Frayer from London
15 Economics -- as we indicated in the motion filed
16 back in October, we were prepared to file
17 redacted versions of those documents. And we've
18 prepared redacted versions and have provided it
19 to Counsel for the Public. Our intent, as Mr.
20 Needleman said, was to pare this back
21 significantly and protect only that information
22 that, if made public, would provide a business
23 disadvantage to Northern Pass with respect to
24 competitors. We want to point out that the

1 protection that we would request would only be
2 consistent with the time to resolve the Clean
3 Energy RFP process, which we hope will occur
4 this summer. Counsel for the Public has
5 reviewed the redacted versions that we've
6 provided to them, made some recommendations. We
7 expect either today, depending upon how this
8 process goes, or tomorrow, to discuss some of
9 those issues that may remain between us. And
10 our goal would be to provide to the record early
11 next week a redacted version that may -- it
12 remains to be seen how much of that would be
13 agreed to by Counsel for the Public. But we
14 believe there is some agreement to what we're
15 seeking to redact.

16 PRESIDING OFFICER IACOPINO: Okay.
17 But once you have a redacted document, whether
18 Counsel for the Public agrees that it's redacted
19 appropriately or not, and you file it, are you
20 going to be asking for a further protective
21 order with respect to that redacted document?

22 MR. GETZ: We would continue to seek
23 protection of those portions of those two
24 documents that are redacted. They'll be

1 redacted because we believe they are
2 competitively sensitive.

3 PRESIDING OFFICER IACOPINO: Okay. I
4 guess my question's a little bit more
5 bottom-line. In other words, there would be a
6 document -- now we have a piece of paper that
7 says Appendix 37 -- or I'm sorry. I thought it
8 was 40 [sic]. If I misspoke, I'm sorry. We
9 actually have a document which would convey some
10 information, even though some of the information
11 contained in the document would be redacted.

12 MR. GETZ: That's correct.

13 PRESIDING OFFICER IACOPINO: And that
14 would be fine for me to post on our web site.

15 MR. GETZ: Yes.

16 PRESIDING OFFICER IACOPINO: Okay. So
17 you wouldn't be asking folks, in order to see
18 that document, to sign any kind of
19 confidentiality agreement.

20 MR. GETZ: No.

21 PRESIDING OFFICER IACOPINO: You would
22 still require them if they wanted to see the
23 entire document as filed originally.

24 Are you going to leave that motion in

1 effect for protective treatment and confidential
2 treatment --

3 MR. GETZ: Yes.

4 PRESIDING OFFICER IACOPINO: -- with
5 respect to the original filing?

6 Okay. So we still need objections to
7 that then. I'm only trying to get through the
8 process. I'm not trying to get -- we still need
9 objections to that particular motion -- I mean a
10 deadline for objections.

11 MR. GETZ: For the original motion?

12 PRESIDING OFFICER IACOPINO: The
13 original, yes.

14 MR. GETZ: Well, I mean, we'll be
15 submitting a redacted version, so there will be
16 much more information publicly available.

17 PRESIDING OFFICER IACOPINO: But let's
18 say Ms. Manzelli is not happy with your -- let's
19 say she doesn't want to see a redacted version.
20 She either wants to see Appendix 40 [sic], or it
21 should be stricken from the record, which is
22 what I think her position might be that she
23 would take. I assume that you will oppose that
24 and you would like a ruling on your original

1 motion.

2 MR. GETZ: Yes, to the extent that
3 she's going to oppose outright any redaction.
4 Correct.

5 PRESIDING OFFICER IACOPINO: So what
6 I'm saying, though, is we still need the
7 assembled folks who are intervenors to let us
8 know if they object to your original motion as
9 well. I don't want them to be confused and
10 think that they're going to get something and
11 then they get a redacted document that they're
12 not happy with and then the time to object to
13 your original motion has expired. That's what
14 I'm concerned about. I don't want anybody to
15 think that they were duped here, okay. And I
16 don't mean to suggest you were trying to do
17 that. I just want to make it clear for
18 everybody what the process is.

19 Just a minute, Mr. Baker. I'm going
20 to let them caucus for a second so --

21 MR. GETZ: Mr. Iacopino, let me try to
22 see if this is clear. So I think as an
23 alternative we would be prepared -- I believe it
24 was Mr. Whitley who proposed that any objections

1 would run from the date we provide the redacted
2 version. I don't know if that helps you or
3 hinders your process.

4 PRESIDING OFFICER IACOPINO: I'm sure
5 that... I don't have a problem with that. Is
6 there anybody who would object to having that
7 additional time to object?

8 Yes. You need to tell us your name
9 and speak right into the microphone, Danielle.
10 Thank you.

11 MS. PACIK: Danielle Pacik from the
12 City of Concord. I would just ask that a firm
13 deadline be provided where the redacted version
14 be filed.

15 PRESIDING OFFICER IACOPINO: Well,
16 here's the problem. I'm not in a position where
17 I can actually do that. They filed a request --
18 they filed a motion that seeks to have that
19 particular portion of the Application subject to
20 a protective order and confidential treatment.
21 That's, you know --

22 MR. NEEDLEMAN: Mike, maybe I can help
23 with this.

24 PRESIDING OFFICER IACOPINO: Thank

1 you.

2 MR. NEEDLEMAN: We will file a
3 redacted version on Monday --

4 PRESIDING OFFICER IACOPINO: Okay.

5 MR. NEEDLEMAN: -- so people can then
6 have 10 days from Monday to take whatever
7 position they want on the redacted version.

8 PRESIDING OFFICER IACOPINO: So I'm
9 also going to give them 10 days from Monday to
10 file any objections to the waiver request as
11 well, only because it's -- they can get their
12 work done together and do their homework all at
13 one time.

14 Does anybody have any objection to
15 that?

16 (No verbal response)

17 PRESIDING OFFICER IACOPINO: So
18 there's going to be a redacted version of
19 Appendix 40 [sic] filed on Monday. Stay tuned
20 to your e-mail and the web site. And you will
21 have 10 days from Monday, which -- who's my date
22 keeper over here?

23 MR. PAPPAS: You're okay.

24 PRESIDING OFFICER IACOPINO: So you'll

1 have 10 days from Monday to file objections to
2 both the motion for confidential treatment and
3 the request for waivers.

4 Now, there was a question a couple
5 rows back.

6 MS. WILLIAMSON: Sharee Williamson,
7 National Trust. You covered it.

8 MR. WHITLEY: Excuse me, Mike. Steven
9 Whitley.

10 PRESIDING OFFICER IACOPINO: Yes.

11 MR. WHITLEY: Clarification. Was the
12 amended item filed yesterday, or is it to be
13 filed this coming Monday?

14 PRESIDING OFFICER IACOPINO: They're
15 going to file it Monday is my understanding.
16 It's a redacted Appendix 37.

17 MR. GETZ: 43.

18 PRESIDING OFFICER IACOPINO: 43.

19 MR. WHITLEY: Thank you.

20 MR. GETZ: And the corresponding
21 testimony.

22 PRESIDING OFFICER IACOPINO: And
23 there's testimony that goes along with it that
24 explains it.

1 Okay. I think that that resolves that
2 issue. And I guess the next one can be fairly
3 simple. I don't know the answer, though. So
4 I'm going to turn to the Applicant. In other
5 dockets we have -- actually, even in this
6 docket, during the course of the pending docket
7 we have received either amendments or
8 supplements to the Application. I know you
9 filed a supplement based upon the new rules. Is
10 there anticipation of any amendments or
11 supplements to be filed to the Application at
12 this point?

13 MR. NEEDLEMAN: No, we don't have any
14 plans at this point to file any amendments or
15 supplements.

16 PRESIDING OFFICER IACOPINO: Okay. At
17 this point in time then -- yes, ma'am. Right
18 behind --

19 MS. JENSEN: Cheryl Jensen from
20 Bethlehem. I'm sorry to ask this question, but
21 what is the request for waiver of rules about?

22 PRESIDING OFFICER IACOPINO: That was
23 filed along with the supplemental information in
24 February or March -- actually, it was filed in

1 February -- that the Applicant filed. And it
2 seeks waiver of some of the application rules
3 that we have. It's a pretty detailed motion. I
4 would recommend that you look at it, and if you
5 have any objections to it, you file your
6 objection with the Committee. Or if your group
7 intends to file a combined objection -- I'd
8 prefer that. But obviously if the group is not
9 going to do that, you're free to do it on your
10 own. I really -- I mean, I can't tell you
11 chapter and verse everything that they seek to
12 have waived. But in our administrative rules
13 which are posted on our web site, there is a
14 provision that an applicant -- or any member
15 of -- anybody in the docket can seek waiver of
16 an existing rule. Of course, they have to
17 demonstrate that it's appropriate to waive a
18 particular rule. You can follow up.

19 MS. JENSEN: Cheryl Jensen again. Is
20 this the thing like the decommissioning, the
21 waiver for decommissioning, that sort of thing?

22 PRESIDING OFFICER IACOPINO: I
23 actually believe that that's part of what they
24 have filed in this particular case.

1 MS. JENSEN: Thank you.

2 PRESIDING OFFICER IACOPINO: Yes.

3 MS. SCHIBANOFF: Susan Schibanoff.

4 Regarding that request for waiver of rules, if
5 that is not posted to the SEC site, could it be,
6 please? If it's drifting around as an e-mail
7 still, it would be very helpful to have it up on
8 the site. Thank you.

9 PRESIDING OFFICER IACOPINO: I will
10 check right now, and you'll all see it as I'm
11 checking it. I believe it was posted, but...
12 yes. It's Entry 261 on the web site, filed on
13 February 26th. So it is up there. It's in the
14 box entitled "Application Updates Regarding New
15 Rules."

16 MS. SCHIBANOFF: Thank you.

17 PRESIDING OFFICER IACOPINO: Yes, sir.

18 MR. CRAXTON: Edward Craxton, Dalton.
19 I'm a little bit confused, and perhaps you can
20 help me here. The motion for protective order
21 and confidential treatment applied to Appendix
22 43. Are you now saying that that motion has
23 been reapplied to a redacted version?

24 PRESIDING OFFICER IACOPINO: No,

1 they're going to file a redacted version. So in
2 other words, you're going to get more
3 information on Monday than you currently have in
4 the public application today. If you open up
5 the application today to that appendix, it's
6 just a page that says "Report." I understand
7 that on Monday they're going to file something
8 that says more than that, and you'll have 10
9 days from Monday to file your objection to the
10 original motion. Yes, sir.

11 MR. GRAY: Elisha Gray, New Hampton.
12 Point of clarification. Is there a new
13 objection date for the request of waiver of
14 rules, and what is it?

15 PRESIDING OFFICER IACOPINO: Yes, and
16 that will be 10 days from Monday as well. We're
17 going to keep those in tandem, okay.

18 And just for everybody's benefit, when
19 motions are filed, whether they're filed by the
20 Applicant, Counsel for the Public or an
21 intervenor, the rest of the parties have 10 days
22 in which to respond to the objection or file --
23 respond to the motion or file an objection to
24 the motion. That's our standard process, okay.

1 So keep that in mind. For instance, I believe
2 Mr. Cunningham has a motion pending, and the
3 Applicant has 10 days to object to that
4 particular motion. So it goes both ways, and it
5 is something that is one of our rules. I do
6 encourage you all to read our rules. They are
7 boring, but they are the rules by which we are
8 supposed to play. And you can find those on our
9 web site as well.

10 Is there any further discussion before
11 we take a lunch break?

12 (No verbal response)

13 PRESIDING OFFICER IACOPINO: Okay.
14 Hearing none, when we come back, I'm going to go
15 over a little bit about what the adjudicative
16 process entails. We're going to talk about
17 scheduling, talk about discovery which I'll
18 explain, and scheduling. And then --

19 MR. PAPPAS: When do you want us back?

20 PRESIDING OFFICER IACOPINO: One hour.
21 It is 1:01. So, 2:00.

22 (Whereupon a lunch recess was taken at
23 1:01 and the hearing resumed at
24 2:11 p.m.)

1 PRESIDING OFFICER IACOPINO: Okay.
2 We'll go on the record. We are almost halfway
3 through the agenda, as I prepared it, which
4 actually is a good thing.

5 The next thing that we should take up
6 is just a discussion, an explanation probably is
7 more like it, of the overall timeframes and
8 schedule requirements as they apply to the
9 adjudicative proceeding. You all have --
10 probably understand the various timeframes that
11 are contained in RSA 162-H, which is the statute
12 that governs the Site Evaluation Committee. But
13 you may not actually know what happens in
14 actual -- that part of the process that is
15 considered to be the "adjudicative" process.

16 And, I've got a couple of slides here
17 I'm just going to go over with you all, so that
18 you understand sort of the -- and these are
19 just -- the steps that I've laid out in these
20 slides on the PowerPoint are -- I've simply
21 gotten these from prior proceedings that we've
22 had before the Committee. This is the way --
23 the typical way in which the Site Evaluation
24 Committee proceeds in the adjudicative phase of

1 our dockets. I have been quoted before as
2 saying "there's nothing typical about this
3 particular docket", but that's no reason to not,
4 you know, understand what the process has been,
5 because I think it will inform us going forward.

6 The first step in the adjudicative
7 portion of the docket generally comes, and you
8 won't find this in the statute anywhere, I mean,
9 you'll find the authority for Counsel for the
10 Public to hire experts, but you won't find any
11 timing requirements. But, generally, that's the
12 first step that the Site Evaluation Committee
13 runs into, once we're sort of in the
14 adjudicative phase.

15 Counsel for the Public will usually
16 file a petition or a motion to hire experts or
17 witnesses. In this case, he's already hired
18 counsel for himself. But, as you know, there
19 are, I think, 27 testimonies filed by the
20 Applicant, along with their Application. And,
21 I'm sure that Counsel for the Public will intend
22 to enlist witnesses and hire witnesses. And,
23 generally, there's a request filed with the
24 Committee for the purposes of doing that.

1 That is entirely up to Counsel for the
2 Public. We don't require him to do it, or we
3 rarely prohibit him from doing it, but it's
4 entirely up to him. And, that's usually the
5 first thing that the Committee sees sort of in
6 the adjudicative phase.

7 The next step in the adjudicative
8 phase is usually a deadline for Counsel for the
9 Public and the intervenors to submit data
10 requests to the Applicant and the Applicant's
11 witnesses. A data request is really nothing
12 more than a written question. It can say
13 something as simple as, you know, "where did you
14 go to college?" Or, it can be a request for
15 "please send to us, you know, your last 15 years
16 tax returns." It can request documents, it can
17 request information. There will be a deadline
18 set, and we might have some idea at the end of
19 our proceeding today about when that might be in
20 this particular case.

21 There will be a deadline set for data
22 requests to be issued by Counsel for the Public
23 and by all of the intervenors to the Applicant.
24 The Applicant then has a period of time in which

1 to prepare answers and to gather the data that
2 has been requested, and then that data is
3 provided and answers to the parties who
4 requested it.

5 One rule about data requests, and this
6 whole process of what we call "discovery", in
7 other words, getting information from each
8 other. The Subcommittee is not involved in it.
9 You should not be copying Subcommittee members
10 with your written questions to the Applicant,
11 with your data requests, and they should not be
12 being provided with documents or answers.
13 There's a time during the process when, if you
14 want to make that type of information part of
15 the evidence in the case, there is a time to do
16 that, but it's not during the discovery phase.

17 So, we will set a date for data
18 requests to be submitted by the parties to the
19 Applicants, and we'll set a date for when those
20 requests have to be answered them by.

21 In a typical case, after data requests
22 have been answered, we have scheduled a
23 technical session. In this case, it's going to
24 require more than one technical session, because

1 there are numerous witnesses. But what a
2 technical session is is an informal discovery
3 method, whereby the witnesses who are
4 responsible for the prefiled testimony and the
5 counsel for the Applicant, in this particular
6 case, will come into a room like this. They
7 will sit at a larger table than I'm sitting at,
8 and they will answer questions posed by the
9 various parties. Again, those are oral
10 questions. Presumably, they won't simply be a
11 repetition of what was already provided in
12 writing, and it doesn't have to be, just so you
13 know. If you've already gotten the answers, you
14 don't need to ask the questions at the technical
15 sessions.

16 However, for the most part, the
17 technical session is there for the purpose of
18 clearing up any details that need to be cleared
19 up. It is informal, there is no record kept.
20 Generally, at the end of each technical session,
21 there are leftover new data requests, requests
22 that came up because of information received
23 during the technical session. We usually
24 will -- what will happen is myself, or whoever

1 is presiding over the technical session, will
2 make a list of what those requests are. Most of
3 time they're requesting additional documents.
4 We make a list of those.

5 And, the Applicant, in this case, in
6 the first phase, will be required to provide
7 answers to those. That's usually a much shorter
8 timeframe. In the past, it's been seven or ten
9 days. But, obviously, if we have 100 questions
10 at the end of a technical session, answers like
11 that aren't going to be provided in a very short
12 timeframe.

13 So, that's sort of the first part of
14 the adjudicative process. It involves Counsel
15 for the Public obtaining experts under his
16 authority to do that. During that period of
17 time should also be the time that any
18 independent parties, in other words, not state
19 agencies, should be looking, if you are going to
20 hire experts, should be looking at who you're
21 going to hire, should be interviewing those
22 people or taking -- doing whatever due diligence
23 you feel is necessary to appropriately represent
24 your position.

1 Because the next step, the ball is in
2 your court. You will be required to designate
3 who your witnesses are and your experts, as will
4 Counsel for the Public. You will be required at
5 that time to file prefiled testimony. You have
6 an example of that, that's already been filed by
7 the Applicant, along with the Application. And,
8 it's, basically, you take what your witnesses
9 have to say, you put it in a question-and-answer
10 format, and you create what we call -- what
11 lawyers call "direct testimony".

12 So, in other words, if you think about
13 this as a trial, your witness is not going to
14 testify on direct examination when we get to the
15 trial session. Your witness is going to be put
16 on the witness stand and subjected to
17 cross-examination by the other parties, because
18 they have already filed, in writing, their
19 testimony. So, at the time that you designate
20 who your witnesses and experts are, you're also
21 going to be required to file their testimony.
22 And, there will be a date that will be set, it
23 will be in a Procedural Order, telling you when
24 that has to be done by.

1 Once your prefiled testimony, and this
2 is everybody, except the Applicant, at this
3 point, but, once Counsel for the Public and all
4 the intervenors have filed their prefiled
5 testimony and identified their experts, the
6 Applicant then has the opportunity to submit
7 data requests, written questions, to the various
8 parties and their witnesses. And, again, the
9 parties and their witnesses will be required to
10 answer those written questions, in writing, by a
11 date certain. All of these dates will be set
12 out in a Procedural Order.

13 Once the written responses to the data
14 requests are received from Counsel to the Public
15 and from the intervenors, we will have a
16 technical session where your experts, and, when
17 I say "yours", I mean Counsel for the Public and
18 the intervenors, will sit and be questioned.
19 And, the same rules apply as they did with the
20 experts for the Applicant. If there are any
21 questions, and that should be "Tech Session data
22 requests", not "rata requests", which is a typo
23 in the slide, but, if there are questions that
24 are left at the end of that proceeding, they

1 will be written up and provided to those
2 witnesses and to those parties, and they will be
3 required to answer those questions by a date
4 certain.

5 So, that's the second sort of phase.
6 So, the first phase is obtaining information
7 from the Applicant. The second phase is the
8 Applicant obtaining from the other parties.

9 In most of our cases, after we've gone
10 through that process, we set a deadline for the
11 filing of supplemental testimony. Because, if
12 you think about it, at the end of these
13 technical sessions, your expert may have a
14 change of view, or there might be something that
15 he or she has not offered an opinion on that
16 they now have an opinion on, based upon the
17 information that was learned at the technical
18 session.

19 I'm going to have to plug this in.
20 Hold on a second.

21 And, after the filing of the
22 supplemental testimony, we will have another
23 pretrial conference, similar to this one, except
24 the idea at that pretrial conference will be a

1 lot more -- will dig down a lot more into
2 exactly how many witnesses are testifying, who's
3 going to ask questions of who. And, some of the
4 issues that were raised with respect to the
5 groups earlier, that I said "were not set in
6 cement", will be -- thank you -- will be set in
7 cement at that point in time.

8 The other thing that's very important
9 to do by the time of the final pretrial
10 conference is any piece of evidence that you
11 want to enter as an exhibit before the
12 Subcommittee will have to be presented at that
13 final pretrial conference. We will have
14 assistance there, and we will get all of the
15 exhibits marked. So that, when we start the
16 actual trial or the adjudicative hearing itself,
17 everybody should have a copy of all of the
18 exhibits that any party wishes to present, and
19 we can refer to them by number, and make the
20 proceeding work very efficiently.

21 The final pretrial conference is
22 usually about a week to ten days before the
23 start of the adjudicative hearing. The
24 adjudicative hearing is what most of you would

1 actually consider the "trial". We'll actually
2 be in a hearing room, probably in a room very
3 much like this. There will be a witness box.
4 The witnesses will be subject to
5 cross-examination by the others parties, and the
6 entire Subcommittee will be there to hear that
7 evidence. Exhibits will be entered into the
8 record as part of that proceeding.

9 And, at the end of that process, once
10 the record is closed and all the evidence is
11 received, we will have deliberative sessions.
12 And, as I discussed before, that's basically the
13 Subcommittee, in public, deliberating on all of
14 the issues that are raised, from Pittsburg to
15 Deerfield, you know, dealing with every issue
16 that comes up in the proceeding.

17 And, I anticipate that the
18 adjudicative hearings alone will take between 20
19 and 30 total business days. And, I wouldn't be
20 surprised if the deliberative hearings went 10
21 to 12 days.

22 Ultimately, during that deliberative
23 session, the Committee will make a decision, one
24 way or the other, on whether or not to grant the

1 Certificate of Site and Facility. And, if they
2 choose to grant one, they will also make
3 decisions about what conditions should be
4 applied to it. And, they will turn to me and
5 say "get us it in writing." And, then,
6 ultimately, we will prepare for them a written
7 decision that memorializes what they've said on
8 the record, and goes into the issue -- the
9 things that they have discussed on the record
10 and what's the evidence in the record. And,
11 there will be a final written decision that will
12 be signed by a majority of the Subcommittee.
13 And, that will be the final ruling in the case.

14 So, that's sort of, in broad strokes,
15 that's the process we go through in coming to a
16 decision. And, that's the adjudicative process.
17 That's the process that everybody here who has
18 been granted intervention status has the
19 opportunity to participate in.

20 You've probably all already seen this
21 before, that process has to occur between today
22 and December 19th, 2016. Along the way, there
23 are a couple statutory timeframes that are going
24 to be met, not so much by anybody in this room,

1 but by state agencies. By May 16th, they will
2 submit what they call their "preliminary reports
3 with draft conditions". And, then, by
4 August 15th, the state agencies will be required
5 to submit what's called their "final decisions".
6 And, what those are, is those are their
7 decisions with respect to that portion of the
8 Application that applies to their particular
9 area.

10 So, for instance, we all know that
11 there's a Wetlands Application in this
12 particular docket. The Department of
13 Environmental Services will provide their final
14 decision on whether or not that Wetlands
15 Application meets their standards or not.

16 So, what has to happen, though, is,
17 and this is the really difficult part for my
18 Committee, is within that three months, between
19 day 240 and day 365, that's when we have to have
20 the actual adjudicative hearing, that 20 or 30
21 business days that I've been talking about, as
22 well as the deliberations.

23 So, for the Committee -- for you all,
24 a lot of the work is front-loaded. For the

1 Committee, a lot of their job is on the
2 back-end, and in a very compressed timeframe.
3 We didn't make these timeframes up. They came
4 from the Legislature. We try our best to abide
5 them.

6 It is no secret that there is a
7 provision by which parties can move to suspend
8 the timeframes, if they can demonstrate that it
9 is in the public interest to do so. I know
10 there's already been talk amongst you all about
11 that.

12 However, for today's purposes, and for
13 purposes going forward, until there is some
14 other order from the Site Evaluation Committee,
15 we have to proceed as though this matter will be
16 concluded by December 19th, 2016. Otherwise, we
17 would just be disregarding the statute, and we
18 don't want to do that.

19 And, that's just our membership. I'm
20 sure everyone in this room knows who's on the
21 Subcommittee already.

22 Somebody before asked "where do I file
23 things?" Or, "how do I get in touch with the
24 Committee?" Pamela Monroe is our Administrator.

1 If you file any motions or anything, they should
2 be sent to that e-mail,
3 pamela.monroe@sec.nh.gov.

4 The website, we've been pretty good,
5 actually, it didn't start off that way, but
6 lately we've been pretty good at getting stuff
7 up on the website as it comes in. We do have
8 some technical difficulties with the website
9 that tend to reoccur. But we do our best to get
10 all pleadings and orders on the website as
11 quickly as we can. So, that should answer the
12 question that somebody had about how to get in
13 touch with the Committee. If anybody needs
14 that, it's also on the handouts as well.

15 Did anybody -- does anybody have any
16 questions? Do they need anything cleared up
17 about this adjudicative process? Yes, sir, in
18 the back.

19 MR. MCGARRY: Fred McGarry, from
20 Deerfield.

21 [Court reporter interruption.]

22 PRESIDING OFFICER IACOPINO: Get
23 closer to that mike, sir. We cannot hear you up
24 here.

1 MR. MCGARRY: Fred McGarry, from
2 Deerfield. Wondering about the -- whether the
3 witnesses for both the Applicant and for the
4 Counsel for the Public would be under oath at
5 the time they have to have these technical
6 sessions.

7 PRESIDING OFFICER IACOPINO: No.
8 Their prefiled testimony is filed under oath.
9 And, they are placed under oath at the time of
10 the adjudicative proceeding. We do not put them
11 under oath at the technical session.

12 Understand that technical sessions are
13 not depositions. If anybody here has a
14 background with civil practice and in courts,
15 there's a thing called a "deposition", where
16 witnesses can be called into a room similar to
17 this, usually smaller than this, and asked
18 questions under oath.

19 That's not the purpose here. The
20 whole genesis of technical sessions has to do
21 with experts being in the room. And, I highly
22 recommend to all parties that, when you attend a
23 technical session, so, let's say we're going to
24 have a technical session tomorrow on visual

1 impact, and you've already done some discovery
2 with the Applicant's visual impact expert. If
3 you have visual impact expert, have that person
4 there. Have that person provide questions.
5 Because, when you're talking about technical
6 issues, it's really those witnesses that have
7 the technical expertise that are going to make
8 the difference to the Committee members. And, I
9 don't mean that, you know, that lay witnesses
10 aren't going to have any persuasive ability at
11 all. But I can tell you that, if you're talking
12 about, well, you know, "what's the noise from
13 this going to be 5 miles away? Or, even
14 500 feet away?" A sound engineer is probably
15 the person who is best going to be able to
16 answer that question. And, by having your sound
17 engineer there, assuming you have one, to have
18 that discussion with the sound engineer from the
19 other side, whichever side you're own, is really
20 the best way to approach technical sessions.
21 And, that's the way that most of the folks that
22 regularly appear before the Site Evaluation
23 Committee do.

24 We recently had a -- I believe it was

1 a tech session in another case, where visual
2 impact was a major thing, and both visual impact
3 experts were there.

4 You know, it just makes -- it makes --
5 does two things. It gets to the heart of the
6 matters, number one, and it also educates folks
7 who aren't the experts. But they're not under
8 oath. It's more of an informal type of session.

9 MR. MCGARRY: If I may have a
10 follow-up?

11 PRESIDING OFFICER IACOPINO: No
12 problem. Just speak into that microphone.

13 MR. MCGARRY: Okay. The other
14 question was, will it be possible for the
15 intervenors to be able to see the list of
16 witnesses proposed by the Counsel for the
17 Public, so that we may not be -- may be able to
18 eliminate some duplication of witnesses?

19 PRESIDING OFFICER IACOPINO: It could
20 be, if we schedule it that way. I've given you
21 a broad overview of how our schedules usually
22 go. And, there has been -- generally, Counsel
23 for the Public and the intervenors are
24 generally, in the past, required to submit on

1 the same day. And, you know, is it possible
2 that they could be given different deadlines?
3 They certainly could. And, that's something
4 that we can discuss.

5 Obviously, that could have a tendency
6 to lengthen the timeframe. And, I would be
7 concerned about things that are going to
8 lengthen our overall timeframe, because we are,
9 at least today, working within this 365-day
10 period.

11 So, -- but, yes, it could be scheduled
12 that way. We'll get a little bit more into the
13 details of scheduling, and I'll have questions
14 for people about how they would like things
15 scheduled in a few minutes. Okay?

16 But, right now, did anybody else have
17 any questions or need any clarification
18 regarding the overall process?

19 Yes, ma'am.

20 MS. BRADBURY: JoAnne Bradbury,
21 Deerfield. With respect to conditions on the
22 project, do we have to submit filed testimony
23 and expert testimony with respect to conditions
24 before the adjudicative hearing?

1 PRESIDING OFFICER IACOPINO: It is
2 highly recommended that you submit testimony
3 with whatever conditions that you think might
4 be, and I don't know what your position is with
5 respect to the Application, but let me give you
6 an example.

7 Somebody might say "Look, I'm opposed
8 to this Application. I don't think this
9 facility should be built. But, if it is built,
10 you should make sure that no tower is over
11 100 feet tall." Okay? You should have your
12 testimony or your expert's testimony that
13 supports that condition filed at the time that
14 you file your testimony.

15 Now, is it possible that conditions
16 will come out of the hearing? So that we have
17 the hearing, and, during the hearing, somebody
18 says something that rings, say, for you or for
19 some other party, and at the end of the hearing
20 you want to suggest to the Subcommittee that
21 "Hey, you know, so-and-so had a good idea, I
22 think you ought to adopt that." There will be
23 an opportunity for you to do that.

24 But, to the extent that you are saying

1 "there are certain conditions that we are going
2 to recommend to the Committee", you should do
3 that at the time that your testimony is filed.
4 Okay?

5 Now, some conditions, like I say, may
6 come up. But, for the most part, you want to
7 get that done initially.

8 Peter.

9 MR. ROTH: Mike, on that point,
10 historically, conditions have been included as
11 part of the people's post-hearing memoranda,
12 and, you know, obviously, could put them in the
13 testimony. But, as I say, historically, it has
14 come after the hearing, in the post-hearing
15 memoranda.

16 PRESIDING OFFICER IACOPINO: Yes.
17 And, what Peter is talking about is, in some
18 dockets, we have had the ability, after the
19 record has closed, but before deliberations
20 occur, to file written arguments. Okay? And,
21 he's right. And, often, you can put your
22 conditions in those as well. Many times,
23 though, conditions need support. And, if you
24 haven't made a record for the conditions that

1 you're looking for, you're not going to be very
2 persuasive to the Committee about why those
3 conditions should be adopted.

4 But Peter is absolutely correct. In
5 many of these cases, most, not all of them, but
6 most of them, we have had an ability to file
7 "post-hearing memoranda", is what they're
8 called. And, they are -- actually, did I even
9 have them --

10 MR. ROTH: You did.

11 PRESIDING OFFICER IACOPINO: Yes. I
12 actually had it on the -- I must have overlooked
13 it. Post-hearing memoranda, after -- between
14 the adjudicative hearings and deliberative
15 sessions. So, that would be the place where, if
16 you want to be clear and very persuasive, where
17 you list out all of your -- all of your
18 conditions, in that memoranda that you file with
19 the Committee.

20 Ms. Menard.

21 MS. MENARD: Yes. Jeannie Menard,
22 Deerfield. In the discovery phase, in a effort
23 to eliminate redundancy of questions, what will
24 the mechanism be? Will we be filing via e-mail?

1 Or, how will we all know what other people have
2 for questions, so that we're not asking the same
3 questions within different groups?

4 PRESIDING OFFICER IACOPINO: There is
5 probably no way to avoid all duplication, just
6 so you know, especially with this many parties.
7 However, that was one of the reasons why we have
8 the spokesperson procedure. Because, at least
9 within the groups, you'll have one person who
10 can at least collect the questions that you want
11 to ask, and say "okay, you know, if it's a town
12 group, you know, Fitzwilliam has these questions
13 and Rindge has these questions. But, look, six
14 of them are the same, so we only need to ask
15 them once." That's sort of the thinking behind
16 that.

17 You're certainly free to discuss with
18 other intervenors and other intervenor groups
19 what type of questions you might want to ask.
20 And, to the extent groups want to group together
21 and provide a single set of data requests, or a
22 single set of data requests with respect to a
23 particular issue, you're free to do that.

24 I will point out that there is in our

1 rules right now a limit on data requests of 50
2 per party. So that it may be very helpful to
3 the various groups to get together and perhaps
4 divvy things up by category. Or, you may not.
5 It all depends on how you want to proceed, and I
6 can't tell you how to do that. But there is a
7 limitation on them.

8 And, again, as everybody knows, if
9 that limitation is a problem, the way to seek
10 relief is to file a motion with the Committee
11 seeking relief from that. So, if, for some
12 reason, somebody believes "I can't" -- "50
13 questions is simply not enough. I need to ask
14 60." You can file a motion to be allowed to do
15 that, and the Chairperson will determine whether
16 or not he wants to do that.

17 But, please remember, these rules were
18 actually adopted, even though they're different
19 than the rules that were in effect at the time
20 of the filing, these rules were adopted by the
21 Committee knowing that this filing and another
22 very large filing were coming, so that that 50
23 was thought about as part of the process when
24 our rules were adopted, or readopted, I should

1 say.

2 Is there any other? Anybody else need
3 clarification regarding the processes?

4 Yes, sir.

5 MR. BREKKE: Bruce Brekke, from
6 Whitefield. Is there a process to file an
7 appeal of the final decision?

8 PRESIDING OFFICER IACOPINO: Yes,
9 there is. It's the typical appeal from any
10 administrative agency. There is a
11 requirement -- and, at the end of all of our
12 decisions, we put this information at the end of
13 the decision. There's a requirement, before you
14 can file an appeal, you have to file a motion
15 for rehearing. In that motion for rehearing,
16 you have to point out every issue on which you
17 believe that the Committee was wrong about,
18 basically, to put it in layman's terms. If the
19 Committee denies the motion for rehearing, you
20 then file an appeal with the New Hampshire
21 Supreme Court, in Concord. And, that appeal is
22 30 days from that final denial. You have to
23 file a motion for rehearing within 30 days of
24 the date of the written decision.

1 And that -- you don't have to write
2 this down, because you'll be reminded of this as
3 we go through the process. But it's a two-step
4 process. You must file a motion for rehearing.
5 And, if that motion for rehearing is denied, you
6 then file an appeal to the New Hampshire Supreme
7 Court. There is no intermediate appellate court
8 between us and the New Hampshire Supreme Court.
9 We do not go to the Superior Court, we go
10 directly to the Supreme Court.

11 How about in the front, and then in
12 the back. Go ahead, sir. Speak right into that
13 microphone.

14 MR. BERGLUND: Erick --

15 [Court reporter interruption.]

16 PRESIDING OFFICER IACOPINO: You're
17 going to have to repeat your name. It didn't
18 come across.

19 MR. BERGLUND: Erick Berglund,
20 Deerfield. B-e-r-g-l-u-n-d. You said there's a
21 limit of 50 requests for data per party.
22 Definition of "per party" is?

23 PRESIDING OFFICER IACOPINO: Group.

24 MR. BERGLUND: Group. Thank you.

1 PRESIDING OFFICER IACOPINO: Yes,
2 ma'am.

3 MS. MUMFORD: Margaret Mumford,
4 Bridgewater. How much of the discovery process
5 becomes a part of public record? And, if so,
6 what's the mechanism and the timeframe?

7 PRESIDING OFFICER IACOPINO: That
8 discovery process does not become a part of our
9 public record for the Site Evaluation Committee.
10 You don't provide your discovery to the Site
11 Evaluation Committee. In fact, you'll hear
12 repeatedly from me and from Ms. Monroe, don't
13 send your data requests to us, don't send the
14 answers to data requests to us. That is
15 discovery, that goes amongst the parties. It's
16 trading of information.

17 If there is a problem, for instance,
18 somebody doesn't want to provide something,
19 there is a method by which they can do something
20 very similar to what the Applicant has done with
21 respect to the economic report. They can file a
22 motion for protective treatment, if that's the
23 way they want to go. You can certainly do that.
24 And, that would limit what people can do with

1 it. In that case, obviously, the Committee, the
2 Chair of the Committee would have to be educated
3 by you through the motion as to what exactly the
4 issue is, because we don't have it in front of
5 us.

6 But, during the discovery process,
7 there may actually be the transfer of
8 information from party to party that may not be
9 ever introduced at the hearing. And, therefore,
10 no reason for the Subcommittee to see that
11 information. There may be information that's
12 technically not admissible, for one reason or
13 another, although that's very infrequent in
14 administrative hearings. But that's why we
15 don't provide the answers to the data requests
16 and the data requests themselves to the
17 Committee members.

18 If you receive a document in discovery
19 that you believe the Committee members need to
20 see, in their determination of the issues in
21 this case, and sometimes it's all of them, you
22 will mark it as an exhibit and present it at the
23 time of the actual adjudicative hearing as an
24 exhibit. And, at that point in time, it will be

1 reviewed by the Subcommittee during the course
2 of their deliberations.

3 So, the answer is, don't send your
4 discovery requests to the Committee, unless
5 there's a dispute over them, and don't send the
6 answers to the discovery requests to the
7 committee. We want to keep them out of the fray
8 until the actual hearing.

9 MR. BOLDT: Mr. Chair?

10 PRESIDING OFFICER IACOPINO: Yes, sir.

11 MR. BOLDT: On that point -- Chris
12 Boldt, Donahue, Tucker & Ciandella, for the City
13 of Berlin. On the point of keeping discovery
14 and the pleadings separate, is it possible, in
15 light of the size here and the desire to
16 expedite lack of duplication, to have a subset
17 of the e-mail service list created, so that we
18 know who to give our responses to or requests to
19 the Company, and they come then back, so that
20 everybody has the information?

21 PRESIDING OFFICER IACOPINO: Yes.

22 And, there's something like that that's already
23 been started, I believe. If you look at the
24 website, there is a distribution e-mail address

1 list. It was last revised on Saint Patrick's
2 Day. Don't use that one. But there will be
3 something similar to that. That one, I believe,
4 has the Committee members on it. But we can
5 create something like that that does not include
6 the Committee members, and we'll make it easier
7 for the parties involved in the docket.

8 MR. BOLDT: Thank you.

9 PRESIDING OFFICER IACOPINO: Okay. I
10 saw one other hand up. Yes. Yes, ma'am.

11 MS. PASTORIZA: Chris Pastoriza,
12 Easton. Is an alternate public member going to
13 be appointed?

14 PRESIDING OFFICER IACOPINO: That's up
15 to the Governor. I don't know. I assume, at
16 some point, there will be an appointment. I
17 have no knowledge, one way or the other, about
18 where that is in the process. They don't call
19 me and ask me. So, the alternate public member
20 position is a gubernatorial appointment, and has
21 to be confirmed by the Executive Council. So, I
22 hope there is. Not so much for this docket, I
23 believe that -- well, I don't know what will
24 happen. That's going to be up to the Chair

1 about, if we get, I suppose it depends, in part,
2 when we receive a new alternate public member.
3 And, quite frankly, the statute is kind of quiet
4 about what happens if there's a change in the
5 makeup of the Committee while a case is pending.

6 Those are issues I don't have the
7 answer for you. They will require research.
8 But, right now, our alternate public member is a
9 member of this Subcommittee. And, unless the
10 Governor appoints a new public member, and the
11 research reveals that we have -- that that
12 public member has to serve, instead of the
13 alternate public member, which I don't know if
14 that will be the conclusion or not, that might
15 be the only change. Unfortunately, our statute
16 is silent on that point.

17 Was there any other questions about
18 this adjudicative process? The discovery
19 process of anything that I've just talked about?

20 [No verbal response]

21 PRESIDING OFFICER IACOPINO: Good.
22 Because now we're going to talk about it in more
23 detail.

24 Okay. I've just put up on the screen

1 the calendar that starts with today, our
2 prehearing conference. The reason why I've done
3 this, and this calendar goes through the end of
4 the year, is just so that people can have an
5 idea of what things look like. Excuse me. If,
6 during this process, I write something down in
7 this calendar does not mean that that's
8 something that is a fait accompli at all. It
9 just means that we're looking at something.

10 I'm going to point out one problem in
11 the overall schedule first for you all to
12 understand, because, although this is a very
13 important docket, September 12th through the
14 23rd already has an adjudicative hearing in the
15 pending Antrim Wind matter scheduled for those
16 ten days. And, just so you all know, our last
17 time that we handled an Antrim Wind proceeding,
18 it took eleven days, and that does not count the
19 deliberative time.

20 So, just so folks are aware. Although
21 this docket is very important, it's not the only
22 case before the Site Evaluation Committee
23 presently. And, it's not the only one that's
24 sort of moved into the adjudicative phase. So,

1 just thought I would point that out for you all.

2 There is also the Merrimack Valley
3 Reliability Project, which is not on the
4 calendar, I don't know, I don't have the dates
5 in front of me, but that is also scheduled
6 during this year as well. Although, we don't
7 expect that one to take as long as Antrim Wind.
8 I think it will probably be done within a week.

9 So, the next item on our agenda is a
10 "Discussion of Discovery Needs and Events".
11 I've kind of gone over the events.

12 MR. ROTH: Before with you go there,
13 Mike?

14 PRESIDING OFFICER IACOPINO: Yes.

15 MR. ROTH: Does the Public Utilities
16 Commission have items on its calendar that would
17 interfere with this, since two of our members
18 are Public Utilities Commission members?

19 PRESIDING OFFICER IACOPINO: I am
20 pretty sure that they do, but I couldn't tell
21 you what they are.

22 I do know, though, that the nice thing
23 about the way that the statute is now set up is
24 that the Chair of the Public Utilities

1 Commission, which is where we usually work, is
2 also the Chair of our Committee now. So, we
3 don't need the interagency communication that
4 was sometimes hard to -- it's not hard, but just
5 a little bit more of a pain to accomplish from
6 when the Chair was over at DES. So, it's a
7 little bit easier. And we have -- we actually
8 have hearing rooms and stuff that we can poach
9 from the Public Utilities Commission when we
10 need to. Although, not a hearing room that's
11 going to accommodate all of you. We will likely
12 be meeting in rooms like this through most of
13 this docket.

14 So, I was going to move on to Agenda
15 Item Number VII, the "Discussion of Discovery
16 Needs and Events". I've sort of already gone
17 over what the events are. Discovery needs is
18 probably the next thing. And I'm not sure how
19 far we can actually go, because what I'm going
20 to do is actually turn to Counsel for the
21 Public. Generally, in the past, this whole
22 process sort of gets rolling with your requests
23 for the Committee to approve witnesses. And,
24 so, that's sort of where we get rolling.

1 So, I'm going to look to you to sort
2 of get us rolling on this discussion, in terms
3 of what you believe -- I understand you have a
4 proposal for a timeframe, but just in general,
5 the types of things that you're going to be
6 looking for in discovery, if you put it in
7 general groups. Understanding that you're still
8 going to hire experts, who are also going to
9 assist us you in determining that.

10 MR. ROTH: Well, --

11 PRESIDING OFFICER IACOPINO: And
12 you're not bound by any of this. This is just a
13 discussion informally.

14 MR. ROTH: Yes. I guess I would start
15 off by saying that maybe that the Committee and
16 the Applicant are the only people who believe
17 that this is going to be done in a year.

18 PRESIDING OFFICER IACOPINO: Well,
19 just so you know, the Committee isn't here.
20 This Staff member of the Committee is aware
21 that, in the past, on some major installations,
22 we've not been able to complete it within at the
23 time it was a nine-month timeframe. So, there
24 have been instances in the past when we've had

1 to find that it was in the public interest to
2 exceed the calendar.

3 However, where we are right now is we
4 do have a statute, we are required by law to
5 follow the statute. We're going to work that
6 way until the Committee -- until and unless the
7 Committee is satisfied, "until" is the wrong
8 word, unless the Committee is satisfied that it
9 is in the public interest to suspend the
10 timeframes and extend the hearing process.

11 MR. ROTH: And we intend to file a
12 motion to that effect in the near future.

13 PRESIDING OFFICER IACOPINO: When do
14 you think you're going to file that?

15 MR. ROTH: Within ten days. And, so,
16 this process today is a bit awkward, to put it
17 mildly, given that our operating understanding
18 is that we need, as we've disclosed in our
19 schedule, something like 18 months from the date
20 of the acceptance of the Application.

21 There are a number of problems, and
22 we'll get to them as they come along. But
23 there's a resistance on our part to simply
24 accepting that it must be done in that year.

1 That's where we're coming from, because this is
2 a significant problem, and we're trying to deal
3 with it as best we can.

4 PRESIDING OFFICER IACOPINO: I get it.

5 MR. ROTH: Typically, the first thing
6 that we do is, as you pointed out, retain --
7 file motions to retain experts. And that has,
8 in my experience, occurs something like 45 to 60
9 days after the prehearing conference.

10 We have been underway already, since
11 the first of the year, really, at identifying,
12 interviewing, and so far not yet, but selecting
13 experts to provide evidence and testimony in a
14 variety of different areas. So, we would expect
15 that process to continue until probably
16 June 1st. Although, what we expect to do is to,
17 as soon as we have sort of cemented the deal,
18 that is we understand what the experts' going to
19 do, what their budget is, and we're prepared to
20 hire them, we would submit the applications or
21 motions with the Committee on a rolling basis
22 when we're ready, with the understanding that
23 they would all be done by June 1st, unless we
24 come back and ask for more time. But we think

1 June 1st is very doable.

2 And, typically, what else I think you
3 realize, that the discovery calendar sort of
4 cues off of that, in that we found that it is
5 most fruitful to conduct discovery with the
6 assistance of the experts that we've retained.
7 Typically, they would want some opportunity to
8 review the Application materials before
9 participating in the discovery process. But,
10 generally, what we have found is that -- or,
11 what I found is that the experts are willing to
12 and will have reviewed the Application and
13 provide some assistance with discovery before
14 the moment that they are actually retained, that
15 is by an order.

16 And the process for retaining them,
17 you know, as we have experienced it, is
18 something like 30 days. You know, from the
19 time -- you know, we file a motion, the
20 applicant has an opportunity to object, and then
21 the Committee needs some time to make a decision
22 on that. And I think 30 days is about a -- is a
23 reasonable amount of time to get all that done.
24 Maybe the Committee needs more time to decide.

1 But, if we -- I would expect that the calendar
2 would include a date or a timeframe within which
3 the Committee would make the decision on any
4 motion that gets filed.

5 PRESIDING OFFICER IACOPINO: Certainly
6 , it's easier if you and the Applicant agree.
7 So, I would encourage you to discuss with the
8 Applicant those things. And, to the extent that
9 the Applicant --

10 MR. ROTH: We have.

11 PRESIDING OFFICER IACOPINO: -- agrees
12 to the retention of those experts, and I would
13 encourage you to be as willing as you can be to
14 do that, it makes it easier for the Committee.
15 It also gives you and your experts some comfort
16 that, in fact, that decision is going to be made
17 by the Committee and they can get working to
18 review it.

19 MR. ROTH: We would certainly -- and
20 we maintain an open dialogue with the applicant
21 on most things, and we would certainly expect to
22 continue that with respect to the retention of
23 experts, and we've told them that.

24 I think it's essential that they at

1 least have an opportunity to look at what we're
2 going to do before we file it, but -- and it's
3 actually required by the rules. So, that
4 dialogue would continue. And I don't know
5 whether it will be fruitful or not, but we'll do
6 it.

7 So, that's a 30-day process to get us
8 to having the experts on the ground running. I
9 don't know how much farther you want me to go.
10 But, in terms of --

11 PRESIDING OFFICER IACOPINO: Why don't
12 you stop right there, because I think there's a
13 couple things that a lot of folks in the room
14 don't know. And, let me just take them through
15 it.

16 So far, we've received three proposed
17 schedules in advance of this prehearing
18 conference today. There's been a proposed
19 schedule submitted by the Applicant; there's
20 been a proposed schedule submitted by Counsel
21 for the Public; and a proposed schedule
22 submitted by the Forest Society.

23 Basically, the big story on each of
24 those is the Applicant's schedule is within the

1 one-year timeframe set by the statute; Counsel
2 for the Public essentially sets forth an
3 18-month statute -- timeframe, which would
4 require that we exceed the statutory timeframe
5 by six months; and the Forest Society has filed
6 a proposed schedule that -- and I don't know if
7 these are filed, they have been distributed, I
8 guess -- has filed a proposed schedule that
9 envisions a two-year period, which would require
10 a suspension of the timeframe set for an
11 additional year from the statutory requirement.

12 So, just so that folks know what we're
13 talking about when we talk about these things,
14 those are the scheduling proposals that at least
15 I've seen. I've not seen one from any other
16 parties up to this point.

17 I'm sorry, Peter. So, --

18 MR. ROTH: Well, we've -- just one
19 other point about the discovery process, sort of
20 leading us up to, basically, July 1st, from our
21 perspective. Is that we would also, and we've
22 had some conversation with the Applicant about
23 this, begin sort of a first round of discovery
24 prior to the completion of the Applicant -- or,

1 I'm sorry, prior to the completion of the expert
2 retention process. So that we would get on it
3 and get them some discovery sometime about for
4 the middle of May.

5 PRESIDING OFFICER IACOPINO: Okay.
6 Can you explain that in more detail for me,
7 because that's one of the questions that I had?
8 You have the first round of data requests, going
9 from you and the intervenors, by May 15th.
10 What's the thinking on that? What type of
11 information is it that you're envisioning that
12 that first round would include, if you don't
13 have your experts in line until June?

14 MR. ROTH: Tom will answer that one.

15 MR. PAPPAS: There are a number of
16 items that perhaps we could serve some
17 discovery -- Tom Pappas for Counsel for the
18 Public. In an effort to move this along, we had
19 some discussions with the Applicant, and
20 recognized the Applicant is going to get
21 inundated with a lot of discovery requests.
22 Some discovery requests may not require expert
23 input. So, we could do some non-expert input
24 discovery requests of the Applicant early, and

1 do a second round of discovery that would
2 require expert input. And, quite a few items
3 are technical, and I suspect most items will
4 require some expert input to make discovery
5 meaningful. But there might be -- there are
6 some I think we could probably request,
7 particularly document requests, early, and get
8 those out of the way, so that (a) we can move
9 fast along the schedule, and (b) the Applicant
10 can make production on a rolling basis, rather
11 than be crushed with 26 requests at one time.
12 And that's the thinking, is that non-expert
13 stuff we could start early, recognizing that
14 probably most of the discovery requests will
15 require some expert input.

16 MR. ROTH: The other point that I
17 think is relevant here is that we don't believe
18 that the "50 data requests" limitation makes
19 sense in this case for us. And, so, we will be
20 filing a motion, perhaps at the same time as our
21 extension motion, seeking to increase that
22 number. And we haven't settled on that number
23 yet, but it's going to be a fairly significant
24 upgrade.

1 PRESIDING OFFICER IACOPINO: All
2 right. If the other party agrees, just send the
3 data requests. File the motion, of course, but
4 just start the process. Don't wait for an order
5 from the Committee.

6 MR. ROTH: Okay.

7 PRESIDING OFFICER IACOPINO: Okay?

8 MR. ROTH: Fair enough.

9 PRESIDING OFFICER IACOPINO: And, the
10 same for the other way. If you guys have an
11 agreement, when it's your turn to ask your data
12 requests, this goes for all the parties, if
13 there's an agreement, if you're submitting data
14 requests to the Applicant, and you call the
15 Applicant's lawyer up and you say "I've got 55
16 questions" or "I've got 60 questions", or
17 whatever it is, "will you accept those?" Okay?
18 You should file a motion to exceed with the
19 Committee. But, if he agrees, don't wait for
20 that motion to be acted on. Because the way the
21 Committee generally acts, because everybody on
22 the -- well, almost everybody on the Committee
23 runs another state agency, is they wait till
24 there's several things pending before you get an

1 order. And most of the orders you see midstream
2 coming out of the Site Evaluation Committee is
3 what we call "Order on Pending Motions", and
4 usually resolves more than one thing.

5 So, if you have an agreement, that's
6 the type of thing, it's between the parties, and
7 this stuff is not being filed with the Committee
8 in any event, just do it, if you can agree. And
9 I encourage every person in this room, every
10 party in this room, to keep an open dialogue
11 with the Applicant about things like this, these
12 process things. You don't have to agree with
13 their Application, to call them up and say "I
14 need some extra time, would you agree to it?"
15 Or, "I'd like to ask more questions, would you
16 agree to it?" And they shouldn't have to feel,
17 because they want to build the project, they
18 shouldn't feel any discomfort in calling any of
19 you and asking -- or, sending an e-mail is
20 usually the way things get done, sending an
21 e-mail asking you all for similar types of
22 courtesies.

23 MS. BIRCHARD: Excuse me. I'm Melissa
24 Birchard, Conservation Law Foundation. I just

1 wanted to note that it sounds as though what's
2 been proposed is an accommodation on the part of
3 Counsel for the Public that hinges on their
4 being granted additional questions. But the
5 deadline in question appears to apply not only
6 to Counsel for the Public but also the
7 intervenors. So, it raises a broader question
8 of whether that accommodation is something the
9 intervenors can also be comfortable with, and
10 whether they will be granted additional
11 questions, similar to the Counsel for the
12 Public.

13 PRESIDING OFFICER IACOPINO: The rules
14 are no different for the intervenors than they
15 are for Counsel for the Public. I don't know if
16 there's been -- I mean, I'm --

17 MR. ROTH: We do not have an
18 accommodation between us and the Applicant with
19 respect to the number of data requests at this
20 point.

21 PRESIDING OFFICER IACOPINO: We were
22 using that as an example. But, you know, if you
23 want that kind of accommodation, ask for it from
24 the party first. Okay?

1 MS. BIRCHARD: Right. I understand.

2 PRESIDING OFFICER IACOPINO: My only
3 point is that, if it happens, don't wait for
4 there to be an order from the Committee, do your
5 discovery.

6 MS. BIRCHARD: Granted. I guess I'm
7 simply expressing a concern that, well, you may
8 not be as -- you and the Applicant, in general,
9 there may be less willingness to grant
10 additional questions to the entire room than
11 there would be for Counsel for the Public. But,
12 if our deadline hinges on what's been proposed,
13 if the general intervenors are also subject to
14 that deadline, I think they should be given the
15 ability to test the deadline, if it's, you know,
16 prior to our having retained experts to assist
17 us prior to Counsel for the Public having
18 retained experts.

19 PRESIDING OFFICER IACOPINO: No
20 question that, if -- I guess what it boils down
21 to is, if you can't meet the deadline for either
22 identifying your experts or for getting data
23 requests out, you would ask for additional time,
24 you know.

1 But my only point was, and I'm sorry
2 if I went too far off the reservation in my
3 answer, is call the Applicant first and seek
4 agreement on those types of things. Because I
5 think, unlike what most people think, you may
6 very well find that there will be an agreement
7 there, or at least a partial agreement. I mean,
8 I can't speak for the Applicant, but I do know
9 that the Applicant has a desire to have this
10 Application ruled on, and being contrary doesn't
11 really advance the ball for them. So, I'm
12 assuming that they will be somewhat cooperative.

13 Will you?

14 MR. NEEDLEMAN: Yes. The short answer
15 is, to the extent that people are making
16 reasonable requests of us, we will cooperate. I
17 can't say that that's a blanket agreement that,
18 if everybody wants more than 50, they're going
19 to get that. They're going to have to explain
20 to us why that's important.

21 PRESIDING OFFICER IACOPINO: Sure.

22 MR. NEEDLEMAN: But, yes. I encourage
23 people to try to work with us, because we have a
24 strong interest in moving this forward.

1 And, I just want to circle back while
2 we're on this topic before we get too far. What
3 we have tried to do here in our draft schedule
4 is come up with something that queues to the
5 statutory deadlines, which we certainly believe
6 is everyone's obligation at this point.

7 And, I understand what Counsel for the
8 Public is saying about the need for more time.
9 We're concerned about it, because it sounds
10 like, right out of blocks, we are going to
11 engage in a process that will essentially push
12 those statutory deadlines away. And that's
13 troubling to us, because it sounds like we're
14 not even going to initially make an effort to
15 comply with them.

16 I am very sympathetic to Counsel for
17 the Public's need to bring experts on board, and
18 I recognize that takes time. But I would also
19 point out that their deadline that they have set
20 is six and a half months after the completeness
21 determination. And I take issue with what Peter
22 said about it being customary that they get 45
23 to 60 days after the prehearing conference.

24 In the Antrim docket, for example,

1 Counsel for the Public filed their motion --

2 MR. ROTH: Mike, can he save the
3 argument for the motion?

4 PRESIDING OFFICER IACOPINO: Well, I
5 -- look, I let you speak. Go ahead, Barry.

6 MR. NEEDLEMAN: In the Antrim docket,
7 Counsel for the Public filed the motion on its
8 expert 60 days after the completeness
9 determination. Now, I understand that was a
10 simpler docket, and I understand that was only
11 one expert.

12 But we would hope that Counsel for the
13 Public can start getting those motions filed
14 immediately, and we will work with him to
15 cooperate on those. And, if we don't have any
16 disagreement with them, my guess is the
17 Committee will be able to rule on them very
18 quickly and we can get this process going. And,
19 I think, if you look at the schedule that we
20 provided, it accounts for that type of process.

21 There's really -- Tom said something
22 very helpful, which is "we can begin some
23 discovery now on issues that are unrelated to
24 experts". I think that's right, and I think we

1 should be doing that.

2 I think there's a second category,
3 which is hopefully we can begin discovery very
4 soon on experts that we understand they're
5 probably close to retaining. And, if there are
6 some other ones that need to come afterwards, so
7 be it. That will take a little bit longer.

8 PRESIDING OFFICER IACOPINO: That
9 raises a question for me that I would ask you.
10 So, you are anticipating that it might be
11 necessary to have not just two sort of rounds of
12 discovery, but more of a rolling thing? So that
13 if -- and I'm only going to pull topics out of
14 the air, but they -- Counsel for the Public and
15 the intervenors have lined up noise experts and,
16 say, wetlands experts, but they haven't yet
17 gotten a visual expert, that there might be
18 filings with respect to those for discovery,
19 data requests and whatnot, and then another set
20 of data requests after that. Is that what
21 you're envisioning here?

22 MR. NEEDLEMAN: Well, conceptually,
23 yes. I wouldn't call it "rolling", I'd call it
24 "phased", and the difference is important.

1 Because we don't want to be regularly hit with
2 requests that we have to answer in the next
3 period of time. We want two distinct periods,
4 which we've accounted for in our schedule, by
5 which Public Counsel and intervenors need to get
6 requests to us, we answer. There are tech
7 sessions connected with those. And, then, there
8 is a second set of requests we answer, and there
9 are more tech sessions.

10 There's two purposes to that. One
11 purpose is to allow folks some additional time,
12 where they're needed, to try to get that
13 discovery prepared, at the same time that we do
14 try to get this process going now. And, also,
15 for the benefit of all of us, if it's spreads
16 out a little bit, it will enhance our ability to
17 respond to this stuff.

18 So, those sorts of two phases I think,
19 which we provided for in our schedule, I think
20 would benefit everyone.

21 PRESIDING OFFICER IACOPINO: I'm going
22 to look down to SPNHF, because they have also
23 filed a written proposal. And ask Ms. Manzelli,
24 I guess, what your view on this, this particular

1 issue is, sort of creating a double phased,
2 two-phase discovery process?

3 MS. MANZELLI: Thank you. That's
4 fine. I think it makes a lot of sense. I think
5 a phased approach is going to be logical for the
6 reasons Attorney Needleman stated.

7 Overall, I think it would be
8 expedient, for this afternoon's purposes, to
9 leave it to motions, which it sounds like will
10 be filed regarding why it might be in the public
11 interest for the SEC to decide to deviate from
12 the statutory timeframes. So, I circulated the
13 two-year long schedule that overall is my take
14 at what is a realistic approach for the
15 scheduling.

16 You know, as you mentioned earlier,
17 the adjudicative hearing alone might take 20 to
18 30 days. I think that's, you know, two to three
19 times longer than the longest proceeding that's
20 ever happened at the Site Evaluation Committee.
21 So, I think it's just reasonable to contemplate
22 that we're going to be needing to extend those
23 timeframes.

24 So, a phased approach to discovery is

1 fine. Thank you for the opportunity for the
2 input. And I'll save any further argument for
3 the motions. Thank you.

4 PRESIDING OFFICER IACOPINO: Historic-
5 ally, it might not be, because there was a place
6 called "Seabrook" that had fairly extensive
7 hearings, a very long time ago, before I was a
8 lawyer.

9 Actually, before we get there, how
10 many people out in the audience are now confused
11 about scheduling, raise your hands?

12 [Show of hands.]

13 PRESIDING OFFICER IACOPINO: Okay.
14 And, I apologize for that. I realize that, as I
15 was talking with the folks who have filed these
16 proposals up here, has everybody seen the three
17 written proposal that we have received? If
18 you've not, raise your hands?

19 [Show of hands.]

20 PRESIDING OFFICER IACOPINO: Okay.
21 Well, let me see. I don't know if they're up on
22 the website yet or not. Hold on one second.

23 MR. ROTH: I believe we emailed ours
24 to everybody on the distribution list, but not

1 the Committee.

2 PRESIDING OFFICER IACOPINO: That's
3 good. I'm sorry?

4 MS. MANZELLI: I have -- I'm not sure
5 if my microphone is on anymore.

6 PRESIDING OFFICER IACOPINO: You've
7 got to just get close to it there.

8 MS. MANZELLI: I have 50 copies of it.
9 I can hand those around, if that's helpful?

10 PRESIDING OFFICER IACOPINO: Sure, if
11 you'd like.

12 MR. ROTH: We don't.

13 PRESIDING OFFICER IACOPINO: I know.
14 That's all right. In general, just a minute Ms.
15 -- in general, you will get these, if you
16 haven't already received them. I don't think
17 there is any way today that, and what generally
18 happens, in these pretrial conferences with
19 respect to scheduling, is we actually come to an
20 agreement, for the most part, with just a couple
21 of loose ends about scheduling. I don't think
22 that, today, with this group, in part, because
23 of the size, but also, in part, because of the
24 positions that folks are taking, that we're

1 actually going to come to an agreement on the
2 schedule.

3 So, I think maybe we should direct
4 this discussion a little bit different. There
5 will be a procedural schedule that will be
6 issued by the Site Evaluation Committee. It
7 will be issued by the Chairman of the Committee.
8 I'm going to ask that -- what I'm going to
9 suggest we do, instead of trying to go through
10 each deadline that might be set, I'm going to
11 ask that we have a deadline of ten days from
12 Monday set, so that if anybody wants to weigh in
13 and give their recommendation to the Committee
14 about an appropriate schedule, that that be done
15 within ten days of Monday, same time that the
16 other two objections are due, and you weigh in
17 by that point. And you should be able to see,
18 before you do that, the three written proposals
19 that are out there. The one submitted by the
20 Applicant; the one submitted by Counsel for the
21 Public; and the one submitted by the Forest
22 Society; or you can recommend your own. But I
23 think that that's the -- that's probably the
24 best way that we will get input on the schedule.

1 I doubt going around this room and going
2 deadline by deadline we're going to reach any
3 kind of agreement. But, at least this way, the
4 Chair will know what the positions of the
5 parties are and can issue a procedural order
6 based after reviewing those positions.

7 I may want to shorten that date,
8 though. Let me just see something.

9 MS. MANZELLI: While you're checking
10 on that, may I ask a question?

11 PRESIDING OFFICER IACOPINO: I can
12 only do one thing at a time. Sorry.

13 I want to be fair to the Applicant.
14 The ten days from Monday, so, Monday is the
15 28th, --

16 MR. PAPPAS: That's April 7th.

17 PRESIDING OFFICER IACOPINO: -- is
18 April 7th. And, if I remember correctly, --

19 MR. NEEDLEMAN: April 11th.

20 MR. PAPPAS: Eleventh.

21 PRESIDING OFFICER IACOPINO: Yes. You
22 asked for your process to start April 11th.

23 MR. NEEDLEMAN: Can we shorten that
24 time period?

1 PRESIDING OFFICER IACOPINO: I'm
2 sorry?

3 MR. NEEDLEMAN: Can we shorten your
4 time period?

5 PRESIDING OFFICER IACOPINO: That's
6 what I'm -- I think that that's fair to do.

7 MR. ROTH: Excuse me, Mike.

8 PRESIDING OFFICER IACOPINO: Just a
9 minute. What I'm considering recommending to
10 the Committee is to shorten the timeframe to
11 weigh in in writing on the calendar, on the
12 scheduling. And the reason why I'm doing that
13 is the Applicant has submitted their proposal,
14 which has April 11th as the is first day that
15 something is due. And, if we wait for ten days
16 after the 28th, that would be -- we'd be butting
17 up right against -- right against that. And, if
18 that's what the Committee ordered, that wouldn't
19 be fair to you all, who have to take the next
20 step either. In an effort to be fair to
21 everybody, I might need to shorten that date.

22 Somebody over here. Mr. Whitley.

23 MR. WHITLEY: Steven Whitley. I just
24 wanted to inquire, and you may not have the

1 answer to this, but it sounds like there are
2 people that are going to object to their
3 intervenor group and the restrictions that have
4 been placed on them, and motions are going to be
5 filed by the 28th. I'm assuming the Applicant
6 is then going to have ten days to respond to
7 those motions, that gets us to roughly
8 April 8th. And, then, the SEC has to render a
9 decision on that. And, I'm dubious that that's
10 going to happen within two days of the motions
11 coming out, or maybe it will.

12 But, under the Applicant's timeframe,
13 the first data requests are supposed to come out
14 on the 11th. And that just doesn't seem like a
15 lot of time for the parties to file their
16 objections to the intervenor order, the
17 Applicants to respond, the SEC to make a ruling,
18 and then for the fallout from that ruling to be
19 put into effect, so that the groups can get
20 together, coordinate, figure out what questions
21 they want to ask.

22 So, I'm just wondering if you can
23 speak to, I guess, the SEC's anticipated meeting
24 schedule in the next couple of weeks to crank

1 out some of these decisions, because that seems
2 to be a chock point for a lot of this going
3 forward.

4 PRESIDING OFFICER IACOPINO: Well,
5 first of all, what we're discussing right now,
6 though, is not those issues. The issue is in
7 terms of setting the schedule. Those issues
8 we're going to be dealing with one way or
9 another. And it may change after this round of
10 hearing -- of motions and objections. It may
11 change again down the road. You know, the
12 intervenor groups, which are at the crux of
13 that, can change over time, and they may very
14 well. So, I'm little bit less concerned about
15 that.

16 I'm more concerned about, if the
17 Applicant is arguing for a certain proposed
18 schedule, and other folks are arguing for a
19 different proposed schedule, that the Committee
20 have everybody weigh in in a timeframe that
21 makes sense for them to issue a procedural
22 order. That's where I see the difficulty is.

23 I mean, I think you can -- if we can't
24 get to the procedural schedule, then none of

1 those other issues are going to make a
2 difference anyway.

3 MR. WHITLEY: I guess I feel like it's
4 a little bit of a "chicken or the egg" thing.
5 Because I think some of the intervenors need to
6 know where the SEC is going to come down on the
7 groupings and the limitations before they feel
8 like they can weigh in on these discovery issues
9 and the deadlines and those sorts of things.

10 PRESIDING OFFICER IACOPINO: But, in
11 reality, with this size of a proceeding, we're
12 going to wind up with scrambled eggs.

13 So, I mean, that's the issue. And,
14 so, I think that I'm still inclined to recommend
15 that the weighing in on the schedules be done in
16 a little bit shorter time.

17 Ms. Pacik, you had a question?

18 MS. PACIK: Thank you. Danielle
19 Pacik, from the City of Concord.

20 What I would just ask is that any
21 deadline for discovery requests be done in terms
22 of a certain amount of days from a final
23 decision on the grouping of the parties. So,
24 rather than having it be May 15th or April 11th,

1 it be 45 days from the date of the decision by
2 the SEC of which groups are going to be joined
3 together for discovery purposes, and maybe
4 within 60 days from that, because it will take
5 time for people to get together.

6 PRESIDING OFFICER IACOPINO: Thank
7 you. Mr. Boldt.

8 MR. BOLDT: Chris Boldt, for the City
9 of Berlin. One suggestion I would make is to
10 just have our responses on the schedule due at
11 the same time we're filing our objections to the
12 groupings, which would make it the 28th, rather
13 than ten days from the 28th.

14 MR. ROTH: Mike?

15 PRESIDING OFFICER IACOPINO: Just one
16 minute, Peter. Ms. Schibanoff has been very
17 patient back there.

18 MR. ROTH: Oh, I'm sorry.

19 PRESIDING OFFICER IACOPINO: And I
20 missed her, and I'm very sorry.

21 MS. SCHIBANOFF: Susan Schibanoff.
22 When the discussions get going on people in the
23 first row, could you please remember to identify
24 yourself. We all don't know who you are back

1 here, and they're just disembodied voices. It
2 would help to know who's speaking. Thank you.

3 PRESIDING OFFICER IACOPINO: All
4 right. Thank you. Go ahead, Peter.

5 MR. ROTH: Mike -- Peter Roth, Counsel
6 for the Public. In having a whispered
7 discussion with my team, --

8 PRESIDING OFFICER IACOPINO: I saw
9 that.

10 MR. ROTH: -- and based on my
11 understanding of how the process for us is
12 going, we do not think it is possible for us to
13 file expert retention motions by April 11th,
14 certainly not to be done with it. Maybe we
15 could start the process at that point, but we
16 would not be done with it by April 11th.

17 PRESIDING OFFICER IACOPINO: That
18 being the date that's in Counsel for the
19 Public's proposal -- I'm sorry, that would be in
20 the Applicants' --

21 MR. ROTH: In the Applicants'
22 proposal. And, that's the one you seemed to be
23 worried about in terms of making the decisions.

24 PRESIDING OFFICER IACOPINO: No.

1 Actually, what's causing me the concern is the
2 other deadline, April 11th, which is propounding
3 discovery requests upon the Applicant, that
4 first round of discovery.

5 MR. ROTH: Right. So, that's the --

6 PRESIDING OFFICER IACOPINO: That's
7 the one that's causing me the agita here.

8 MR. ROTH: Okay. Since you won't know
9 who your intervenors are at that point.

10 PRESIDING OFFICER IACOPINO: And
11 Ms. Menard.

12 MS. MENARD: Jeanne Menard, Deerfield.
13 The Applicant had mentioned the completedness
14 date as kind of a starting point for the
15 Applicant.

16 PRESIDING OFFICER IACOPINO: Yes.

17 MS. MENARD: Would like the SEC to
18 realize that, as an intervenor, for example,
19 Appendix 46, which is a 1,700 page document, was
20 not made available to be viewed on the SEC site
21 until late February. So, we're starting -- due
22 to the file size, it was not -- we just couldn't
23 access it. So, --

24 PRESIDING OFFICER IACOPINO: Are you

1 referencing the supplemental filing?

2 MS. MENARD: No. This was in the
3 Application itself. This particular document,
4 which I needed and wanted to start reviewing
5 back as soon as it was posted, regarding the
6 real estate -- high voltage transmission line
7 and real estate values. So, there may be other
8 documents that other intervenors similarly, I
9 know our Conservation Commission was having
10 trouble getting information. So, this
11 information was posted, but we have a much later
12 date of actually being able to access that
13 information and start processing it, reading it
14 and using it. So, our start date has been much
15 later.

16 PRESIDING OFFICER IACOPINO: If that
17 is a continuing problem with anything -- I know
18 we did get an e-mail from somebody just in the
19 last couple of days saying they couldn't open a
20 document. But, if that is a continuing problem,
21 please don't -- please don't wait. Contact Pam
22 Monroe or myself and let us know that you're not
23 able to get to a document on our website. We'll
24 do what we can. I know that we did reduce the

1 size of some of them in the past. But please
2 don't wait, because we won't know that that's a
3 problem.

4 Because, I will tell you, I have -- I
5 have the whole Application separately on my
6 computer. And, even when I do go to the
7 website, I generally get on it pretty quick.
8 But I have, you know, people have called and
9 said there's a problem opening this or that, I
10 tried to get it fixed right away. So, please,
11 please let us know.

12 Now, as that pertains to scheduling, I
13 understand that that might be a problem. And,
14 you know, we will -- I think the Chairman will,
15 obviously, take technical issues like that into
16 consideration. But I don't -- I don't know what
17 the result will be.

18 MS. MENARD: Thank you.

19 PRESIDING OFFICER IACOPINO: Ms.
20 Pastoriza.

21 MS. PASTORIZA: I'm Kris Pastoriza,
22 Easton. Maybe you could date completeness from
23 when the latest files were broken out by Pam, so
24 people could access them?

1 PRESIDING OFFICER IACOPINO: Well, it
2 depends what you mean by "date completeness".
3 "Completeness" means something under the statute
4 that we don't get to change. But I do
5 understand that setting deadlines, understanding
6 that the documents were not reduced, which is I
7 believe what you're talking about, this is
8 something that the Chair should consider. I
9 think that's very similar to Ms. Menard's
10 request.

11 MS. MANZELLI: Mike, can I ask a
12 question? Over to your right.

13 PRESIDING OFFICER IACOPINO: Oh. Hi,
14 Amy.

15 MS. MANZELLI: Amy Manzelli, for the
16 Forest Society.

17 Can you speak to whether you
18 contemplate that the Chair alone will be making
19 the procedural order or whether there will be no
20 procedural order until after the SEC, as a
21 group, you know, deliberates on motions to alter
22 the timeline?

23 PRESIDING OFFICER IACOPINO: Well,
24 it's actually two different questions. The

1 Chair will make -- will issue the procedural
2 schedule. Under RSA 162-H, Section 4,
3 procedural decisions are made by the Chair.

4 The other question is "will that occur
5 before the Committee sits and deliberates on the
6 appeals from the intervention orders?" I don't
7 know. That's really up to the Chair as to when
8 he decides to issue the procedural order.

9 But what I'm trying to get to here is
10 a date that's fair to, both the Applicant and to
11 everybody else in the room, to have people weigh
12 in on your schedule, Counsel for the Public's
13 schedule, the Applicants' schedule, or if they
14 have an alternate schedule that they would like
15 to propose. That's really where I'm at. And,
16 you know, I don't want any party to be excluded
17 from their -- their proposal being considered
18 simply because time has passed.

19 Does that answer your question?

20 MS. MANZELLI: It actually doesn't
21 answer it all the way. And, I apologize --

22 PRESIDING OFFICER IACOPINO: I'll do
23 my best.

24 MS. MANZELLI: The duty to extend the

1 timeframes, can the Chair do that by himself or
2 does the full Subcommittee need to decide that?

3 PRESIDING OFFICER IACOPINO: My
4 recollection is that is a Committee decision to
5 be made.

6 MS. MANZELLI: So, I guess the
7 question is, would the Chair issue a procedural
8 order before the Subcommittee makes a decision
9 to extend or to not extend?

10 PRESIDING OFFICER IACOPINO: Like I
11 say, I don't know. That's entirely in the hands
12 of the Chairman, and I don't know what he's
13 thinking. So, you know, I will tell you that
14 it's -- it's not a big deal if we issue, and
15 this is for everybody's benefit, and Amy
16 probably already knows this, it's not a big deal
17 if we issue -- let's say we just adopted the
18 Applicants' procedural schedule today. We can't
19 do that, because the Committee is not here.
20 Let's say Mr. Honigberg decided "this is the way
21 I'm going to schedule this case", and he
22 signed -- just signed this today. And, then, in
23 two weeks, there's a hearing on the motion, or
24 it would be actually in 24 days or something

1 like that, there's a hearing on the motion for
2 extension, and the Committee votes to extend the
3 schedule, to suspend the timeframes and extend
4 the schedule, there's likely to be, after that,
5 another procedural order that will get issued.

6 So, I don't want anybody to think that
7 one thing prohibits the other; it doesn't.
8 There is -- I'm not sure it's going to happen
9 that way. But, should it, it does not stop the
10 Committee from doing what they vote to do.

11 Yes, ma'am.

12 MS. DRAPER: Yes. I'm Gretchen
13 Draper, from New Hampton. And I'm here on
14 behalf of PRLAC, the Pemigewasset River Advisory
15 Council.

16 I'm wondering if, right here and now,
17 you know, we talk about keeping communication
18 open with all of the groups, can we make a
19 decision here to extend that April 11th
20 deadline, with the Applicant's, you know,
21 goodwill?

22 PRESIDING OFFICER IACOPINO: There is
23 no decision to have that deadline in the first
24 place.

1 MS. DRAPER: Okay. So, --

2 PRESIDING OFFICER IACOPINO: It's a
3 proposal from them.

4 MS. DRAPER: Right. So, we could --

5 PRESIDING OFFICER IACOPINO: Counsel
6 for the Public has a different proposal.

7 MS. DRAPER: Uh-huh.

8 PRESIDING OFFICER IACOPINO: SPNHF has
9 a different proposal.

10 MS. DRAPER: Right.

11 PRESIDING OFFICER IACOPINO: And what
12 I am trying to discuss here is an opportunity
13 for everybody else in the room, including your
14 group, to weigh in either on those three -- on
15 one or more of those three proposals, or some
16 alternate altogether. And, really, all I'm
17 trying to do is, because I don't think we're
18 going to get everybody in the room to agree on
19 one proposal, is to set a date by which you all
20 have the opportunity to weigh in on that, and
21 then leave it up to the person who has to make
22 the decision in any event, Mr. Honigberg, --

23 MS. DRAPER: Right.

24 PRESIDING OFFICER IACOPINO: -- to

1 make that decision.

2 MS. DRAPER: So, I have heard people
3 here saying that April 11th doesn't seem to work
4 with their schedule. Can we take April 11th off
5 the docket? Who do we -- do you need --

6 PRESIDING OFFICER IACOPINO: No. I
7 think the problem with April 11th is what we
8 were talking about, one of the deadlines we were
9 discussing, --

10 MS. DRAPER: It's because the
11 Applicant wants --

12 PRESIDING OFFICER IACOPINO: -- it
13 would be too close to the Applicant, --

14 MS. DRAPER: Right.

15 PRESIDING OFFICER IACOPINO: -- in
16 other words, before you got an order, --

17 MS. DRAPER: Uh-huh.

18 PRESIDING OFFICER IACOPINO: -- it
19 would be too close to the commencement of the
20 Applicants' schedule.

21 MS. DRAPER: Right.

22 PRESIDING OFFICER IACOPINO: And, of
23 course, the Applicant deserves the same
24 consideration that every other party deserves,

1 to have their schedule fully considered.

2 MS. DRAPER: Right. Can we ask the
3 Applicant right now if they would be willing to
4 extend that for a week? Would Mr. --

5 PRESIDING OFFICER IACOPINO: Absolutely
6 .

7 MR. NEEDLEMAN: I think the answer is,
8 if you look at the entire schedule that we
9 circulated to everyone, what we tried to do is
10 come up with something that begins really as
11 soon as possible from this date, and still gets
12 us to an endpoint within the statutory
13 deadlines.

14 And, as long as we -- our view is, as
15 long as we can create a schedule together, that
16 gets us to a statutory endpoint that respects
17 those deadlines, we would be willing to listen
18 to proposals.

19 I think the problem is, if we're not
20 thinking about that holistically, and we're just
21 starting to extend dates out, without thinking
22 about the effect that it has on the dates that
23 come afterward, that's where we think we can
24 create a problem with achieving those statutory

1 deadlines.

2 PRESIDING OFFICER IACOPINO: But,
3 Mr. Needleman, though, there's only really one
4 day. We're not going to -- we're not going to
5 come -- we're not going to do like we've done in
6 many other prehearing conferences, just because
7 of the size here, we're not going to come up
8 with a full schedule here today. It's pretty
9 clear.

10 MR. NEEDLEMAN: Yes.

11 PRESIDING OFFICER IACOPINO: So,
12 there's only really one date that we're
13 concerned about, and that is the date by which
14 folks weigh in on the schedule, in writing, so
15 the Chairman can make -- and, I think, is there
16 any leeway in that April 11th date, with respect
17 to that issue for you? Because, if we did allow
18 the filings of those papers on the same day that
19 we would -- that there's already objections to,
20 on the waivers and on the protective order, that
21 is -- I've lost the date -- that is ten days
22 from Monday, I believe, was the -- when were you
23 going to file your redacted?

24 MR. NEEDLEMAN: Monday.

1 PRESIDING OFFICER IACOPINO: Monday,
2 the 28th.

3 MR. NEEDLEMAN: The 28th.

4 PRESIDING OFFICER IACOPINO: Right.
5 So, if we wait for ten days from that, we
6 are what, the 8th? I'm going to get a better
7 calendar next time. Oh, the sixth, if I've
8 counted correctly.

9 And, so, even if the --

10 ADMINISTRATOR MONROE: Seventh.

11 PRESIDING OFFICER IACOPINO: The 7th,
12 okay. So, even if the Committee was able to
13 rule on the 7th, which is unlikely, we're
14 talking three days before it would be -- before
15 everybody would be required under your schedule,
16 if that's what was adopted, to get data requests
17 to you.

18 MR. NEEDLEMAN: Right. So, you're
19 asking if we could slip that date --

20 PRESIDING OFFICER IACOPINO: Right.

21 MR. NEEDLEMAN: I have no problem with
22 letting that slide and letting other dates slide
23 commensurately. I'm sure there's --

24 PRESIDING OFFICER IACOPINO: Well, I'm

1 asking for a specific one, though. I'm asking
2 to just make the date for weighing in on the
3 schedule the same as the objection dates for the
4 waivers, which is the 6th -- the 7th of April.
5 That's the only date that -- I'm not saying that
6 --

7 MR. NEEDLEMAN: Right.

8 PRESIDING OFFICER IACOPINO: -- that,
9 you know, I mean, because that does make -- I
10 mean, I'll tell you, if the Chair is thinking
11 about what he's doing, he's going to not be very
12 crazy about setting a first date on the 11th,
13 when his order is probably issued on the 11th,
14 probably, if you look at it, it's a Thursday,
15 Friday, --

16 MR. NEEDLEMAN: Yes.

17 PRESIDING OFFICER IACOPINO: So,
18 that's -- that's the issue that I see.

19 MR. NEEDLEMAN: So, which specific
20 date are you asking about?

21 PRESIDING OFFICER IACOPINO: I'm
22 asking you, is it, from the Applicant's
23 standpoint, do you mind if folks have the same
24 ten-day period after next Monday to weigh in on

1 the schedule, which would give them to the 7th?
2 That would mean that there's no way, probably, I
3 can't speak for the Chair, there's no way that
4 first date of April 11th, in your proposed
5 schedule, could ever be met. That would have to
6 slide somehow. And it would have to probably
7 be -- though, you could make a recommendation to
8 the Chair, but it's probably going to have to
9 slide. Most likely, the Chair is going to have
10 to back it up, only because of the day on which
11 he's actually considering the overall schedule.

12 MR. NEEDLEMAN: Right. And, I guess
13 what I'm not following is, why would we, since
14 the proposed schedules have all been circulated,
15 and we've talked about it a fair bit today, is
16 there a reason why we couldn't ask people to
17 weigh in on those proposed schedules within ten
18 days from today?

19 PRESIDING OFFICER IACOPINO: That's
20 where I was before. But I'm trying to get the
21 question from over here answered. Her question
22 was, "will the Applicant give at all on that
23 type of thing?"

24 MR. NEEDLEMAN: I see. I

1 misunderstood. I thought the question was
2 "would we give on the schedule", not on its
3 timing.

4 PRESIDING OFFICER IACOPINO: Well, I
5 may have actually moved the discussion, because
6 I'm --

7 [Court reporter interruption.]

8 PRESIDING OFFICER IACOPINO: -- I'm of
9 a pretty full mind that we're not going to
10 meet -- get agreement on a schedule today.

11 MR. NEEDLEMAN: That's sounds right.

12 PRESIDING OFFICER IACOPINO: So, I may
13 have shifted her question a little bit on you.
14 Sorry, ma'am. But that's my problem, I
15 apologize. But that's sort of the question.

16 So, your position is, "why not ten
17 days from today, not ten days from Monday?"

18 MR. NEEDLEMAN: Right. This seems to
19 me to be a straightforward issue. I would
20 assume folks in this room have a pretty clear
21 sense of the position they're going to take.
22 So, I think they should take those positions and
23 get them to the Committee as soon as they can,
24 so the Committee can start thinking about this.

1 PRESIDING OFFICER IACOPINO: Mr.
2 Cunningham.

3 MR. CUNNINGHAM: Just wanted to
4 suggest an update on my filing on Sunday. Art
5 Cunningham, representing Mark Lagasse and Kevin
6 Spencer. On Sunday, I entered a filing into the
7 record that there be a deadline for dispositive
8 motions. That this case should not proceed
9 until such time as the Applicant establishes
10 that it has a right to build this project on
11 these old easements. I'm not going to argue
12 that motion now. But, you know, this process is
13 going to be lengthy, extensive, time-consuming
14 not only for everybody involved here, but for
15 the SEC, for the permitting agencies. And we
16 intend to file a motion that dismiss this
17 process, because the Applicants have not been
18 able to prove that they have the right to build
19 this project on the old easements that traverse
20 most of New Hampshire.

21 PRESIDING OFFICER IACOPINO: Just in
22 answer to your question. There's no need to
23 argue it here today, because I can't resolve it.
24 It's going to be resolved by either the Chair or

1 the Subcommittee as a whole. But you filed your
2 motion. There has been an objection. I believe
3 that has been filed. There's still time for
4 other parties to object, if they choose to do
5 so. And the Chair will -- the Chair will rule
6 on that motion, once the objection period has
7 run.

8 And I assume that, if you prevail on
9 that request, there will be, in the procedural
10 order, the deadline that you requested. There
11 will be, in all likelihood, some kind of the
12 motion deadline in the procedural order in any
13 event. Maybe not designed precisely for the
14 type of motion that you intend to file, but
15 generally, to make sure that most motions
16 regarding what matters are going to be heard by
17 the Committee are dealt with in advance.

18 MR. CUNNINGHAM: I do want to say, Mr.
19 Chairman, that I set the date at May 20, which
20 would give this Applicant time to reach out to
21 the easement owners to try to settle the issues
22 with them, proposed resolution with them, in
23 order to seek some kind of judicial relief.
24 Repeating myself, that is not the landowner's

1 responsibility.

2 PRESIDING OFFICER IACOPINO: Okay.

3 But this isn't the time to argue that,

4 Mr. Cunningham.

5 MR. CUNNINGHAM: I understand.

6 PRESIDING OFFICER IACOPINO: This,
7 what we're trying to do right now, just is
8 scheduling. But I do take your suggestion that
9 there be a motion deadline contained in any
10 procedural order. That will likely occur. It
11 has in the past, it has traditionally been in
12 the orders that come from the Site Evaluation
13 Committee. Whether it will be precisely that
14 deadline that you're looking for, I can't say,
15 because I'm not the person who is going to rule
16 on that. Okay?

17 Somebody else back there. Yes, sir.
18 Please use the microphone and tell us your name.

19 MR. DODGE: Sure. Andrew [inaudible],
20 Bethlehem.

21 [Court reporter interruption.]

22 PRESIDING OFFICER IACOPINO: Please
23 repeat yourself.

24 MR. DODGE: Andrew Dodge.

1 PRESIDING OFFICER IACOPINO: Thank
2 you, Mr. Dodge. Speak right into that mike
3 please.

4 MR. DODGE: So, with respect to the
5 comments on the scheduling, I'm just confused as
6 to -- sorry. Is that, if you're part of a
7 group, is it supposed to be the spokesperson for
8 the group that's supposed to file that, or each
9 person?

10 PRESIDING OFFICER IACOPINO: Yes.
11 It's supposed to be the spokesperson for the
12 group. But, if your group is not of one mind,
13 you protect your own interests.

14 MR. DODGE: Assuming that, so, like my
15 group has got 17 people, and I don't think
16 anyone else showed up today.

17 PRESIDING OFFICER IACOPINO: It sounds
18 like you're of one mind.

19 MR. DODGE: So, how does that work,
20 whether it's ten days or something, who's the
21 spokesperson? Like, how --

22 PRESIDING OFFICER IACOPINO: I would
23 suggest that you are the spokesperson today.
24 But, if you don't -- if your group is not here,

1 or they don't want to -- they don't want to file
2 something, they may not want to weigh in on the
3 actual schedule, people intervene to varying
4 degrees, okay?

5 MR. DODGE: Yes.

6 PRESIDING OFFICER IACOPINO: There are
7 many intervenors here who have gone through the
8 trouble of filing to intervene, were granted,
9 yet they're not here. We don't wait for them.
10 It's not -- this isn't a group ride where we
11 wait at the next light. We keep going. And, if
12 that means that you have to file to protect your
13 own interests, you go ahead and file.

14 MR. DODGE: So, if I have that right
15 then, we can all file individually, regardless
16 of whether we're in a group?

17 PRESIDING OFFICER IACOPINO: I
18 seriously wish that you wouldn't, and that you
19 do attempt to act as a group. Whether it be the
20 group that the Committee has put you in, or if
21 that group should change because of some of the
22 discussions that were had here today, that you
23 act with the group. But, if you cannot, and if
24 this goes for everybody, if you cannot act with

1 the group, you should let the Committee know
2 that and file and protect your own interests.

3 MR. DODGE: And will they accept that,
4 because there's kind of --

5 PRESIDING OFFICER IACOPINO: Yes, they
6 will.

7 MR. DODGE: Even though there's an
8 order that says you have to have a spokesman?

9 PRESIDING OFFICER IACOPINO: They
10 will. I would advise you to make sure that
11 you've explained -- and to explain why you're
12 filing separately. For instance, if you were to
13 file something right now, you could say "The 17
14 people in my group, I am the only person who
15 showed up. I think this needs to be resolved
16 right now. Therefore, I am filing this. I do
17 not know if my group agrees with me."

18 We prefer that you act as a group.
19 And, I think, actually, as this process goes on,
20 you all will see the benefits of acting as group
21 as well, because it's going to be a lot easier
22 to share the burden than to take it all on
23 yourself.

24 Anyway, but I do want to get back to

1 this issue of a deadline for weighing in on the
2 schedules. Does anybody else have a question
3 about that particular issue, or a comment or a
4 suggestion?

5 Mr. Beliveau.

6 MR. BELIVEAU: Mike, Mark Beliveau,
7 representing the Balsams. And, in just kind of
8 listening to the conversation here today about
9 the date by which folks should weigh in on the
10 schedule, it seems to me that ten days from
11 today makes a lot of sense. And the reason for
12 that -- and I believe that date would be
13 April 1st, although I don't have the calendar in
14 front of me. And the reason why that makes a
15 lot of sense to me is that today you, in a very
16 methodical and careful manner, went through the
17 process that the Committee will follow, and that
18 this administrative hearing will follow, in
19 terms of discovery. And that also there have
20 been three proposed orders that have circulated.
21 And, probably without any coordination, those
22 three orders present three very different
23 viewpoints. The Applicant has proposed that the
24 starting place should be the statutory framework

1 of 12 months. There's good logic and reason
2 behind that. Another proposal has come in
3 suggesting 18 months, I believe from Public
4 Counsel, and Public Counsel has briefly spoken
5 to that and the reasoning and logic behind their
6 proposal. And I believe the Forest Society has
7 proposed approximately 24 months.

8 So, there are some very different
9 views that have been expressed, not only here
10 today, but in writing. And, so, there's a lot
11 of information out there on this very subject
12 that will allow folks to be able to express and
13 submit their, you know, proposal for a schedule.
14 And, to be able to do that within ten days from
15 today, I think is a very reasonable position and
16 moves this issue forward.

17 PRESIDING OFFICER IACOPINO: Yes,
18 ma'am.

19 MS. JENSEN: Cheryl Jensen, from
20 Bethlehem. That doesn't take into consideration
21 having to have meetings with the group, like our
22 Select board, our Planning Board. All of that
23 has to be done publicly, as far as I can tell.

24 PRESIDING OFFICER IACOPINO: Anybody

1 else wish to weigh in on this? Yes.

2 MR. ROTH: Mike, Peter Roth, Counsel
3 for the Public. It seems to me we're talking
4 about a difference of what, like four days,
5 between ten days from now or ten days from
6 Monday.

7 PRESIDING OFFICER IACOPINO: Six days.

8 MR. ROTH: And it's relative, six days
9 on the calendar and four business days, I guess,
10 right? Something like that? The Applicant has
11 already said that it would be more than happy to
12 be willing to be flexible and cooperative at the
13 outset, as long as it doesn't lose its end date.
14 And nothing about what's being talked about so
15 far that's, at least with respect to this date,
16 that's affecting its end date. And, instead
17 we're hearing a quarrel over four or five days,
18 which doesn't bode well for the idea of
19 flexibility.

20 So, given the complexities of this
21 case already, and the fact that we have dates
22 set for objections on the ten days from Monday,
23 it makes sense, it seems to me, to have
24 everything sort of come in at once, and not have

1 people sort of figure out how to do all those
2 things. Maybe it's like walking and chewing gum
3 at the same time, some of us are better at it
4 than others. I, for one, would prefer to have
5 it nice and simple. And, so, I think there's
6 really nothing wrong with doing it ten days from
7 Monday.

8 The other, you know, we've said we
9 could have our motion in ten days from today,
10 which I was under the belief that that was like
11 the end of next week. And maybe that's not
12 quite true, but I think we could probably have
13 it by the end of next week. Ten days from
14 Monday would give people the benefit of looking
15 at that motion before they weigh in on the
16 calendar.

17 PRESIDING OFFICER IACOPINO: Anybody
18 else wish to -- yes, ma'am.

19 [Court reporter interruption.]

20 MS. BRADBURY: JoAnne Bradbury,
21 Deerfield. And, if I may say, given the
22 magnitude of what's about to happen to the State
23 of New Hampshire if this project goes forward,
24 what's the big rush?

1 PRESIDING OFFICER IACOPINO: Well, the
2 answer to that question is that we do have a
3 statute that does have an end date on it. Okay?
4 So, it's not -- this isn't something that's made
5 up. It exists. And the process, at least as it
6 exists today, right now, is supposed to be
7 accomplished by December 18th or December 19th.
8 And that's -- it's not a rush, but that's the
9 genesis of the discussion that we're having,
10 okay?

11 I think people are being flexible here
12 today. I think people are having a good
13 discussion about things like what Mr. Roth just
14 discussed, about things like Mr. Beliveau just
15 discussed. That's the purpose of this
16 proceeding. I don't think anybody is saying
17 this has to be a "rush". But these are issues
18 that we have to deal with. And, by the way,
19 between now and the end of this docket, there
20 will be many times that we sit in rooms like
21 this and have discussions like this. So, I'm
22 sorry, go ahead.

23 MS. BRADBURY: Well, it would be very
24 helpful if you could set aside ten days from

1 Monday --

2 [Court reporter interruption.]

3 MR. JOHNSON: JoAnne Bradbury. And,
4 if you could just say the actual date, because
5 I'm not sure which Monday you're talking about?

6 PRESIDING OFFICER IACOPINO: Well, ten
7 days from Monday will be April 7th, I believe we
8 figured out. Monday is the 28th. So, ten days
9 from Monday is -- one, two, three, four, five,
10 six, seven, eight, nine, ten -- April 7th, which
11 is a Thursday. And I'm sorry I don't have the
12 best of calendars up on the screen, but -- so,
13 that's ten days from Monday.

14 The other proposal is ten days from
15 today, which would bring us to the 31st.

16 So, that's the difference of what
17 we're talking about. Mr. Roth is right,
18 basically six days, with the weekend included in
19 there. So, I know it sounds like a small thing,
20 but -- I've got to tell you, Barry, I'm inclined
21 to just have them all file on the same day and
22 recommend that. Only because I think that, at
23 that point, at least we know everything that is
24 coming in on that. We know we're going to get

1 your filing and you're going to have to object
2 to their motion. And I'm hoping, I cannot
3 promise this, but I'm hoping to have a Committee
4 meeting that week of the 11th. So, like I said
5 before, I don't know if, at that meeting, we
6 will actually take oral argument from the
7 parties who want their groupings changed or
8 their decision on their intervention changed.
9 That will -- that will be discussed in an order
10 scheduling that.

11 The other thing that you should be
12 aware, by the way, I should have said this at
13 the beginning, is, for all of you parties now,
14 there are no further -- well, I should take that
15 back. We'll get to that in a minute. For the
16 most part, there will be no further public
17 notices in the papers. As an intervenor, you're
18 responsible for reviewing the materials that you
19 get from the Committee, and that's where you
20 will see scheduling. It will also be on the
21 website. And it will also be posted at the
22 Department of Environment Services and at the
23 Public Utilities Commission. But we will not be
24 publishing things in newspapers about future

1 hearings before -- in the adjudicative phase,
2 because the notices in the adjudicative phase go
3 only to the participants in the adjudicative
4 phase, with a couple of exceptions. There are
5 going to be two more public hearings, as we've
6 announced. They have not been scheduled yet.
7 We will have those published, so that the public
8 is aware of those. There also may very well be
9 further site visits. I know that we have had
10 requests for additional site visits. We usually
11 notice those, like we do a public hearing, and
12 those are likely to be in the paper as well.

13 But, with respect to the adjudicative
14 phase, the notices that you receive will be
15 received through the distribution list and will
16 be posted at the website and at those two State
17 offices, the Department of Environmental
18 Services and the PUC.

19 So, at this point, we're going to have
20 the objections to -- I'm sorry. The objections
21 to the intervention order or the request for
22 appeal are due the 28th. So, you should keep
23 that in mind. And, on Monday, we're going to
24 see a redacted -- Monday, the 28th, we're going

1 to see a redacted appendix with the economic
2 report. And, ten days after that, objections to
3 the confidentiality request, objections to the
4 waivers request, and weighing in on the
5 schedules all must be filed.

6 I don't think there's any scheduling
7 other than that that we can do here today, that
8 is likely to lead to any kind of agreement on
9 things. I want to go back to the -- and I want
10 to throw this out to everybody. We do have two
11 public hearings scheduled. We don't have places
12 for them yet. This is not something we have to
13 discuss here. But, if anybody has a place in
14 mind, I believe that the Chairman wished to have
15 one, as we say, "north of the Notch" and one
16 "south of the Notch", to try to get as many
17 folks as we can out to them. These are hearings
18 on the supplemental information that was filed,
19 public hearings. They will be very similar to
20 the ones that we have had so far. But, if
21 anybody has suggestions of an appropriate venue,
22 please let me know, either after this meeting or
23 send me an e-mail or send an e-mail to, excuse
24 me, to Pam Monroe. My guess is, it will be a

1 couple of weeks before those actually get
2 scheduled. We want to get into a little better
3 weather for travel reasons.

4 The same thing with site visits. We
5 have received, I forget from whom, but we have
6 received a number of requests for additional
7 site visits with specifics. And, of course, you
8 can send those in as well. And, there are --
9 there may be further site visits scheduled.
10 Again, we'll probably -- I don't know when those
11 will be scheduled. Your suggestions with
12 respect to that are appreciated as well. I know
13 there is some dispute about leaf on/leaf off and
14 those types of things. But, ultimately, if this
15 project is built, it's there all year. So, leaf
16 on or leaf off may not be as important.

17 Yes, ma'am.

18 MS. JENSEN: Cheryl Jensen, from
19 Bethlehem. The two hearings you mentioned on
20 the supplemental information, --

21 PRESIDING OFFICER IACOPINO: Yes.

22 MS. JENSEN: -- are those different
23 from the previous two hearings you just
24 mentioned for that?

1 PRESIDING OFFICER IACOPINO: They are
2 additional public hearings that we have
3 scheduled because of the -- and it's not the
4 Applicant's fault, because of the way the rule
5 change occurred, there is information that they
6 had to file, which, under the old rules, they
7 didn't have to file. And we'll give the public
8 an opportunity to address that additional --
9 those additional filings.

10 Now, is anybody going to be there
11 saying "oh, wait a minute, you're talking about
12 something that was filed in the original
13 application, that wasn't there"? No. But, if
14 there's something that's clearly not in the
15 original, clearly was in the original
16 Application, and somebody just wants to make a
17 statement about it, my guess is you're going to
18 be permitted to. It's not what we're having the
19 hearings for, though. The hearings are really
20 so folks can have the opportunity to review the
21 supplemental filing, and can give the
22 Subcommittee their views on that. You know,
23 we've had five hearings on the original
24 Application. We've heard a lot of testimony --

1 it's not testimony, but a lot of public comment,
2 and we continue to receive public comment in
3 writing every day regarding this project. So,
4 we would appreciate if the public and the
5 members who attend those meetings would keep
6 their comments to the new information that was
7 filed on February 26th, I believe.

8 But does that mean that somebody is
9 going to get cut off? Probably not. As you've
10 seen in our meetings, we let people talk
11 generally. And, if they talk for too long, we
12 just ask them to come back at the end.

13 MS. JENSEN: Follow-up?

14 PRESIDING OFFICER IACOPINO: Yes,
15 ma'am.

16 MS. JENSEN: Cheryl Jensen again. So,
17 there will not be four more public hearings?
18 You had mentioned like one "north of the Notch",
19 one "south of the Notch", and then you mentioned
20 "hearings on the supplemental". I'm just trying
21 to figure out --

22 PRESIDING OFFICER IACOPINO: No, I'm
23 sorry if I confused you. We have agreed to
24 schedule two more public hearings, one north and

1 one south.

2 MS. JENSEN: Okay. Thank you.

3 PRESIDING OFFICER IACOPINO: If that
4 makes sense. If somebody has a suggestion why
5 that doesn't make sense, and you want to come
6 see me afterwards, that's fine. We're always
7 open to suggestions. Doesn't mean we're going
8 to take them, doesn't mean we're going to do it,
9 but we're open to talking about it.

10 Somebody over here. Yes, sir.

11 Mr. Palmer, is it?

12 MR. PALMER: My name is Walter Palmer,
13 from Franconia. The Applicant has filed an
14 objection to Mr. Cunningham's motion. And the
15 basis of the Applicant's objection is that Mr.
16 Cunningham has no standing to (a) even enter a
17 motion, because he is a member of an intervenor
18 group, and is not the designated spokesman of
19 that group. The Applicant themselves is
20 starting -- is starting to claim that we do not
21 need to even entertain anything from anybody
22 unless they are actually a designated spokesman
23 for the group.

24 And, now, you've just scheduled three

1 important decisions that the intervenors need to
2 make, three important actions that we need to
3 take, and the deadline for all of those actions
4 are before the intervenor groups have even been
5 finalized.

6 How can we -- how can we have a
7 designated spokesman speaking for our groups
8 before the groups have even been finalized? How
9 can we follow this schedule? It definitely has
10 the appearance that you're trying to rush this
11 schedule, when you start to schedule deadlines
12 before the intervenor groups have even been
13 formed.

14 PRESIDING OFFICER IACOPINO: No.
15 There are intervenor groups. My suggestion is
16 that you act as an intervenor group in the group
17 that you are currently classified in. One of
18 the things that is pending is people who want to
19 change that. But, right now, that is the
20 situation.

21 The other thing that I said is, if
22 your intervenor group does not represent your
23 interests, with respect to a particular issue,
24 for instance, let's say your intervenor group

1 all agree with Mr. Cunningham, but you do not,
2 and you want to file an objection to Mr.
3 Cunningham's motion, you should go ahead and do
4 that.

5 MR. PALMER: And, then, the Applicant
6 will file an objection to that, because I'm not
7 a spokesman for the group.

8 PRESIDING OFFICER IACOPINO: They may
9 very well file an objection, and somebody with
10 authority will rule on it.

11 MR. PALMER: Then, if the Applicant is
12 going to take that position, then the Applicant
13 should be satisfied to have his schedule pushed
14 back until all the intervenor groups have been
15 finally formed and the spokesmen have been
16 designated.

17 PRESIDING OFFICER IACOPINO: I'm sure
18 the Applicant will take your suggestion and
19 consider it, but they don't have to. That's,
20 you know, you can't tell the Applicant what
21 position they should take, sir. They have every
22 right to be here, just as you do. They have the
23 right to take the positions that that they have
24 taken. And, you know, nobody here is telling

1 you what to do. Okay?

2 MR. PALMER: Well, --

3 PRESIDING OFFICER IACOPINO: We've
4 allowed you the opportunity to seek changes.
5 That's what we're doing. But, you know,
6 that's -- unfortunately, it's a process that we
7 have to go through.

8 Yes, ma'am.

9 MS. JENSEN: Cheryl Jensen again.
10 Sorry. But I thought that you said in the
11 beginning that we were choosing the spokesperson
12 just for today?

13 PRESIDING OFFICER IACOPINO: Correct.

14 MS. JENSEN: So, how can that
15 spokesperson then file for us, since it's
16 tomorrow?

17 PRESIDING OFFICER IACOPINO: There's
18 still an intervention order that is outstanding.
19 The reason why we did that today in caucus was
20 because we recognized that you only got that
21 order on Friday, and would not have had the
22 opportunity to actually decide upon a
23 spokesperson. You will have that opportunity
24 now. And, if the groups change, you'll have the

1 opportunity again, assuming that the ruling is
2 still to designate a spokesperson. We have
3 heard some suggestions here today about steering
4 committees and about more than one
5 representative for particular groups. Those
6 issues I'm sure will be resolved by the Chairman
7 when -- actually, by the Committee, when there
8 is an order on all of the appeals of the
9 intervention order. It's a fluid process.

10 MS. JENSEN: I'm just worried about
11 the deadlines we have to meet for Monday, and
12 then April 7th.

13 PRESIDING OFFICER IACOPINO: You have
14 no deadline for -- actually, if you are
15 appealing your intervention, okay, if you're
16 appealing that or your grouping, you have to
17 file that appeal, I call it an "appeal", it's
18 not technically an "appeal", but the request for
19 review, by the 28th. And that's by statute,
20 because that's ten days from the date that the
21 order issued, okay?

22 The other things that are going to be
23 filed, on the 28th, the Applicant is going to
24 file a redacted version of the economic report.

1 And, then, ten days after that, which I think
2 we've resolved was the 27th -- I'm sorry, April
3 7th, we need to have filed objections to the
4 request for waivers, objections to the request
5 for confidentiality, and people's inputs on the
6 scheduling. So, it's April 7th is really the
7 first time that there would need to be some
8 weighing in by a group.

9 Yes, sir.

10 MR. DODGE: Andrew dodge again. Now,
11 I have to confess I'm a little confused. A
12 minute ago, when I asked about, if you're in
13 part of a group, if you need to file through the
14 spokesperson or not, I thought, and maybe I
15 misheard, but it's probably in the record
16 somewhere, I thought that you said it was okay
17 to file individually and that the Committee
18 would accept that. But, then, just a minute ago
19 it sounded like maybe they wouldn't, because the
20 Applicant would object. So, I'm just not sure.
21 Like, am I just doing it for the heck of it?

22 PRESIDING OFFICER IACOPINO: What I
23 said -- what I said before was that, if your
24 interests are not protected by the position that

1 your group takes, you should file on your own,
2 protect your interests. That's what I said.

3 Now, what happened was, there was a
4 question raised because of an objection that was
5 posited by the Applicant to a motion made by Mr.
6 Cunningham. That objection has not been ruled
7 on. There is no order from the Chair or from
8 the Committee saying that "you'll be ruled out
9 of out order and your motion will not be granted
10 because you're not the spokesperson for your
11 committee". No rulemaking like that has come
12 from the Site Evaluation Committee.

13 MR. DODGE: Yes. But it sounds like
14 maybe there's an objection that will result in a
15 ruling?

16 PRESIDING OFFICER IACOPINO: It's
17 something that -- it's something that the
18 Applicant has argued for an objection. But it's
19 not been ruled on.

20 MR. DODGE: We don't know the answer?

21 PRESIDING OFFICER IACOPINO: What?

22 MR. DODGE: But we don't know the
23 answer?

24 PRESIDING OFFICER IACOPINO: Well,

1 ultimately, it's the Chair who is going to make
2 the decision on motions anyway, procedural
3 motions. But I am telling you here, and I'm
4 telling everybody, that, if your group does not
5 represent your interest, you should protect that
6 interest. And I doubt that anybody is going to
7 be punished for protecting their interests.

8 MR. DODGE: But what if you don't know
9 what the group's interests are --

10 [Court reporter interruption.]

11 MR. DODGE: Sorry. What if you don't
12 know what the group's interests are, because you
13 can't get ahold of them in the next ten days?

14 PRESIDING OFFICER IACOPINO: Then,
15 when you file what you need to file, you put
16 that in your filing. "I attempted to make
17 contact with my group. Nobody is interested,
18 nobody responded to me", whatever the
19 circumstances are, and you alert the finder, who
20 will be the Chair in that particular case, of
21 that circumstance.

22 Yes, Mr. Brekke.

23 MS. BREKKE: Mr. Brekke, from
24 Whitefield again. A couple of quick questions.

1 The spokesman for the group, --

2 PRESIDING OFFICER IACOPINO: Yes.

3 MS. BREKKE: -- are we bound with that
4 person or can they change during the course?

5 PRESIDING OFFICER IACOPINO: No, they
6 can change. And, you can also designate, as we
7 indicated, during the hearings themselves, you
8 may have one person question the witnesses about
9 visual impacts, you may have another person do
10 the questioning about environmental issues. But
11 you can change. If your group decides, "hey, we
12 don't" -- you know, "John didn't do a very good
13 job as our spokesperson", you can change.

14 MS. BREKKE: Okay. And there won't --

15 PRESIDING OFFICER IACOPINO: You could
16 just notify us.

17 MS. BREKKE: All right. And there
18 won't be an objection by anybody?

19 PRESIDING OFFICER IACOPINO: Anybody
20 can object to anything. But I don't think an
21 objection would get very far in that instance.
22 The way that you -- the way that you act within
23 your own group is really up to you all.

24 MS. BREKKE: I'm trying to follow

1 these objections, because it sounds like --

2 PRESIDING OFFICER IACOPINO: Well,
3 since we've gotten way down into the weeds here,
4 because of a reference to an objection that --
5 to Mr. Cunningham's motion. So, you know, --

6 MS. BREKKE: Excuse me for
7 interrupting, but just a question on that. When
8 do these objections get ruled on? Is there a
9 deadline for that or is it as time goes on?

10 PRESIDING OFFICER IACOPINO: Well,
11 there's no objections without a motion first
12 being filed. So, a motion gets filed. Somebody
13 requests some kind of relief from the Committee.
14 Anybody who disagrees with that motion has to
15 file an objection within ten days, okay?

16 So, for instance, Mr. Cunningham has
17 filed a motion asking the Subcommittee to set a
18 date certain to file motions to dismiss,
19 dispositive -- what lawyers call "dispositive
20 motions". The Applicant has ten days to object
21 to that motion. They have actually already
22 objected, although I don't think the ten days
23 has yet passed. So, anybody else in the room
24 that wants to object could file an objection to

1 that motion within that ten-day period.

2 At some point after that objection is
3 filed, the motion and the objection will be
4 provided to the finder, in this case it's likely
5 to be the Chairman of the Committee, who will
6 then review them and write an order, either
7 granting the motion or denying the motion,
8 granting it in part, denying it in part,
9 whatever he feels the ruling should be. And,
10 then, that will get published. It will be sent
11 out to everybody who is an intervenor and it
12 will be published on the website.

13 MS. BREKKE: Thank you.

14 PRESIDING OFFICER IACOPINO: I highly
15 recommend -- and we do have rules that govern
16 all this. I highly recommend you take a look at
17 them. I agree, they're very, very boring,
18 especially in certain areas. But the procedural
19 rules you should all please take a look at,
20 because that's where all of these "ten days" and
21 things like that come from.

22 MR. ROTH: Mike, if I may just make
23 one --

24 PRESIDING OFFICER IACOPINO: Sure,

1 Peter.

2 MR. ROTH: On the rules, with respect
3 to Mr. Cunningham's or Attorney Cunningham's
4 motion, one of the rules is that parties seek or
5 attempt to seek concurrence before filing such a
6 thing. And I don't believe Attorney Cunningham
7 did that in this case. And, obviously, I'm not
8 going to be too much of a stickler for that kind
9 of thing in every case. But I think it's the
10 kind of thing that everybody should be aware of
11 and at least try to adhere to.

12 PRESIDING OFFICER IACOPINO: We do
13 have a rule that says, when you file a motion,
14 you should first seek the concurrence of all of
15 the other parties. It's going to be quite a
16 chore in this particular case because of the
17 number of parties. However, the way that people
18 have dealt with that in other cases is by
19 basically having an e-mail list, and just
20 sending an advanced copy of that e-mail list and
21 saying "can you tell me if you will object to
22 this?" In my experience, some people will
23 respond to you and say "No, I don't object.
24 Fine. You can say I assent to the motion."

1 Other people will say "I object". And some
2 people won't answer. And what you should do is
3 just basically give the tally of what you got in
4 your motion, so that, when you file it, it says
5 "I sought the assent of the remaining -- of the
6 other parties. The following parties agree with
7 the motion, the following parties objected to
8 the motion."

9 And the reason why we do that, the
10 reason why that rule exists, is so that the
11 Chairman knows if there's any real dispute over
12 the motion or not. If it's something that
13 everybody agrees to, it's, obviously, more
14 likely to be granted.

15 MR. ROTH: Mike, it's Peter. This is
16 Peter Roth, Counsel for the Public. Mike, one
17 of the things that the Applicants' attorneys and
18 I discussed a few days ago was the possibility
19 of working out sort of an additional set of kind
20 of special rules for this case to deal with that
21 kind of a situation. And, you know, we
22 haven't -- we just talked about it conceptually.
23 And I think, conceptually, there are ways that
24 we could all probably work together and make

1 stuff like that work better, in terms of
2 objections and timing and motions. And that
3 seems to me to be something that may require an
4 additional meeting like this to finally nail
5 down, or -- I'm not sure how we would go about
6 doing it.

7 But at least, you know, the Applicant
8 and I will attempt to put some of that down and
9 get it in front of you.

10 PRESIDING OFFICER IACOPINO: I mean,
11 it's certainly welcome, if you can. I think
12 that the best way to accomplish what you're
13 talking about, though -- by the way, there will
14 be other prehearing conferences, just so you all
15 know. You will be invited. Maybe not to this
16 room, but some room -- one room or another up
17 here in Concord along the way. And one of the
18 things that could be discussed is a set of
19 ground rules, so to speak, for this docket
20 alone. Ultimately, it would have to be approved
21 by the Chair. So that, I believe, this is only
22 my own belief, there are probably different ways
23 to skin the cat, but, if you have a -- the best
24 way is, if you guys have a proposal, I mean, you

1 know, maybe you should invite other people to
2 weigh in on it as well, but give it -- put it up
3 as a proposal. It gives people something
4 concrete that they can look at and understand
5 what it is they're being asked to agree to or
6 not agree to.

7 So, if you get a proposal, feel free
8 to send it to me and to Pam, and let me know.
9 And we'll see -- I don't know what method will
10 work, maybe you file a motion to have it
11 approved. But we'll see if we can get another
12 prehearing conference together to discuss it.

13 MR. ROTH: And with respect to future
14 prehearing conferences, given the number of
15 people who are on volunteer boards and
16 individuals, perhaps scheduling one for evening
17 hours would be appropriate.

18 PRESIDING OFFICER IACOPINO: Perhaps.
19 I'm not opposed to it. I actually prefer it,
20 because then I can get other work done during
21 the day. I don't mind the long days. But, when
22 you do do evenings, you are asking a lot of
23 people that have worked all day to then come in
24 in the evening and to travel. And that could be

1 in one direction or the other, wherever it's
2 scheduled at, somebody's traveling. So,
3 sometimes it's a problem. But we'll certainly
4 keep that in consideration. And, so, --

5 [Court reporter interjection.]

6 PRESIDING OFFICER IACOPINO: Okay.
7 It's 4:15. We're going to take a ten-minute
8 break. I've got Mr. Whitley, I've got
9 Commissioner Samson, and Ms. Pacik. We're going
10 to get to you. We're going to take a ten-minute
11 break, because our court reporter needs it, and
12 I don't blame him, because I'm sorry that I've
13 kept you going for so long.

14 But Mr. Whitley and Ms. Pacik and
15 Commissioner Samson, we'll get to your questions
16 right after the break.

17 (Recess taken at 4:15 p.m. and the
18 prehearing conference resumed at
19 4:34 p.m.)

20 PRESIDING OFFICER IACOPINO: My
21 apologies to our court reporter for keeping him
22 going for so long. Before the break -- we're
23 back on the record now. Before the break, we
24 had questions from Mr. Whitley and Ms. Pacik and

1 Commissioner Samson.

2 So, Mr. Whitley, did you have a
3 question?

4 MR. WHITLEY: I actually don't have a
5 question. So, you can skip right by me.

6 PRESIDING OFFICER IACOPINO: And how
7 about your compatriot on your left?

8 MS. PACIK: Yes. Danielle Pacik, from
9 the City of Concord.

10 I have two questions. One is under
11 the common interest rule, where intervenors are
12 being asked to communicate with each other. Is
13 it safe to assume that any discussions would be
14 privileged or will we need to be filing a
15 motion?

16 PRESIDING OFFICER IACOPINO: Are you
17 talking about for a lawyer?

18 MS. PACIK: I'm talking about in
19 general, communications between the various
20 intervenors who want to be ensured that the
21 Applicant would not be seeking discovery about
22 those communications.

23 PRESIDING OFFICER IACOPINO: I don't
24 know the answer to your question. And I can't

1 give legal advice either. So, I'd be giving
2 legal advice about something I have nothing --
3 that I know nothing about.

4 Mr. Needleman, do you want to respond?

5 MR. NEEDLEMAN: All I can say is, I
6 can never remember -- I represent a lot of
7 applicants. And I can never remember an
8 applicant seeking that sort of discovery before,
9 and certainly not anything that we're
10 contemplating here.

11 MS. PACIK: Okay. Thank you.

12 PRESIDING OFFICER IACOPINO: And I can
13 tell you that, in my experience, I've been doing
14 this for this Committee since 1998, and that
15 that issue has never come up.

16 MS. PACIK: Okay. Thank you.

17 PRESIDING OFFICER IACOPINO: Otherwise
18 , I would have known what you were talking
19 about.

20 MR. ROTH: And, I've had one occasion
21 when somebody sought information --
22 communications between me and people in the
23 public, and I objected to it as privileged, and
24 it stopped right there. There was no effort to

1 get at it than that. And it wasn't Attorney
2 Needleman's firm.

3 MS. PASTORIZA: Thank you. That's
4 helpful.

5 The second question is, where there
6 are going to be data responses that I assume are
7 going to be rather large, I know that, at least
8 for the City, we have limits on the size of
9 documents we could receive. And I was hoping
10 that the Applicant or somebody could set up an
11 FTP where the document responses could be
12 uploaded.

13 PRESIDING OFFICER IACOPINO: We've had
14 that happen in the past. I don't know if
15 Dropbox is considered an "FTP", but it's a very
16 similar system. We've used that in the past.

17 Mr. Needleman, can the Applicant --

18 MR. NEEDLEMAN: Yes.

19 PRESIDING OFFICER IACOPINO: --
20 provide something like that, where the
21 participants go to a particular site and
22 download the documents?

23 MR. NEEDLEMAN: We will figure out a
24 way to try to make that efficient. This is one

1 of those things that we were hoping would be
2 covered by a case management order, is the
3 management of this sort of nature.

4 PRESIDING OFFICER IACOPINO: And the
5 Committee went a different direction?

6 MR. NEEDLEMAN: No, no. No, I meant
7 the case management order that Peter was talking
8 about before.

9 PRESIDING OFFICER IACOPINO: Oh, okay.

10 MR. NEEDLEMAN: Right.

11 PRESIDING OFFICER IACOPINO: I thought
12 you meant that, early on in this case, we were
13 considering hiring a vendor to provide case
14 management.

15 MR. NEEDLEMAN: No.

16 PRESIDING OFFICER IACOPINO: Issues
17 like how to get documents filed and things like
18 that.

19 MR. NEEDLEMAN: No, no. I meant the
20 case management order we were contemplating.

21 PRESIDING OFFICER IACOPINO: Okay.
22 Commissioner Samson.

23 COMMISSIONER SAMSON: Yes. Rick
24 Samson here. And I think you partially answered

1 this question, Mike. But what are the
2 guidelines, procedures or rules that determine
3 whether the Chair of the SEC, the Subcommittee,
4 or the full Committee make the decisions here?

5 PRESIDING OFFICER IACOPINO: Okay.
6 The full Committee will have no part in this
7 proceeding. In other words, the Committee --
8 the full Committee as designated by the statute.
9 The Subcommittee, which consists of the folks
10 that I had up on the board before, is the
11 committee for the purposes of this proceeding.
12 And, they're up there. That's the Northern Pass
13 Subcommittee. Okay? They will make all of the
14 substantive decisions. The Chairman of that
15 Subcommittee is also the Chairman of the entire
16 Committee, but it's his Subcommittee
17 chairmanship that makes him most important with
18 respect to your question. He will rule on
19 procedural matters. Okay?

20 So, procedural matters are ruled on by
21 the Chair of the Committee. And substantive
22 matters, you need a quorum of the Committee, and
23 they need to vote and deliberate in public on
24 the substantive issues.

1 COMMISSIONER SAMSON: Thank you.

2 PRESIDING OFFICER IACOPINO: And,
3 that's all contained in RSA 162-H, I believe
4 it's Section 4, V.

5 COMMISSIONER SAMSON: Thank you very
6 much.

7 PRESIDING OFFICER IACOPINO: Yes, sir.

8 MR. GRAY: Elisha Gray, New Hampton.
9 Just a follow-up on that. On some of the
10 procedural matters that the Chairman will rule
11 on, does he occasionally confer with
12 Subcommittee members or does he have to do that
13 alone?

14 PRESIDING OFFICER IACOPINO: He has
15 the ability to do that, if you look at the last
16 sentence in Section V, it says "Other procedural
17 decisions may be reviewed by the committee at
18 its discretion". And, so, it's really not
19 necessarily the Chair saying "in my opinion, I
20 need to review this with the Committee." It's
21 the Committee saying to the Chair "we need to
22 review this with you." Okay?

23 But, yes, that can occur. And, quite
24 frankly, when there are multiple issues on the

1 table to be decided, those issues are often
2 discussed amongst the Committee members in
3 public, and the Chair sort of takes a straw poll
4 of what the Committee's pleasure is, and then
5 generally will rule that way. Although, I
6 can't, you know, if it is truly procedural, it
7 is up to him to make the decision.

8 I saw one other hand. Mr. Kucman.

9 MR. KUCMAN: Yes. Mr. Iacopino, I was
10 just wondering if going forward, we spent a lot
11 of time taking a look at these schedules, which
12 were just hard dates on a calendar. And I found
13 schedules like that, they're obsolete before the
14 ink is even dry. Would you consider or have the
15 Committee consider making schedules on a Gantt
16 or Milestone Chart on all the major tasks that
17 need to happen? As a planning tool, it's great
18 for letting people know what precedents,
19 concurrence, when things begin after certain
20 things end. And, when we take a look at it, you
21 will see that a date has come and gone,
22 something has not been completed, you can then
23 see what has been encroached upon, and then make
24 a reasonably, you know, timely response to the

1 schedule as it needs to shift.

2 PRESIDING OFFICER IACOPINO: I think
3 what you're talking about is like the thing like
4 a construction manager would use in a project,
5 that type of --

6 MR. KUCMAN: Exactly.

7 PRESIDING OFFICER IACOPINO: -- of
8 program?

9 MR. KUCMAN: It's a project management
10 tool, yes.

11 PRESIDING OFFICER IACOPINO: It's not
12 the way we've ever done business, Mr. Kucman. I
13 doubt that we're going to change things up in
14 this -- especially in this proceeding, where
15 there are so many parties. And it's something
16 that would be totally new, both to the
17 administration of the Committee and the
18 Committee members themselves.

19 So, I -- certainly, it's a suggestion,
20 I'll take note of it. But I doubt that you're
21 going to see that type of approach taken in this
22 docket.

23 You know, in the future, it might be
24 something we might try in a smaller docket, to

1 see how it works out.

2 MR. KUCMAN: Thank you.

3 PRESIDING OFFICER IACOPINO: Our
4 system actually works pretty well, just so you.

5 MR. KUCMAN: I was purely talking from
6 that standpoint of visualization and seeing how
7 tasks intertwine with ours, and how to respond
8 to it easily, but --

9 PRESIDING OFFICER IACOPINO: I
10 understand.

11 MR. KUCMAN: -- I understand.

12 PRESIDING OFFICER IACOPINO: Okay. I
13 don't see any other questions about where we're
14 at. So, I'm going to move onto the next issue,
15 which is "Discussion of Expected Motions".
16 We've already discussed three motions that are
17 filed, and then -- that is the Request for
18 Waivers, that is the Motion for Protective
19 Treatment, and that is Mr. Cunningham's motion
20 to set in the procedural schedule a deadline for
21 dispositive or motions to dismiss. And, I would
22 also note that we've set a deadline -- well,
23 there's a statutory deadline for folks to seek
24 review of their intervention situation.

1 Does anybody envision any other types
2 of motions, especially those that might be out
3 of the ordinary? And I say that for the folks
4 who have been engaged in this process before.

5 Ms. Manzelli.

6 MS. MANZELLI: Thank you. Amy
7 Manzelli, for the Forest Society.

8 If it's not included in part of the
9 anticipated second set of site visits, I might
10 be filing some sort of request looking for a
11 balloon test or something like that.

12 PRESIDING OFFICER IACOPINO: Okay.
13 I'm sorry, I forgot to explain something. A
14 motion -- I may have said this earlier in the
15 proceeding, but some of you might not know what
16 I was just saying. A motion is simply a request
17 for some kind of relief from the Committee or
18 the Chair of the Committee.

19 And, so, what Ms. Manzelli has just
20 raised is, actually, some of you may have
21 participated in putting a balloon up in -- I
22 forget what town we were in, but up at the Rocks
23 Estate. And sometimes, when parties want to
24 demonstrate the height of something, a balloon

1 is used to do that. We've had requests for that
2 in the past in our Committee. In some cases,
3 it's been accomplished; in some, it has not
4 been.

5 But I understand. So, what you're
6 saying is that, if it's not something that's
7 already included in the order, you will probably
8 make a request for it. Do you know where? Are
9 there certain places that -- okay. My
10 recommendation to you, and to anybody else who
11 is going to do that, is to be as specific as
12 possible as to where that you're seeking that in
13 the site visits.

14 MS. MANZELLI: Yes. Understood. And
15 we will, it's just premature at this time.

16 PRESIDING OFFICER IACOPINO: Does
17 anybody have any other expected motions? Any
18 from Counsel for the Public?

19 MR. ROTH: Well, we've already
20 mentioned a couple. And we'll have our motions
21 for experts. But, other than that, I don't
22 think we have anything in mind at this time.

23 PRESIDING OFFICER IACOPINO: All
24 right. Anybody else in the room, before I get

1 to the Applicants?

2 Yes, ma'am.

3 MS. BRADBURY: JoAnne Bradbury,
4 Deerfield. We will request a balloon test in
5 Deerfield.

6 PRESIDING OFFICER IACOPINO: Thank
7 you. Anybody else?

8 [No verbal response]

9 PRESIDING OFFICER IACOPINO: How about
10 the Applicant? Any out-of-the-ordinary motions
11 you expect?

12 MR. NEEDLEMAN: Nothing that I can
13 think of at this point.

14 PRESIDING OFFICER IACOPINO: Okay.
15 That takes care of that agenda item.

16 The next one is, let's discuss what
17 issues everybody can agree on.

18 MR. NEEDLEMAN: Do you want me to take
19 a stab at this?

20 PRESIDING OFFICER IACOPINO: Take a
21 stab.

22 MR. NEEDLEMAN: All right. My guess
23 is, as we sit here today, there's probably not
24 very much. My hope is, like in the course of

1 other dockets, as it proceeds and discovery goes
2 along and we spend more time together issues
3 narrow, it may be that, at least with some
4 parties, we can come to agreements on some
5 things, and maybe stipulate to those before you
6 before the final hearing.

7 We've talked with Public Counsel about
8 that. There's nothing on the table at this
9 point. But, certainly, the concept has been
10 discussed. And we're hopeful to be able to find
11 a way to do that in some form.

12 And, then, the other thing that I
13 would just say for people who aren't familiar
14 with this process, is that, in other dockets,
15 very frequently the applicant will work with
16 host communities to address issues of concern
17 that they have. And those can become
18 stipulations, which are submitted to the
19 Committee.

20 I understand that, in this case, there
21 are a large number of communities that remain
22 opposed to the project. That doesn't mean that
23 we still can't work on stipulations together.
24 And, so, I would encourage towns to be thinking

1 about that as the proceed proceeds, and to know
2 that the Applicant's open to that.

3 PRESIDING OFFICER IACOPINO: That's
4 good to know. And it is usually a
5 recommendation that I make at all of these
6 prehearing conferences, regardless of the size
7 of the project is, to the extent that there are
8 things that you can agree on, and usually it's
9 with the applicant, because, obviously, they're
10 the ones who are attempting to build the
11 project, if you believe that there are issues
12 that you can stipulate to, and whether they be
13 issues of the ultimate -- some ultimate part of
14 the project, or whether they are something like
15 some individual fact, you know, the more
16 stipulations that are provided to the Committee,
17 I selfishly note, the less work that the
18 Committee actually has to do. So -- and this
19 Committee is going to have a lot of work to do
20 in this particular case.

21 So, to the extent that you can
22 stipulate as to facts, that are important, I
23 mean, you're not going to stipulate to frivolous
24 facts that make no difference, because, if

1 something is frivolous, they don't need to hear
2 about it anyway. But, if there are important
3 facts that you can stipulate to, that's great.
4 Or, if there are conditions, in the event that
5 your -- if you oppose the project, but you would
6 want certain conditions imposed on a certain
7 portion of the project or something, if the
8 certificate is, in fact, granted, you should
9 have those conversations with the Applicant.
10 And, you know, and those could -- you don't have
11 to agree that the certificate will be granted.
12 You can make agreements that, "in the event a
13 certificate is granted, the following conditions
14 should apply", assuming that everybody agrees.

15 MR. NEEDLEMAN: And, if I could just

16 --

17 PRESIDING OFFICER IACOPINO: So,
18 that's just a little food for thought.

19 Go ahead, Barry.

20 MR. NEEDLEMAN: I would encourage
21 towns to look at prior certificates that were
22 issued that contained those sorts of
23 stipulations between towns and applicants. It
24 may give you some idea of the sorts of things

1 we're talking about. It could be things as
2 mundane as hours of construction or not using
3 certain roads at certain times of the year,
4 things like that. And, like Mike said, it may
5 well be that those are things that would
6 interest towns in thinking about, even if
7 they're not conceding on the ultimate issue.

8 PRESIDING OFFICER IACOPINO: Yes,
9 Mr. Brekke.

10 MS. BREKKE: Where would we find those
11 prior certificates?

12 PRESIDING OFFICER IACOPINO: They --
13 well, going back to approximately 1999, they are
14 on our website. Quick little demonstration.
15 You go to the "Projects". Actually, I guess
16 they go back to 1985.

17 MR. ROTH: Not all the certificates
18 are on there.

19 PRESIDING OFFICER IACOPINO: Yes.
20 Some of these documents may not actually be
21 certificates. Some of them are amendments to
22 certificates. But, if you look at some of these
23 things. They're are not many transmission
24 lines, I'll tell you that, but there are other

1 projects. There is some pipelines, there are
2 large gas plants, the gas plants in Londonderry
3 and Newington. There's wind farms. A number of
4 different kinds of projects are there. And,
5 what you do is, you go to the "Projects" page,
6 and then you can look by decade for what we
7 have.

8 And, in addition, if you are aware of
9 a project, for instance, there's been some talk
10 about, during the public hearings, about the
11 other Hydro-Quebec line that already exists. I
12 believe that there is, in fact, a decision, a
13 written decision on that, that is in the
14 archives with the -- you could call Pam Monroe
15 to try to find that, and she could help you.
16 But there is plenty of stuff that is on the
17 website, and you can find those final orders on
18 there.

19 Yes, ma'am.

20 MS. MUMFORD: Margaret Mumford,
21 Bridgewater. I'd like to ask a question of the
22 Applicant.

23 PRESIDING OFFICER IACOPINO: You're
24 going to have to speak right into that

1 microphone.

2 MS. MUMFORD: Margaret Mumford,
3 Bridgewater. A question for the Applicant,
4 regarding meetings with towns and town
5 officials. Are they typically open to the
6 public of that town or are they typically held
7 in private session?

8 MR. NEEDLEMAN: My experience is it
9 can happen either way. Very often, when you're
10 talking about trying to negotiate things like
11 stipulations, it tends to work better if it's a
12 private session, where it would not necessarily
13 be subject to the Right to Know law. And, then,
14 based on that, you can take it to the town and
15 have an open discussion afterwards. But, to try
16 to negotiate these types of things in an open
17 meeting like that, sometimes it's just too
18 cumbersome.

19 MS. MUMFORD: Thank you.

20 PRESIDING OFFICER IACOPINO: Ms.
21 Pastoriza.

22 MS. PASTORIZA: Kris Pastoriza. If a
23 town has a stipulation with the applicant and
24 the project goes through, and they do not live

1 up to that, who enforces that?

2 PRESIDING OFFICER IACOPINO: It
3 depends. It depends on whether the stipulation
4 is part of the certificate. If it's part of the
5 certificate, it could be enforced by the Site
6 Evaluation Committee. I think you saw some of
7 that in the Groton Wind incident.

8 But, if it's not made part of the
9 certificate, if the certificate is granted and
10 it's not made a condition of it, then you would
11 have your normal civil remedies, as you have on
12 any contract.

13 MS. PASTORIZA: And, could give me an
14 example of enforcement by the SEC in a previous
15 project?

16 PRESIDING OFFICER IACOPINO: Sure. In
17 the Groton Wind Project, they built their O&M
18 building on the opposite side of a brook from
19 where they indicated they were going to pay --
20 where they were going to put it. And, as a
21 result of that, we had extensive hearings. They
22 eventually, I forget how much money they paid,
23 they wound up paying a sum of money into a
24 mitigation fund, although I don't think it was

1 called a "mitigation fund", for the renovation
2 of Franklin Falls, I think was the name.

3 MR. ROTH: It was Livermore Falls.

4 PRESIDING OFFICER IACOPINO: Livermore
5 Falls, I'm sorry.

6 MR. ROTH: Yes. It was \$160,000 that
7 they gave to the state. And they purchased a
8 number of houses that belonged to people that
9 were near there, and agreed to some other
10 conditions.

11 PRESIDING OFFICER IACOPINO: So, we --

12 MR. ROTH: It took forever.

13 PRESIDING OFFICER IACOPINO: It did
14 take forever, and it was very, very -- it was
15 like pulling teeth.

16 But, in any event, that's one example.
17 We have not, quite frankly, had many examples
18 of, or at least that's been brought to the
19 attention of the Committee, of violations of
20 certificates.

21 MS. PASTORIZA: So, have there ever
22 been -- has there ever been enforcement by the
23 SEC which ended up with the project stopping
24 operations?

1 PRESIDING OFFICER IACOPINO: Not that
2 I'm aware of. I mean, there may have been
3 before my time. But I don't think, since I've
4 been doing this, which is like 1998, that there
5 has been ever a stop production order or stop
6 generating order.

7 I don't know. Peter, can you think of
8 anything? I can't.

9 MR. ROTH: No.

10 PRESIDING OFFICER IACOPINO: Barry, I
11 don't know if --

12 MR. NEEDLEMAN: No.

13 PRESIDING OFFICER IACOPINO: Okay.

14 MR. ROTH: They were close in Groton.

15 PRESIDING OFFICER IACOPINO: What's
16 that?

17 MR. ROTH: I think they came close in
18 Groton. The Fire Marshal was about to shut them
19 down. They were within days of shutting them
20 down.

21 PRESIDING OFFICER IACOPINO: All
22 right. Any other business that folks think
23 should be brought up today, before we adjourn?

24 MS. MANZELLI: Mike, over here to your

1 right.

2 PRESIDING OFFICER IACOPINO: Thank
3 you.

4 MS. MANZELLI: Amy Manzelli from the
5 Forest Society.

6 Can you, before we adjourn today,
7 could you just go over the deadlines that have
8 been set over the course of our togetherness
9 today?

10 PRESIDING OFFICER IACOPINO: You put
11 that so sweetly.

12 MR. ROTH: Fellowship.

13 PRESIDING OFFICER IACOPINO: A week
14 from today -- I'm sorry, less than a week from
15 today, next Monday, the 28th, the Applicant is
16 going to file its redacted economic report.
17 That is also the same day that statutorily
18 anybody who is dissatisfied with their
19 intervention status must file their request for
20 review or an appeal by. So, you have to file it
21 by that date. So, that's the first deadline
22 date, and that's for two things: That's for the
23 Applicant to file their redacted report, and to
24 file appeals from the intervention decisions.

1 And, of course, that appeals to the full
2 Committee.

3 April 7th is the date by which Counsel
4 for the Public -- actually, Counsel for the
5 Public already has, but any objections to the
6 Request for Waivers that has been filed by the
7 Committee -- by the Applicant must be filed.
8 And any objections to the Request for Protective
9 Treatment that was filed with the Application.
10 Those objections must be filed by that day.
11 And, also, on that day, we need the written
12 position from each party with respect to the
13 schedule. And you can urge us -- you can urge
14 the Committee to adopt the Applicant's schedule,
15 Counsel for the Public's schedule, the Forest
16 Society schedule, or you can offer your own
17 alternative.

18 Those are the deadlines that I have
19 set.

20 MS. MANZELLI: Excuse me.

21 PRESIDING OFFICER IACOPINO: I
22 actually have one other one that's not on the
23 calendar. Counsel for the Public was going to
24 file a Motion to Extend -- or to Suspend the

1 timeframes within ten days, and then I wrote
2 down "March 31". So, I don't know if that's --

3 MR. PAPPAS: I had "April 1".

4 MR. ROTH: April 1.

5 MS. MANZELLI: Did you make -- excuse
6 me, Amy Manzelli, for the Forest Society. Did
7 you reference that tentatively there's a plan
8 for the SEC to convene on the week of April
9 11th?

10 PRESIDING OFFICER IACOPINO: There may
11 be. I don't know yet. We have to -- the full
12 Committee has to convene to determine the
13 appeals from the intervention orders. So, that
14 week was one of the weeks that I was looking at.
15 It may be able to do it as early as April 4, I
16 don't know. I have to find out, I have to
17 canvas my Committee members. But that would
18 be -- the issue there would be on the issue of
19 the interventions.

20 Any other business that anybody can
21 think of that we need to address here?

22 [No verbal response]

23 PRESIDING OFFICER IACOPINO: I want to
24 say thank you to everybody in the room.

1 Although we didn't come out of here with an
2 agreed upon schedule, I think we accomplished a
3 fair amount.

4 And, I will just remind you all to
5 talk to each other. Usually, it's easier to
6 resolve issues when folks have talked about them
7 beforehand.

8 If any time anybody has any questions,
9 you can contact us at the Site Evaluation
10 Committee, at the e-mail that's on the screen.
11 There's our phone number.

12 And, so, I guess we are adjourned.

13 (Whereupon the prehearing conference
14 was adjourned at 4:59 p.m.)

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