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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

April 12, 2016 - 10:13 a.m.
Mountain Club at Loon
60 Loon Mountain Road
Lincoln, New Hampshire

DAY 1

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.
(Hearing on Pending Motions)

PRESENT FOR SUBCOMMITTEE: SITE EVALUATION COMMITTEE:

Chairman Martin P. Honigberg Public Utilities Comm.
(Presiding as Presiding Officer)

Cmsr. Kathryn M. Bailey	Public Utilities Comm.
Dir. Craig Wright, Designee	Dept. of Environ. Serv.
Christopher Way, Designee	Dept. of Resources & Economic Development
William Oldenburg, Designee	Dept. of Transportation
Patricia Weathersby	Public Member

COURT REPORTERS: Steven E. Patnaude, LCR No. 052
Susan J. Robidas, LCR No. 044

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NOTED AS PRESENT:

ALSO PRESENT FOR THE SEC: Michael J. Iacopino, Esq.
Iryna Dore, Esq.
(Brennan Lenehan)
Pamela G. Monroe, Admin.

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

G. Dana Bisbee, Esq.
(Devine Millimet)

Marvin P. Bellis, Esq.
(Eversource Energy)

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

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

*(Further appearances as noted on
sign-in sheets provided at hearing)*

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CHAIRMAN HONIGBERG: All right.

Good morning, everyone. We're here in SEC Docket 2015-06, the Joint Application of Northern Pass Transmission and Eversource to build a long transmission line from the Canadian border to Deerfield.

We're here to deal with a number of issues, most of which are motions either by prospective intervenors or people who were granted intervenor status or motions by the Applicant regarding rules waivers or confidentiality.

So, before we do any business, let's identify ourselves for those who are here, starting to my left.

MR. OLDENBURG: William Oldenburg, Department of Transportation.

MR. WAY: Christopher Way, from the Department of Resources and Economic Development.

DIR. WRIGHT: Craig Wright, with the Department of Environmental Services.

CHAIRMAN HONIGBERG: Martin Honigberg, from the Public Utilities Commission.

MR. IACOPINO: Mike Iacopino,

1 Counsel to the Committee.

2 CMSR. BAILEY: Kate Bailey, from
3 the Public Utilities Commission.

4 MS. WEATHERSBY: Patricia
5 Weathersby, public member.

6 CHAIRMAN HONIGBERG: The other
7 member of the Subcommittee, Rachel Whitaker,
8 cannot be here today. Because we have five or
9 more, we do have a quorum of the Subcommittee.

10 All right. I think what we're
11 going to start with is interventions, and the
12 various motions that were filed, to either
13 reconsider denials or to suggest different ways to
14 group the intervenors. I'm going to ask
15 Mr. Iacopino, pretty much throughout this
16 proceeding, to give us one to deal with first,
17 next, and following.

18 My expectation is that we're going
19 to ask people who want to speak, who have a need
20 to add to what they have already said in their
21 papers, to do so. To the extent we can have you
22 come up to the lecturn, it will help the
23 stenographer. If, as we get through a discussion,
24 you are speaking from where you are sitting, you

1 really need to be speaking into a microphone so
2 that you can hear the reverberation. If you can't
3 hear the reverberation, you're not going to be
4 heard well up here. It may be necessary for you
5 to do that, and I understand there may be a need
6 to speak from where you're seating. But, to the
7 extent we can do it up here, we'll have a better
8 record when we're done.

9 I'm going to remind people this is
10 not a public comment hearing, this is not the time
11 to discuss the issues that you have, you've
12 identified, problems that you see with this, that
13 or the other thing. We're going to stick to the
14 issues that we have in front of us right now.
15 And, the first one is interventions.

16 So, Mr. Iacopino, make me an offer.
17 Where should we start?

18 MR. IACOPINO: Mr. Chairman, you
19 have, I believe, ten or eleven petitions to
20 intervene that are styled as "out-of-time requests
21 to intervene". All of them are based upon the
22 former preferred overhead project route. They are
23 filed by Gerald Beck, John and Martha Richards,
24 Robert and Joanna Tuveson, Gail Beaulieu as

1 Trustee of the Dearborn Revocable Trust, Judith
2 Dearborn, Michael Marino and Lee Ann Moulder,
3 Nancy and Carl Martland, Douglas and Martha
4 Evelyn, Roy and Deborah Stever, Susan Schibanoff,
5 and Timothy T. Egan.

6 They all have a similar request.
7 They were all out-of-time. And they're all based
8 upon the alternate route. I would suggest that
9 you start with those.

10 CHAIRMAN HONIGBERG: All right.
11 Are any of those people here? Can you just raise
12 your hand if you're here in that group?

13 *[Show of hands.]*

14 CHAIRMAN HONIGBERG: I see a couple
15 of hands directly in front of me, and there's one
16 over to my left.

17 Do you feel there's anything you
18 need to say, in addition to what you have put in
19 writing, regarding your interest in this
20 proceeding? I see, over to the left, yes? Please
21 identify yourself.

22 MS. SCHIBANOFF: Susan Schibanoff.
23 No, I do not have anything to add, unless it comes
24 up in our conversation.

1 CHAIRMAN HONIGBERG: Thank you.

2 Sir?

3 MR. TUVESON: The same. Robert
4 Tuveson.

5 CHAIRMAN HONIGBERG: Is there
6 anyone else from that group?

7 *[No indication given.]*

8 CHAIRMAN HONIGBERG: All right. Is
9 there anybody else who's in that group who filed
10 after February 5th, and is here because you're on
11 the -- what was identified as the "alternate
12 route"?

13 *[Show of hands.]*

14 CHAIRMAN HONIGBERG: Yes, Ms.
15 Pastoriza. Do you have anything you want to add
16 to what you filed? Although, your situation is a
17 little different, because you filed timely and are
18 on the alternate route.

19 MS. PASTORIZA: Susan and I both
20 filed timely on this issue.

21 CHAIRMAN HONIGBERG: Oh, okay. All
22 right. So, Ms. Pastoriza is in a similar
23 situation on the alternate route.

24 Yes, ma'am, in the back?

1 MS. BEAULIEU: I also filed on a
2 timely manner.

3 CHAIRMAN HONIGBERG: And, what's
4 your name?

5 MS. BEAULIEU: Gail Beaulieu.

6 CHAIRMAN HONIGBERG: Okay. So, I
7 think this group more generally, separate and
8 apart from the timeliness, they're here because
9 they're on the alternate route.

10 All right. Is there anybody else
11 who's here on the alternate route?

12 *[No indication given.]*

13 CHAIRMAN HONIGBERG: All right. I
14 know that Public Counsel made a statement in their
15 response or on this issue that, if the Company
16 would commit that that alternate route is not --
17 is not in play, it's not being offered to the
18 Committee for its consideration for any reason
19 other than the rules told them they had to
20 identify what alternate routes they considered,
21 that, as far as you were concerned, that those
22 people did not need intervenor status. Is that
23 right, Mr. Roth?

24 MR. ROTH: Mr. Chairman, this is

1 Peter Roth, Counsel for the Public. Yes. It was
2 our position, and I believe it was the objection
3 to the request for waiver of the rules, that, if
4 the Applicant didn't treat the route as an active
5 thing to be litigated in this case, and would only
6 bring it up with a new application, then we did
7 not feel the need to worry about the waiver. And
8 the same argument, I believe the same statement
9 would apply to these folks intervening. It seems
10 to me it would be completely fair to allow them to
11 intervene, if there is going to be litigation over
12 that alternate route. But, if there isn't, then I
13 don't think it's necessary to have them intervene,
14 because not having them intervene doesn't do
15 anything to their rights.

16 CHAIRMAN HONIGBERG: Mr. Needleman,
17 did you want to say something? It looked like you
18 were grabbing the microphone.

19 MR. NEEDLEMAN: I was only going to
20 speak if you wanted me to. No, I think everything
21 we've said is in our papers. And I think
22 Mr. Roth's characterization is accurate.

23 CHAIRMAN HONIGBERG: Okay. I have
24 a question for Counsel to the Committee.

1 Given the state of the Application,
2 and the statements that have been made by the
3 Applicant regarding this issue, would the
4 Subcommittee be allowed to grant a certificate on
5 that alternate route?

6 MR. IACOPINO: Not in the
7 present -- not in the present status. The
8 Applicant, I think at this point, would have to do
9 one of two things: Either file a new application,
10 which would render, obviously, a new opportunity
11 for folks to petition to intervene, or they would
12 have to file a motion to substantially change the
13 route in this particular Application, in which
14 case the Committee would likely have to take some
15 other actions to allow people who are not -- don't
16 have interests as presently -- as they presently
17 exist to participate.

18 To my understanding, that the
19 Applicant has represented that they do not, under
20 any circumstances, seek to certificate the
21 alternate route. And, based upon that
22 representation in their pleading, that it would
23 have to, if they did decide to, we probably would
24 require them to file a brand new application.

1 CHAIRMAN HONIGBERG: Mr. Needleman,
2 do you agree with Attorney Iacopino?

3 MR. NEEDLEMAN: I do.

4 CHAIRMAN HONIGBERG: All right. Is
5 there anything else that anybody needs to offer up
6 on the alternate route?

7 *[No verbal response]*

8 CHAIRMAN HONIGBERG: All right.
9 Does anyone on the Committee want to deal with
10 that issue now or do we want to move onto another
11 group of issues?

12 *[No verbal response]*

13 CHAIRMAN HONIGBERG: All right,
14 Mr. Iacopino. Well, what we're going to -- Yes,
15 I'm sorry.

16 CMSR. BAILEY: I'd like to make --

17 CHAIRMAN HONIGBERG: All right.
18 Make sure you have a microphone.

19 CMSR. BAILEY: I'm persuaded -- is
20 this on? Can you hear me?

21 MR. ROTH: Yes.

22 CMSR. BAILEY: I can't hear the
23 reverberation.

24 I'm persuaded that -- by the

1 Applicants' agreement that it is not seeking a
2 certificate on this alternate route. And, if they
3 were seeking to obtain a certificate on the
4 alternate route, that they would have to file
5 something new, and that these people would be
6 allowed an opportunity to intervene at that time.

7 So, based on that, I would move
8 that we deny their request for intervention at
9 this time.

10 CHAIRMAN HONIGBERG: We have a
11 motion. Is there a second?

12 DIR. WRIGHT: I would second it.

13 CHAIRMAN HONIGBERG: We have a
14 motion and a second. Is there any discussion of
15 this issue?

16 *[No verbal response]*

17 CHAIRMAN HONIGBERG: All right.
18 Are you ready for the vote? All in favor of
19 Commissioner Bailey's motion say "aye"?

20 *[Multiple members indicating*
21 *"aye".]*

22 CHAIRMAN HONIGBERG: Are there any
23 opposed?

24 *[No verbal response]*

1 CHAIRMAN HONIGBERG: All right.

2 The motion carries.

3 Mr. Iacopino, make me an offer.

4 MR. IACOPINO: Mr. Chairman, in the
5 order regarding intervention, the petition of a
6 number of state legislators was denied. We've
7 received a motion for reconsideration of that
8 particular thing. I think they are a discrete
9 group that you could take up next.

10 CHAIRMAN HONIGBERG: I see
11 Representative Moffett. Is there any other member
12 of that group that's here right now?

13 *[No indication given.]*

14 CHAIRMAN HONIGBERG: Representative
15 Moffett.

16 REP. MOFFETT: Thank you, Mr.
17 Chairman. And I would just like to make three
18 quick points. With reference primarily to
19 Paragraph 5 in our request for review and
20 reconsideration, which is at Pages 2 through 4,
21 for those of you who have that and have had a
22 chance to look at it.

23 First, Mr. Chairman, I'd like to
24 say that the state legislators found the initial

1 decision to deny our request for intervention a
2 little surprising and a little strange, in two
3 primary respects. We think that it must have been
4 based on either one of two things. Either the
5 Committee felt that the state legislators do not
6 effectively represent their constituents, who are
7 the public, and that's a problematic thing for us,
8 because it seems to us to be an awkward judgment
9 for unelected public officials to be making a
10 conclusion that elected public officials do not or
11 cannot effectively represent the interests of the
12 public. Or, alternatively, the Committee may have
13 felt that the public interest is not substantial,
14 which is the statutory test. And, if that's the
15 case, then I think that that directly contravenes
16 the statute, as it was amended in 2014, to require
17 that the Committee find that the siting of a
18 particular project must be "in the public
19 interest". I can't imagine a more substantial
20 interest than that. That's point number one.

21 Point number two. There is
22 language in the order denying our petition which
23 suggests that part of the reasoning was that the
24 Committee did not feel that state legislators had

1 an interest that was direct, direct, as well as
2 substantial. And I would urge the Committee,
3 before ruling on our request for reconsideration,
4 to review what we have said in our request for
5 reconsideration, especially at Paragraphs --
6 Paragraph 5(b), on Page 3. Because, to the extent
7 that the Committee is using a test which requires
8 a direct interest, we are not at all sure that
9 that is consistent with the new standard. We're
10 not sure where that test comes from. We
11 understand where the "substantial" test comes
12 from, that comes from the statute and the rule.
13 But we would say that, by its very nature, the
14 public interest is not always going to be direct,
15 certainly not as direct, for example, as some of
16 the private interests that will be represented in
17 this docket. And some of them, it's clear from
18 recent press reports, are going to be very well
19 represented in this docket.

20 As state legislators, we're not
21 here to protect, for example, a \$2 million
22 investment in a private company. The interests
23 we're here to protect are, by their nature, more
24 generalized and more diffuse. But we would argue

1 that they are no less substantial. That's point
2 number two.

3 We -- point number three is that we
4 would respectfully suggest that the Committee
5 doesn't need to test the proposition of whether
6 the interests that we are advocating for need to
7 be direct, in the same way that the interests of a
8 private party might be direct. You don't have to
9 go there. You have the authority to grant our
10 motion to intervene as a matter of discretion. We
11 don't care how you grant it. But we do feel that
12 we represent a substantial public interest, and
13 that that -- and that it's very important for that
14 interest to be heard in this docket, especially
15 given the private interests that are -- that are
16 going to be so well represented in this docket.

17 So, that's my -- that's all I have
18 to say.

19 CHAIRMAN HONIGBERG: Mr. Needleman,
20 do you want to respond?

21 MR. NEEDLEMAN: Yes. Thank you. A
22 couple of points, just quickly.

23 First of all, as a threshold
24 matter, in our filing with the Committee, the key

1 point to be made here is that we think by and
2 large the original order that was issued on March
3 18th was correct throughout, and that it did a
4 very effective job of balancing some difficult
5 competing interests here among a lot of different
6 parties. The critical point being that a lot of
7 these players, all of them have different kinds of
8 due process rights. And that our view is that we
9 are at or near the limit of the number of
10 intervenors that could effectively participate in
11 this proceeding and then still have it be managed
12 effectively. And, so, we are urging the
13 Committee, as they reconsider all of these
14 intervention motions, to think carefully about
15 that broader issue.

16 Specifically, with respect to what
17 Mr. Moffett just said, I would call the
18 Committee's attention to the legal standard that
19 anyone who is seeking a rehearing here has to
20 meet, and that legal standard is clear. The law
21 says, and we've cited this for you in our motion
22 at Page 3, Paragraph 7, number one, you can't
23 simply reargue what you argued before. You need
24 to, in order to successfully succeed here, you

1 need to point out a specific error of law that was
2 made the first time, or you need to point out
3 substantial evidence of an unjust or unreasonable
4 result.

5 And I understand what Mr. Moffett
6 is saying. But everything I heard was just a
7 variation of what was argued in their initial
8 motion and was already rejected. And, so, our
9 view is that this decision was correct the first
10 time, and we would urge you to uphold it.

11 CHAIRMAN HONIGBERG: Does anyone
12 have questions for either Representative Moffett
13 or Mr. Needleman?

14 Commissioner Bailey.

15 CMSR. BAILEY: Representative
16 Moffett, I'm really trying hard to understand your
17 position, but here's my thinking and tell me why
18 I'm wrong.

19 The Legislature sets the policy.
20 And you have a subgroup of legislators who doesn't
21 represent the majority or the minority, we don't
22 know, right? And, so, how -- what would happen if
23 a small group of legislators wanted to undo the
24 policy and the law and came and argued that we

1 were getting the law wrong, and we agreed with
2 that small group? I mean, I guess there would be
3 an appeal right of the person that was aggrieved.
4 But I don't understand how -- you said you
5 represent a substantial public interest, and
6 you're an elected official. And it seems to me
7 that that's what you do in the Legislature. You
8 represent your constituents in the Legislature.
9 And the Legislature has told us what we're
10 supposed to look at. And, now, as a legislator,
11 you want to come in and say what that means. And
12 I guess I don't -- I'm not completely
13 understanding how that's right?

14 REP. MOFFETT: Thank you for your
15 question, Commissioner. First, let me say, we're
16 not here to ask the Committee to overturn or to
17 redefine the law. We think the law was pretty
18 clear as it was amended by the Legislature in
19 2014. It requires you to consider whether or not
20 the siting of a project would be in the public
21 interest.

22 We understand that we are not here
23 as a majority of the Legislature. However, it's a
24 pretty significant group of legislators, and we

1 are the only ones that are here. And we are here
2 because our constituents have expressed concern
3 about several aspects of this project. We are not
4 saying, and I want to be clear about this, and
5 this is in our written request, in Paragraph 5(a),
6 we are not here to argue that the Committee should
7 adopt our view of the "public interest" as a
8 substitute for your own. We get that. The
9 decision about how the public interest is to be
10 weighed is a decision for the Committee, at least
11 in the first instance, subject to judicial review.
12 So, we're not asking you to accept our view of the
13 "public interest". But we do feel strongly that
14 we represent the public in some fundamental way
15 that not all of the other intervenors do. Some of
16 them do, selectboards do, county commissioners do,
17 but not all of the other intervenors represent the
18 public interest in the way that state legislators
19 do.

20 So, you know, I don't know whether
21 that answers your question sufficiently or not,
22 but that's what I would say in response.

23 CHAIRMAN HONIGBERG: Mr. Moffett,
24 how does that interact with Counsel for the

1 Public's responsibility?

2 REP. MOFFETT: I'm sorry, Mr.
3 Chairman. Would you repeat that.

4 CHAIRMAN HONIGBERG: The statute
5 provides for Counsel for the Public, Mr. Roth is
6 here. And doesn't the statute deal with that
7 specifically?

8 REP. MOFFETT: Yes. It does. And
9 I certainly respect and welcome Public Counsel's
10 intervention in this proceeding. I think it's
11 terribly important. But, by its nature, it is
12 limited. Public Counsel I believe will be the
13 first to tell you that his responsibility is to
14 balance concerns about energy, with concerns about
15 the environment, but he's not here to represent
16 the interests of groups of intervenors or groups
17 of people that may not be represented by counsel,
18 but that are going to be deeply affected by this
19 proceeding.

20 And, so, I would suggest that our
21 involvement in this proceeding is really a
22 supplement to the Public Counsel's, and it's not
23 one that should be dismissed lightly, because he's
24 only got so many resources.

1 CHAIRMAN HONIGBERG: It's also
2 supplemental to another group you mentioned in
3 your answer to Commissioner Bailey, and that's all
4 of the cities and towns along the route, is it
5 not?

6 REP. MOFFETT: That's correct.

7 CHAIRMAN HONIGBERG: I mean, more
8 broadly, it sounded to me like you're arguing that
9 legislators have special status in an Executive
10 Branch matter. Is that a fair characterization --

11 REP. MOFFETT: No. I am not --

12 CHAIRMAN HONIGBERG: -- or did I
13 mishear that?

14 REP. MOFFETT: I'm not arguing
15 that, Mr. Chairman. I want to clear. As I said
16 before, we're not suggesting that our view of the
17 "public interest" should take precedence over the
18 Committee's. We are suggesting that we have an
19 obligation, as well as an interest, in
20 representing our constituents. And they have
21 indicated that they feel pretty strongly about
22 this.

23 CHAIRMAN HONIGBERG: You have
24 another venue where you can do that, though. You

1 have a venue where you get a vote. You get to
2 introduce legislation, have it debated, and get a
3 vote, don't you?

4 REP. MOFFETT: Yes. And, if you
5 would like to turn this proceeding back to the
6 Legislature, I'd be happy to go away and --

7 *[Laughter.]*

8 CHAIRMAN HONIGBERG: Representative
9 Moffett, as you know, you don't need the
10 Committee's permission to introduce legislation.
11 Far from it. The Legislature has considered --

12 REP. MOFFETT: The deadline has
13 passed, Mr. Chairman.

14 CHAIRMAN HONIGBERG: And, if you
15 have the votes, there is never a deadline. The
16 Legislature has been considering and debating
17 bills that would affect the Site Evaluation
18 Committee every year since the Site Evaluation
19 Committee was formed. There is nothing preventing
20 the Legislature from introducing legislation on
21 this or any other topic.

22 REP. MOFFETT: Nothing exempt
23 legislative deadlines, Mr. Chairman.

24 CHAIRMAN HONIGBERG: Mr. Needleman,

1 I have a question for you. I'm not sure I agree
2 with your view that this is the "rehearing
3 standard" right now. This is not, as I understand
4 it, governed by 541-A at this point. We're
5 governed by the Site Evaluation Committee statute,
6 which, in the first instance, empowers the
7 Presiding Officer to rule on a number of types of
8 topics, but then gives the parties and intervenors
9 statutory right to full review by the full
10 Committee, which, in this context, is this
11 Subcommittee. There's no indication in there that
12 we're on the rehearing standard. And, I think, if
13 someone were aggrieved by the decision of the full
14 Committee, that's when you would move into
15 rehearing standard, in my view.

16 Why is that wrong?

17 MR. NEEDLEMAN: It's not
18 necessarily wrong. If you look at our papers, we
19 framed it as "either/or". So, in Paragraph 6, we
20 said that, in the first instance, we think that
21 you sat as the trier of fact, and the Committee
22 now sits as an appellate body under a decision.
23 Alternatively, we framed it as the "rehearing
24 standard".

1 CHAIRMAN HONIGBERG: I just wanted
2 to make sure that that was clear.

3 All right. Does anyone have any
4 other questions for either Mr. Moffett or
5 Mr. Needleman?

6 Unless you're a legislator and
7 have -- sir, unless you're a legislator and have
8 something to offer on this particular issue, it's
9 not your turn.

10 MR. ROTH: Mr. Chairman?

11 CHAIRMAN HONIGBERG: Mr. Roth, yes.

12 MR. ROTH: If I may be heard, since
13 this does sort of affect my -- if we're playing
14 debate rules, he mentioned my name.

15 CHAIRMAN HONIGBERG: Yes. I was
16 thinking that as he was saying it, it was going to
17 be an invitation for me to hear from Peter Roth.
18 But go ahead, Mr. Roth.

19 MR. ROTH: Just briefly. I am
20 inclined to agree with Representative Moffett
21 about the different types of representation of the
22 public interest that are being suggested here.
23 And I agree with his characterization that I would
24 be the first to agree that there's only so much I

1 can do, in terms of what my mission is and my role
2 is under the statute.

3 And I would also point out that,
4 you know, the legislators in this state, and I use
5 that term carefully, in its sort of individual
6 capacity, have always had a sort of constituent
7 services type of role, and they are often lobbying
8 Executive Branch officials, and I use the word
9 "lobbying" sort of in an unfortunate way, because
10 that's not really what it is, they're just
11 performing their duties to constituent services.
12 And they often contact Executive Branch officials
13 seeking to persuade them one way or the other
14 about what they are doing.

15 So, from our perspective, we don't
16 have any problem them intervening on a
17 discretionary basis. And I think it perhaps make
18 sense to think about instead of whether to
19 intervene -- to have them intervene, but instead
20 to think about how to sort of channel their voice
21 and their capacity.

22 And I'd leave it at that. Thank
23 you.

24 CHAIRMAN HONIGBERG: Well, I can

1 think of ways to do that. But, in large measure,
2 from what I heard from Mr. Moffett, and I'm going
3 to ask him to respond to this, largely what I
4 think you want to be able to do is provide comment
5 on what's going on in this proceeding. Or is it
6 your intention to call witnesses and question
7 witnesses, propound data requests and things like
8 that?

9 REP. MOFFETT: In a word, no, Mr.
10 Chairman. I don't want to try to pursue the whole
11 scope of the proceeding. But I feel very
12 comfortable telling you we would not be expecting
13 to call witnesses of our own.

14 We would like the opportunity, at
15 appropriate times, and focused on the limited
16 issues that we've identified in our petition to
17 intervene, to cross-examine witnesses. I do not
18 foresee that we would be promulgating data
19 requests. We simply don't have the resources for
20 that.

21 So, I would anticipate that our
22 participation in the proceedings would be quite
23 limited. It certainly would not disrupt the
24 schedule or introduce extraneous issues that are

1 not already on the table.

2 But I would point out, Mr.
3 Chairman, that the Applicants have identified
4 interests that they are pursuing or that they have
5 alleged as reasons why the project should be
6 supported that go far beyond direct interests.
7 And I would cite, just as one example, the claim
8 that this is going to result in \$80 million a year
9 in reductions in retail electric rates for New
10 Hampshire ratepayers. I can't imagine something
11 that is a less direct interest, or whatever you
12 want to call it, than that.

13 And, so, you know, that's one
14 example of a place where we would want to have the
15 opportunity to participate in a discussion. But
16 we do not have the resources, and nor do we expect
17 to try to play as active a role in framing the
18 issues and in proffering witnesses and in
19 conducting discovery as many of the other parties
20 that have more resources than we do.

21 CHAIRMAN HONIGBERG: Does anyone
22 have any other questions for Mr. Moffett or the
23 Applicant?

24 CMSR. BAILEY: I have a legal

1 question.

2 CHAIRMAN HONIGBERG: Go ahead,
3 Commissioner Bailey.

4 CMSR. BAILEY: Attorney Iacopino,
5 do we have the ability to grant this intervention
6 and combine it with Public Counsel? Or is that
7 not an option that we have?

8 MR. IACOPINO: I would say that you
9 do not have the ability to combine the state
10 legislators, who at least would appear to only
11 come in on a discretionary basis, with Counsel for
12 the Public. Counsel for the Public is identified
13 as a special party in RSA 162-H. It has -- he has
14 a specific role to play, and the -- and which may
15 be, I mean, he may have to take a position that's
16 against what 99 percent of the people in this room
17 have to say, whereas the legislators are taking a
18 position based upon what they perceive their
19 constituents to say, even though every single
20 legislator probably has constituents that go both
21 ways on these issues in their jurisdiction.

22 So, I would say that, legally, it
23 would not -- you would not be able to combine
24 Counsel for the Public with a discretionary

1 intervenor such as this group of legislators.

2 CHAIRMAN HONIGBERG: Ms.

3 Weathersby.

4 MS. WEATHERSBY: I do have a
5 question for Attorney Iacopino.

6 Are we not to be guided in this
7 instance by 541-A:32 concerning intervention?

8 MR. IACOPINO: Yes. That's where
9 the standard for intervention for any party comes
10 from. And it's whether or not they have
11 demonstrated a substantial interest in the outcome
12 of the proceeding.

13 MS. WEATHERSBY: Right. I guess my
14 question for Representative Moffett, while I so
15 appreciate his and his fellow legislators'
16 interest and desire to participate in this
17 proceeding on behalf of their constituents, that
18 Section I(b) of 541-A:32 requires that he -- his
19 group demonstrate that the petitioners' rights --
20 that group's rights, duties, privileges,
21 immunities or other substantial interests are to
22 be affected by the proceeding. And what I hear
23 from you, sir, is that its your constituents'
24 interests. So, how do you address that?

1 REP. MOFFETT: Yes, Mrs.
2 Weathersby. That's true. I think we have a duty
3 to represent our constituents, the public.

4 MS. WEATHERSBY: And is your duty
5 affected by the outcome of this proceeding or is
6 it just your duty to participate in the
7 proceeding?

8 REP. MOFFETT: Insofar as our
9 constituents have made it clear to us that they
10 have very serious concerns about some aspects of
11 this proposal, then the answer to that is "yes".

12 CHAIRMAN HONIGBERG: Any other
13 questions? Comments?

14 Yes, Mr. Way.

15 MR. WAY: Attorney Iacopino, if the
16 idea of something less, discretionary status,
17 intervention status, what does that look like, in
18 terms of the Subcommittee?

19 MR. IACOPINO: I'm not sure I
20 understand your question.

21 MR. WAY: In other words, if
22 there's something less than full intervention
23 status that they're looking for, they're not
24 looking to call witnesses, not looking for data

1 requests, is there a hybrid? Is there something
2 lesser?

3 MR. IACOPINO: There's a range of
4 lesser things that the Committee could do. You
5 could limit the role of any intervenor to
6 particular issues. You could -- you could say "we
7 will make arrangements for you to provide public
8 comment", we've done that quite often in the past
9 with legislators and executive councilors.

10 So that, yes, you could limit
11 their -- the scope of their participation under
12 RSA 541-A as part of your review of this petition.

13 CHAIRMAN HONIGBERG: To be clear,
14 Attorney Iacopino, one doesn't need to be an
15 intervenor to provide public comment, correct?

16 MR. IACOPINO: Absolutely not. I
17 was just trying to give the whole spectrum of how
18 the proposed intervenor could participate in these
19 proceedings.

20 CHAIRMAN HONIGBERG: Any other
21 questions?

22 *[No verbal response]*

23 CHAIRMAN HONIGBERG: Does anyone
24 want to deal with this issue now or deal with it

1 after we've heard the rest of the issues?

2 [No verbal response]

3 CHAIRMAN HONIGBERG: And I see no
4 one jumping for the microphone. Mr. Iacopino,
5 where should we go next?

6 Just to let people know, we're --
7 if we can resolve an issue, we'll resolve an
8 issue. And we're going to hear a lot of different
9 issues over the next however many hours it takes,
10 and then we're going to deliberate on whatever
11 we've heard and try and make as many decisions as
12 we can. And, like I say, if we can't make a
13 decision immediately, we may be able to make one
14 this afternoon, or that's the plan.

15 MR. IACOPINO: The next matter that
16 I would recommend that you take up is the appeal
17 from the denial of intervention status for the New
18 England Power Generators Association. They are a
19 discrete entity as well. Which -- and the reason
20 why I go in that is because, when we get down to
21 some of the individual petitions for review, we're
22 going to be dealing with some fairly large groups.
23 So, I'm trying to get the discrete ones out of the
24 way first.

1 So, that would be the logical next
2 choice, I believe, Mr. Chairman.

3 CHAIRMAN HONIGBERG: And
4 Ms. Holahan was moving as you were speaking into
5 position. Ms. Holahan.

6 MS. HOLAHAN: Good morning, Mr.
7 Chairman and members of the Committee, my name is
8 Carol Holahan. I represent the New England Power
9 Generators Association. It's a trade association
10 that represents the independent power producers
11 here in New England who collectively produce more
12 than 80 percent of the electricity for the New
13 England grid.

14 So, when we first sought
15 intervention, we did so seeking only limited
16 intervention on a few issues, for two reasons.
17 First of all, we recognize that the interests --
18 the issues that are of interest to us that are --
19 are discrete as they exist before this Committee.
20 And, two, from a resource standpoint, we wanted to
21 be circumspect in terms of how much we could
22 dedicate to this proceeding.

23 That being said, NEPGA strongly
24 believes that the existing generators here,

1 operating here in New Hampshire, and those
2 operating in New England, have a substantial
3 interest in the issues before the SEC, and their
4 rights will be substantially affected by any
5 decision the Committee reaches.

6 This project proposes economic
7 benefits by way of long-term commitments that will
8 undoubtedly displace existing resources. The
9 generators here in New Hampshire provide
10 approximately 800 well-paying jobs, and they
11 contribute more \$12 million -- excuse me --
12 annually in state and local taxes.

13 The Applicants themselves have
14 dedicated much air time at their public hearings
15 and much ink in their economic studies about the
16 positive effects this project will have on the
17 wholesale electricity market and energy prices
18 here in the state and in New England in general.

19 Certainly, NEPGA members, the
20 primary participants in that wholesale electricity
21 market, should have the opportunity to explore
22 whether the purported economic benefits of the
23 project, as claimed by the Applicants, are valid,
24 and that they are the result of competitive fair

1 play in the market.

2 Moreover, in at least two
3 instances, and I would cite the IBEW and Cate
4 Street, the Presiding Officer allowed parties to
5 intervene based on the effect the project would
6 have on their economic interests and benefits that
7 would inure to them if the project were to be
8 approved.

9 In stark contrast, however, the
10 Presiding Officer denied NEPGA's intervention,
11 despite the fact that the economic interests of
12 existing generators here in New England may be
13 unfairly affected if the project is approved.

14 To allow those potentially
15 advantaged by the project, while denying the
16 intervention to those potentially unfairly
17 disadvantaged, is unwarranted and not supported.

18 And, then, finally, separate and
19 apart from having met the statutory and regulatory
20 standard for mandatory intervention, we believe
21 that NEPGA meets the standard for permissive
22 intervention as well. It's an organization that
23 has information and experience that would be
24 helpful to developing a robust record that will

1 assist the Committee and Public Counsel in their
2 analyses and decision.

3 And, for those reasons, NEPGA
4 requests that the Presiding Officer's denial of
5 intervention be reversed.

6 CHAIRMAN HONIGBERG: Mr. Needleman,
7 do you want to respond at all or are you satisfied
8 with what you said in writing?

9 MR. NEEDLEMAN: I would just point
10 out that, initially, we filed a individual
11 objection to NEPGA's participation with fairly
12 detailed reasons why we were opposed to their
13 intervention. We think that the Chair got it
14 right the first time, and we don't believe that
15 anything has changed since then. So, we stand on
16 the papers.

17 CHAIRMAN HONIGBERG: All right.
18 Does any member of the Subcommittee have questions
19 for Mr. Needleman or Ms. Holahan?

20 Commissioner Bailey.

21 CMSR. BAILEY: Mr. Needleman, can
22 you remind me why Ms. Holahan is wrong?

23 MR. NEEDLEMAN: Yes, for a couple
24 of reasons. First of all, --

1 CMSR. BAILEY: In your opinion.

2 Sorry. Why you think Ms. Holahan is wrong?

3 MS. HOLAHAN: Thank you.

4 MR. NEEDLEMAN: No, I understand
5 and appreciate that.

6 First of all, NEPGA is in an
7 unusual position, which is one of the reasons why
8 we filed an individual objection to them. They
9 are a trade organization with not just a broad set
10 of diffuse interests, but interests that really
11 are directly in opposition to the project.
12 They're a series of competitors, essentially, who
13 I think are seeking to intervene in this
14 proceeding not just to address generic public
15 interest concerns, but really, as has been seen in
16 other cases, similar cases, to protect their
17 specific competitive interests. And I think that
18 that's one of the main things that separates them
19 here.

20 CMSR. BAILEY: Isn't that -- isn't
21 that the same, though, for the IBEW?

22 MR. NEEDLEMAN: No. I don't think
23 it is at all. I don't think the IBEW is here
24 to -- I don't the IBEW is here to protect

1 competitive interests. I think the IBEW is here
2 because they have a different set of economic
3 interests. They're not competitors to the
4 project.

5 CMSR. BAILEY: Right. But they're
6 saying -- they're saying "it's in the public
7 interest, because it's going to creates jobs", and
8 they're going to benefit from that.

9 MR. NEEDLEMAN: Yes.

10 CMSR. BAILEY: And NEPGA is saying
11 "it's not in the public interest, because you're
12 going to displace some of their members". And why
13 do you think that they shouldn't have the right to
14 argue that?

15 MR. NEEDLEMAN: I'm not sure -- I
16 understand what you're saying, and I see how they
17 could equate on one level. But, again, when I go
18 back to the decision that was issued on March
19 18th, it was focusing on NEPGA's generic interest,
20 generic public interest here.

21 And, when you hear what Ms. Holahan
22 is saying, she was talking about broad public
23 interests which they are seeking to protect in
24 this proceeding generically. And I think that the

1 reason, as I recall, the reason that that was
2 denied initially is because the Chair's view is
3 that those public interests were too diffuse and
4 they were adequately represented by other parties.

5 And I don't hear anything that
6 NEPGA has said here that specifically changes what
7 was decided initially.

8 CHAIRMAN HONIGBERG: Ms. Holahan, I
9 know you want to respond.

10 MS. HOLAHAN: I do. Thank you so
11 much, Mr. Chairman. Two points. First of all,
12 with respect to NEPGA intervening because we are
13 anti-competition, that could not be further from
14 the truth. In fact, contrary to what Attorney
15 Needleman has represented, I think NEPGA's
16 intervention in any infrastructure or development
17 of this type in New England is extremely rare. In
18 fact, if we wanted to intervene, why wouldn't we
19 have done so in the TDI Project, which is very
20 similar to this one?

21 In fact, from my recollection, the
22 only infrastructure project where NEPGA has sought
23 to intervene was in the Footprint case in
24 Massachusetts, and its only objection in that case

1 was the long-term contracts, which is another --
2 excuse me -- in the long-term contract. And, once
3 that issue was resolved, NEPGA supported the
4 project.

5 So, I think that it is disingenuous
6 to say we're only in this because we don't want
7 the competition.

8 What we are afraid is going to
9 happen is, when you have these -- where you have
10 this potential PPA, the purchase -- power purchase
11 agreement out there, that potentially is going to
12 displace existing generators, generating capacity
13 here in New Hampshire, which means the existing
14 jobs that are here or the existing revenue that
15 inures to the state is going to go away.

16 There are a lot of -- there's a lot
17 of economic information in their study that is
18 redacted, that we're not entitled to see at this
19 particular point. It is hard to do that analyses.
20 And it is hard to make, you know, to make a
21 definitive case that the existing generators, how
22 severely they would be impacted. But, clearly,
23 those economics are important to the wholesale
24 electricity market.

1 If you take their report, and you
2 look at how many times in the title itself the
3 words "wholesale electricity market" appear,
4 there's no question that those issues are now
5 present before the Committee, and they are here
6 because the Applicant has put them into play in
7 order to show public interest.

8 And I think it's unfair for them
9 now to retreat from that position and say yes --
10 "no, you can't come in and protect your
11 interests."

12 CHAIRMAN HONIGBERG: Mr. Needleman,
13 do you want to respond?

14 MR. NEEDLEMAN: I don't think we're
15 retreating from that position for one second.
16 This is the Site Evaluation Committee. This
17 Committee makes siting decisions. This Committee
18 doesn't make decisions about competitive interests
19 among different suppliers. And, just because the
20 Legislature required us to address the public
21 interest standard, which we have now done, doesn't
22 mean that that dynamic has changed materially.

23 MS. HOLAHAN: Except that --

24 CHAIRMAN HONIGBERG: Very briefly,

1 Ms. Holahan.

2 MS. HOLAHAN: Except that the way
3 they chose to show the public interest is by way
4 of the economics and the impact on the competitive
5 wholesale market. If they had chosen different
6 things to prove their public interest, that's a
7 different story. But, because they have
8 deliberately and affirmatively put them in play,
9 they are in play now.

10 CHAIRMAN HONIGBERG: So, the
11 issue -- the specific issue on which you want to
12 be heard is that affect on the wholesale market.
13 Would you be willing to limit yourself to that
14 issue in this proceeding?

15 MS. HOLAHAN: We have -- we
16 identified three issues in our initial -- in our
17 initial pleading. We are more than happy to be
18 limited to those issues. I think it's stated
19 broadly at one point "any interests that they use
20 to claim the public interest", which would include
21 those economic interests.

22 So, yes. Any interest that affects
23 the -- or, any issue that affects the wholesale
24 competitive market, yes, those are the interests.

1 And it would include the PPA, and it would include
2 any issues relating to benefits that might inure
3 to Northern Pass as a result of the affiliate
4 relationship between Eversource and Northern Pass.

5 CHAIRMAN HONIGBERG: Are there
6 other questions for Ms. Holahan or Mr. Needleman?

7 Yes, Commissioner Bailey.

8 CMSR. BAILEY: You keep talking
9 about the "PPA". Are you talking about the PPA
10 that hasn't been filed yet?

11 MS. HOLAHAN: We're talking about a
12 PPA that has been announced. That there are --
13 there's a memorandum of understanding about it.
14 But the contents of it have not been announced.
15 So, we can't see -- we do know it wasn't
16 competitively bid, which is a factor in the
17 wholesale -- in the competitive market to begin
18 with. So, yes, we have concerns about the PPA.

19 CMSR. BAILEY: But wouldn't that be
20 before the Public Utilities Commission, and
21 couldn't you argue about those concerns in that
22 proceeding?

23 MS. HOLAHAN: We can. Expect that,
24 if they're using the PPA to support their public

1 interest in order to get approval here, and this
2 Committee makes the decision on the -- you know,
3 that, because of the PPA and other issues, that
4 it's in the public interest. And, then, if you it
5 goes to the PUC and it gets denied, where is the
6 ability really to have an effect?

7 CMSR. BAILEY: But I don't think
8 they're using that argument as part of the public
9 interest here?

10 MS. HOLAHAN: I think, in their
11 economic study, they are using it as an example of
12 how it will reduce rates for the "special"
13 benefits that will flow, I think it is on the
14 ForwardNH slide, that will flow to New Hampshire
15 residents as a result of the PPA.

16 MR. NEEDLEMAN: Could I comment on
17 that?

18 CHAIRMAN HONIGBERG: Briefly.

19 MR. NEEDLEMAN: I think
20 Commissioner Bailey had it exactly right. Let's
21 think about the Berlin docket for a minute. The
22 PPA in the Berlin docket, in front of this
23 Committee, was a key feature there. When that
24 docket was done, it had to go to the Public

1 Utilities Commission for a separate approval, and
2 that's exactly what happened. And my recollection
3 is that I think the New England Power Generators
4 participated in that PUC docket.

5 MS. HOLAHAN: And I think in our
6 motion we cite the biomass case as evidence that
7 the Committee has, in fact, let parties with
8 competitive interests in, recognizing that they
9 have a right to be heard.

10 CHAIRMAN HONIGBERG: I believe
11 Counsel for the Public wanted to make an
12 observation or statement.

13 Yes, Mr. Pappas.

14 MR. PAPPAS: Thank you, Mr.
15 Chairman. Tom Pappas, representing Counsel for
16 the Public. Just want to let the Subcommittee
17 know that Counsel for the Public supports NEPGA's
18 intervention in this proceeding.

19 Apart from the interests they seek
20 to protect, we believe that they have substantial
21 experience and resources in the areas that are
22 important for the Committee's consideration,
23 particularly the economic interests that they
24 raise. And we believe that the Subcommittee

1 should hear all relevant evidence, in order to
2 ensure a complete record, and assist the
3 Subcommittee to make its informed decision.

4 We don't believe that their
5 intervention will impede this proceeding, that
6 they can do so appropriately. And, therefore,
7 they should be allowed to intervene in order to
8 address those issues that are important for the
9 Committee's consideration.

10 CHAIRMAN HONIGBERG: Refresh my
11 memory, was your support for NEPGA's position in
12 the filing that you made?

13 (Atty. Pappas and Atty. Roth
14 conferring.)

15 CHAIRMAN HONIGBERG: They're having
16 a sidebar.

17 MR. PAPPAS: I'm reminded that we
18 did.

19 CHAIRMAN HONIGBERG: I thought so.
20 And, so, while I appreciate your reiterating it,
21 if it was stated in your papers, and you're not
22 supplementing that, I'm not sure how helpful that
23 it is at this point. But thank you.

24 Commissioner Bailey, I believe you

1 have a follow-up.

2 CMSR. BAILEY: I do. Thank you.

3 Mr. Needleman, does your argument
4 that this project is in the public interest depend
5 on the PPA?

6 MR. NEEDLEMAN: No. It doesn't
7 "depend on the PPA". But, certainly, the PPA is
8 an element of it. We have made it an element.

9 CMSR. BAILEY: It is? It is part
10 of it?

11 MR. NEEDLEMAN: Yes. We have made
12 it an element, it is part.

13 CMSR. BAILEY: Okay.

14 MR. NEEDLEMAN: But I think that
15 it's much broader than that.

16 CMSR. BAILEY: Okay. I understand
17 that. But, if it's in there, then, thank you.

18 CHAIRMAN HONIGBERG: Does anyone
19 have any other questions for Ms. Holahan?
20 Mr. Needleman?

21 *[No verbal response]*

22 CHAIRMAN HONIGBERG: All right.
23 Thank you.

24 MS. HOLAHAN: Thank you.

1 CHAIRMAN HONIGBERG: Does anyone
2 want to have any further discussion or try and
3 deal with that one right now?

4 Commissioner Bailey.

5 CMSR. BAILEY: I'll throw something
6 out there. I would grant the intervention, but on
7 a limited basis. Maybe somebody could help me out
8 with the limits. But, I think, if the PPA is
9 included as an element of what's in the public
10 interest, and that's what NEPGA wants to intervene
11 about, then, certainly, I think they should be
12 included somehow.

13 CHAIRMAN HONIGBERG: Ms. Holahan,
14 can you recite again the specific issues on which
15 you want to be heard in this matter?

16 MS. HOLAHAN: I can. I'd like to
17 pull up my original motion, if you'll give me a
18 minute please.

19 (Short pause.)

20 MS. HOLAHAN: It would be at
21 Paragraph 8 of our original Motion for Limited
22 Intervention. "The implications" -- first, "the
23 implications for the application of the affiliate
24 relationship between Eversource Energy and

1 Northern Pass, and the potential for any undue
2 benefit that may arise therein". Secondly, the
3 "impacts to the competitive electricity markets,
4 including but not limited to, competitive
5 procurement practices and the potential purchase
6 power agreements". And, finally, third, "any
7 proposed "public interest" stated by the project".

8 In addition, --

9 CHAIRMAN HONIGBERG: Yes.

10 MS. HOLAHAN: -- I would just like
11 to include any wholesale or impacts to the
12 wholesale market that I discussed while addressing
13 the Committee this morning.

14 MR. NEEDLEMAN: Could I address
15 that just briefly?

16 CHAIRMAN HONIGBERG: You may.

17 MR. NEEDLEMAN: It seems to me that
18 a fair number of those are beyond the scope of the
19 proceeding. I understand what Commissioner Bailey
20 has said with respect to the wholesale market
21 issue and the PPA.

22 But, when you start to talk about
23 "affiliate relationships" and "competitive
24 markets", I don't understand how that has any

1 bearing on what is before this Committee.

2 CHAIRMAN HONIGBERG: Commissioner
3 Bailey, do you want to refine your motion, based
4 on what Ms. Holahan said?

5 CMSR. BAILEY: Yes. I think I
6 agree with Mr. Needleman on that point. I think
7 that I would move that we limit their
8 participation to the debate about whether this is
9 in the public interest and the impacts on the
10 wholesale market.

11 CHAIRMAN HONIGBERG: As Ms. Holahan
12 just articulated, it was "any public interest
13 stated by the project". Are you -- is that your
14 motion?

15 CMSR. BAILEY: No. I think it's --
16 I think it's the discussion about why this is in
17 the public interest, because it's going to
18 displace more expensive generation, and whether
19 that is really true, and how much the public is
20 going to benefit by the reduced energy rates,
21 because of what is happening in the wholesale
22 market.

23 CHAIRMAN HONIGBERG: I also heard
24 Ms. Holahan say that she's interested in the

1 secondary effects of any of that displacement.
2 That, while it may help one element, one aspect of
3 the market, it may harm other aspects. Are you
4 including that issue as well?

5 I'm just trying to understand what
6 the scope of your motion is.

7 CMSR. BAILEY: Maybe we could hear
8 from other members of the Committee on that point.
9 Or do I have to make the motion all by myself?

10 CHAIRMAN HONIGBERG: No. No, you
11 don't. People can certainly help. And we also
12 don't have to necessarily make the motion right
13 now. But does anyone want to offer something?

14 Mr. Way.

15 MR. WAY: I'm trying to wrestle
16 with how to limit that public interest. I think,
17 like the Commissioner, it's a slippery slope, I
18 think, when we -- and I'm not sure, maybe we do
19 have to put this off till later and we can think
20 about it. But I think we're -- what we're talking
21 about, there's something there. We just have to
22 figure out where it's going to fit.

23 CHAIRMAN HONIGBERG: Mr. Wright.

24 DIR. WRIGHT: Yes. I was just

1 going to -- I'll echo that a little bit. I think
2 I'm struggling a little bit with just trying to
3 understand what the real limitation on the scope
4 of this one is.

5 CHAIRMAN HONIGBERG: Anyone else
6 have anything to offer at this time?

7 *[No verbal response]*

8 CHAIRMAN HONIGBERG: Commissioner
9 Bailey, are you interested in pursuing your motion
10 at this time?

11 CMSR. BAILEY: No. Can I table it
12 for now?

13 CHAIRMAN HONIGBERG: It's not even
14 on, it's not even up yet.

15 CMSR. BAILEY: Okay.

16 CHAIRMAN HONIGBERG: It hasn't been
17 cued up.

18 CMSR. BAILEY: All right. Thank
19 you.

20 CHAIRMAN HONIGBERG: We'll deal
21 with it -- we'll deal with it when we start
22 dealing with other issues later today.

23 I'm going to state for the record
24 that it's extremely distracting when people start

1 muttering in the audience when they hear something
2 they agree or disagree with. I don't know if it's
3 affecting others up here. But I, for one, am
4 trying to concentrate on the people who are
5 speaking. And, if you start talking among
6 yourselves or slapping the table or doing other
7 things, it is extremely distracting.

8 Mr. Iacopino, where should we go
9 next?

10 MR. IACOPINO: Now we get into the
11 weeds a little bit more, things that aren't as
12 clearly discrete.

13 I would recommend we have a motion
14 filed by the various boards in Bethlehem, and I
15 believe some of the other members of "Municipal
16 Group 1", as it was referred to on Page 48 of the
17 original Order. Each, as I understand it, each of
18 those entities are seeking a review of the
19 grouping of Municipal Group 1.

20 So, I would recommend that we start
21 with that, and determine what, if anything, the
22 Committee wishes to do with regard to those
23 requests. And those are the requests filed by the
24 Bethlehem Planning Board, Bethlehem Conservation

1 Commission, Bethlehem Board of Selectmen, and I
2 believe that there is -- can't think what other
3 towns up there filed -- Littleton filed a motion
4 for review, they were in Municipal Number 1. And
5 I think that's it. So, I don't see one from
6 Dalton -- I'm sorry, Whitefield also filed for a
7 petition to review, their grouping in that as
8 Group Number 1.

9 CHAIRMAN HONIGBERG: All right.
10 Where is Municipal Group 1? They've got to be
11 here somewhere? Oh, over there.

12 MR. IACOPINO: Okay.

13 CHAIRMAN HONIGBERG: All right.
14 Does someone want to add anything to what the
15 various motions that were filed said?

16 MR. WHITLEY: Mr. Chairman, would
17 you like me at the podium over there?

18 CHAIRMAN HONIGBERG: I think it
19 will be a little easier if you do come up to the
20 lecturn, yes.

21 MR. WHITLEY: Thank you. Steven
22 Whitley, on behalf of the Town of Littleton. As I
23 understand what's before the Committee right now,
24 it's a motion by various boards in Bethlehem to

1 reconfigure who they're grouped with. Is that
2 accurate?

3 CHAIRMAN HONIGBERG: I broadened it
4 a little bit. There were a number of requests
5 from Municipal Group 1, not just Bethlehem, but
6 others filed as well.

7 MR. WHITLEY: Okay. The other
8 requests that were filed by the some of the
9 municipalities in Group 1 are a little bit
10 different. And I'm happy to touch on that while
11 I'm here, but I just want to understand what
12 you're discussing right now?

13 CHAIRMAN HONIGBERG: I believe, as
14 Attorney Iacopino articulated and I understand it,
15 we are talking about Municipal Group 1.

16 MR. WHITLEY: Okay. So, for the
17 Town of Littleton, our only comments on
18 Bethlehem's request is that Littleton be included
19 with Bethlehem in whatever geographic grouping the
20 Committee feels is appropriate. And the reason
21 for that is that simply that Littleton is not a
22 host community, and its intervention is based on
23 impacts of the line located in Bethlehem.

24 So, to the extent the Committee

1 reconfigures the groupings, Littleton would like
2 to be included with Bethlehem in whatever the
3 Committee feels is appropriate.

4 CHAIRMAN HONIGBERG: All right.
5 Thank you.

6 MR. IACOPINO: Who do you
7 represent, what town?

8 MR. WHITLEY: The Town of
9 Littleton.

10 MR. IACOPINO: Is there somebody
11 from Bethlehem here?

12 CHAIRMAN HONIGBERG: Is there
13 anybody here from Bethlehem, representing the
14 town?

15 Yes. Why don't you come forward.

16 MS. HIBBARD: Hi. April Hibbard.
17 And I don't have anything more to add, really,
18 from the letter.

19 MR. IACOPINO: What's your role in
20 the town?

21 MS. HIBBARD: I'm the
22 Administrative Assistant. And their position was
23 really the substation, transition station, and
24 that being unique to us.

1 MR. IACOPINO: Do you have any
2 objection to the request of Littleton to be
3 grouped with you, --

4 MS. HIBBARD: I don't.

5 MR. IACOPINO: -- in whatever
6 regrouping the Committee may decide to do?

7 MS. HIBBARD: Right. I don't,
8 personally. But, I mean, I have three different
9 boards that, you know, made their vote. So, --

10 MR. IACOPINO: Okay. And we have
11 what they filed. So, thank you.

12 MS. HIBBARD: Okay.

13 CHAIRMAN HONIGBERG: Yes, sir.

14 MR. ELLIS: Mr. Chairman, my name
15 is Steve Ellis. Did you not receive a letter from
16 Pittsburg, Clarksville, and Stewartstown?

17 (Short pause.)

18 MR. IACOPINO: Mr. Chairman, I'm
19 fairly sure that we did. It may not be on the
20 list that I gave you. But I suspect that that --
21 that's actually the letter that I recall in terms
22 of the suggestion of that the northern towns and
23 the southern towns, there was a discussion about a
24 letter from one group or the other. I think the

1 fact that it may not have been tagged as a
2 "motion", it may have gone into the wrong filing
3 rank when it was posted.

4 CHAIRMAN HONIGBERG: I think I
5 recall seeing it as well. I don't, off the top of
6 my head, remember what it says. Can you --

7 MR. ELLIS: Sure. Can I comment?

8 CHAIRMAN HONIGBERG: Sure.

9 MR. ELLIS: Okay. We're the three
10 northernmost towns where this project will be
11 coming through. We just feel that a new corridor
12 is going to be developed there, we feel that our
13 position, as far as the importance of tourism, how
14 it affects our economy, may not be the same as
15 other towns that you through ourselves into.

16 So, just very simply, we would like
17 to have the opportunity to represent ourselves,
18 and not be combined with other towns, like
19 Bethlehem and Littleton.

20 Thank you.

21 CHAIRMAN HONIGBERG: Thank you, Mr.
22 Ellis. While you were talking your letter was --

23 MR. ELLIS: Received?

24 CHAIRMAN HONIGBERG: -- handed to

1 us. No, it was filed. No, that's not --

2 MR. ROTH: It takes a long time.

3 *[Laughter.]*

4 CHAIRMAN HONIGBERG: It was
5 received. And, like I said, I remember seeing it.
6 And I know Attorney Iacopino had seen it as well.
7 I think he and I talked about it at one time. So,
8 yes.

9 MR. ELLIS: Thank you, Mr.
10 Chairman.

11 CHAIRMAN HONIGBERG: Thank you very
12 much.

13 Mr. Needleman, do you want to add
14 anything regarding these northern towns?

15 MR. NEEDLEMAN: Well, we understand
16 these concerns. And, as far as the towns wanting
17 to regroup to better accommodate themselves, we
18 generally don't have any objection to that. Our
19 concern only is that we don't end up adding more
20 parties.

21 CHAIRMAN HONIGBERG: All right.
22 Does anybody have any questions or comments on
23 this particular issue?

24 MR. IACOPINO: I have one for

1 Mr. Ellis.

2 CHAIRMAN HONIGBERG: Yes.

3 MR. IACOPINO: Mr. Ellis, --

4 MR. ELLIS: Yes, sir.

5 MR. IACOPINO: -- your letter

6 represents Pittsburg, Clarksville, and

7 Stewartstown.

8 MR. ELLIS: Correct.

9 MR. IACOPINO: Geographically,
10 Colebrook is the next town down, I guess.

11 MR. ELLIS: And they're
12 intervening?

13 MR. IACOPINO: Yes. And they --
14 and they're part of that Municipal Group 1. So,
15 just for the benefit of the Committee,
16 geographically, if those four towns were lumped
17 together, would that make geographic sense, to
18 your three towns anyway?

19 MR. ELLIS: Yes. I think the
20 geographic sense may make sense, but I believe
21 that they have changed their position, as far as
22 being neutral, and the top three -- the top three
23 towns are in opposition.

24 MR. IACOPINO: Mr. Chairman, can we

1 ask if anybody from Colebrook is present?

2 CHAIRMAN HONIGBERG: You just did.

3 *[No verbal response]*

4 CHAIRMAN HONIGBERG: Doesn't seem
5 so.

6 MR. ELLIS: You might want to check
7 with them, but that was in the newspaper recently.

8 CHAIRMAN HONIGBERG: Off the
9 record.

10 *(Brief off-the-record discussion*
11 *ensued regarding cellphones.)*

12 CHAIRMAN HONIGBERG: All right.
13 We're back on the record.

14 Are there other questions or
15 comments regarding this issue? Does anybody want
16 to take it on? Mr. Way? Mr. Wright?

17 MR. WAY: Attorney Iacopino, so, if
18 Colebrook is taking more of a neutral stance, even
19 though it seems to make geographic sense to have
20 it lumped in with Mr. Ellis's grouping of the
21 three towns, they still can be heard within that
22 group, can they not?

23 MR. IACOPINO: Yes. And I think
24 that's something that I pointed out at the

1 prehearing conference to all of the parties. This
2 goes for whether you're a town party or an
3 individual party, is that, if the grouping that
4 you're in does not represent your interest on a
5 particular issue, you are certainly free to make
6 the Committee aware of that by filing a motion or
7 a memo or whatever the appropriate procedural
8 means would be in the context of that issue.

9 So, yes. I don't -- I don't know
10 what Colebrook's position is. They did move to
11 intervene initially. And, so, my view of this was
12 just to lay out for the Committee, so that you all
13 can decide whether it makes any sense to break up
14 that Municipal Group Number 1, was to lay it out
15 just geographically. Because I have my little map
16 here, but I'm not so sure that I always get it
17 right, geographically. So, that's why I asked the
18 question.

19 With regard to the issue of
20 Colebrook's substantive participation, whether
21 they're going to take a position one way or
22 another, I don't have any other information for
23 the Committee. Certainly, they would have the
24 same rights as any other party, if they're group

1 did not represent their interests. It would be
2 nice if they were here, so we could know what
3 their present position it. But, at this point, I
4 don't have that information for the Committee.

5 CHAIRMAN HONIGBERG: Other -- yes,
6 sir.

7 MR. SAMSON: Mr. Chairman, my name
8 is Rick Samson. And I'm Coos County Commissioner
9 for District 3, which does include Colebrook,
10 Stewartstown, Clarksville, and Pittsburg.
11 Colebrook -- the Colebrook Selectboard has changed
12 their position on this, however, they have not
13 gotten the support of the town. And my
14 recommendation, being their representative, would
15 be to leave Colebrook in Group 1, and separate
16 Clarksville, Stewartstown, and Pittsburg as their
17 own group. Thank you.

18 CHAIRMAN HONIGBERG: All right.
19 Other members of the committee have comments or
20 questions or want to say anything?

21 Yes, Commissioner Bailey.

22 CMSR. BAILEY: Commissioner Samson,
23 did you just say that you represent "Pittsburg,
24 Clarksville, Stewartstown, and Colebrook"?

1 MR. SAMSON: I represent the eleven
2 towns and the three unincorporated places in Coos
3 County, District 3, yes.

4 CMSR. BAILEY: And you've been
5 combined with?

6 MR. SAMSON: I have been combined
7 with Grafton County Commissioners. And I also
8 have, and as Grafton County has also, requested
9 that we not be combined.

10 CMSR. BAILEY: I know that. And,
11 so, would it be better to combine you with this
12 group that we're talking about, if we split up
13 Municipal 1 into two separate groups, or would
14 that -- would that split your representation?

15 MR. SAMSON: I think that might
16 split my representation, ma'am.

17 CMSR. BAILEY: Which towns that are
18 intervenors?

19 MR. SAMSON: I represent -- I
20 represent each town, from Groveton north, to
21 Pittsburg, from the Maine border to the Vermont
22 border. It's the largest geographical district in
23 the state.

24 CMSR. BAILEY: And, so, do some of

1 the towns that are not on the route, but are to
2 the east -- that are east of the route, are they
3 interested in you representing interests of them
4 or --

5 MR. SAMSON: Errol has not filed a
6 motion to intervene; Groveton has, Stark has not;
7 Dummer has not; Milan has not; Strafford has --
8 seven of the eleven towns that I represent have
9 voiced opposition and voted at their town meetings
10 to oppose this project.

11 CMSR. BAILEY: Okay. Thank you.

12 MR. SAMSON: You're welcome.

13 CHAIRMAN HONIGBERG: Commissioner
14 Samson, I think what I heard you say is,
15 ultimately, you have towns in both group -- in
16 both halves of Group 1?

17 MR. SAMSON: Yes, I do.

18 CHAIRMAN HONIGBERG: Okay. Are
19 there other questions or comments?

20 *[No verbal response]*

21 CHAIRMAN HONIGBERG: Does anybody
22 want to deal with this right now?

23 *[No verbal response]*

24 CHAIRMAN HONIGBERG: All right.

1 Mr. Iacopino.

2 MR. IACOPINO: I guess it's best to
3 next move to Municipal Group 2.

4 The Easton Conservation Commission
5 has requested that the Site Evaluation Committee
6 review their request to be grouped in a
7 conservation commission group with Franconia and
8 Sugar Hill. They want -- they ask that we
9 separate the conservation commissions separately.
10 They also allege that Group 2 is too large and
11 unworkable. And, apparently, Easton, Sugar Hill,
12 and Franconia share counsel; Plymouth and
13 Woodstock do not.

14 So, there is basically I think -- I
15 think they're the only group within -- I think
16 they're the only petitioner within Municipal Group
17 2 that has filed a request for review of the
18 original Order.

19 CHAIRMAN HONIGBERG: Yes, sir?

20 MR. WHITLEY: I just -- Attorney
21 Iacopino, I just wanted to correct the record.
22 Woodstock and some of the other towns in Group 2
23 did file a motion for review of the intervention
24 order, but it was a joint motion of ten towns

1 together.

2 *[Court reporter interruption.]*

3 MR. IACOPINO: Whitley.

4 MR. WHITLEY: Steven Whitley. Yes,
5 I'm sorry.

6 CHAIRMAN HONIGBERG: All right.
7 Yes, we've seen that. Does someone want to -- do
8 any of the people from the affected group, Group
9 2, Municipal Group 2, want to speak to the issues?

10 Ms. Pastoriza.

11 MS. PASTORIZA: Are you speaking of
12 the conservation commissions?

13 CHAIRMAN HONIGBERG: Yes. The
14 group that the -- the municipalities and the other
15 municipal organizations that are within those
16 Group 2 towns. So, yes, the Easton Conservation
17 Commission is one of the ones that Attorney
18 Iacopino referenced.

19 Ms. Pastoriza, do you want to speak
20 to the issues?

21 MS. PASTORIZA: Our issue I think
22 is the same as all the groups, is that
23 coordinating all the different boards is
24 incredibly cumbersome, it's time-consuming, a lot

1 of us only meet once a month. So, to scramble
2 around and try to contact everybody and get a
3 meeting together is unworkable. So, we requested
4 to be with two other towns more close to each
5 other, it's a reasonable amount of coordination.

6 I'm not sure why you guys are so
7 worried about how people are going to interact
8 with you. We're not going to dump loads of stuff
9 on you. We'll work in small groups and provide
10 our input.

11 CHAIRMAN HONIGBERG: Anyone else
12 from that group of towns or subgroup want to offer
13 anything?

14 Yes, Attorney Fillmore.

15 MS. FILLMORE: Yes. Thank you, Mr.
16 Chairman. I represent the Towns of Easton,
17 Franconia, and Sugar Hill. And I just wanted to
18 make sure that Attorney Whitley and I understand
19 correctly that at the moment you're addressing the
20 actual groupings. The motion that the ten towns
21 filed together does not dispute which group they
22 have been placed in, it's more how the groups will
23 operate. And we wanted to ensure that we
24 understand what you're addressing right now.

1 CHAIRMAN HONIGBERG: We are just
2 talking groupings right now.

3 MS. FILLMORE: Thank you, Mr.
4 Chairman.

5 CHAIRMAN HONIGBERG: Commissioner
6 Bailey.

7 CMSR. BAILEY: I'm sitting here
8 wondering about how the groups can operate, and I
9 had a question for Attorney Iacopino.

10 Is it possible for the three
11 conservation commissions in Group 2 to establish a
12 subcommittee that deals with their issues? And,
13 then, they bring those issues to the spokesperson,
14 and the spokesperson -- you know, I don't know.
15 Can the spokesperson defer on those issues to that
16 subcommittee of that group or are there ways to
17 deal with this, that we don't have to have more
18 intervenors, but that they can address their
19 specific issues within the group?

20 MR. IACOPINO: There are many ways
21 that individual intervenor groups can govern
22 themselves. But, actually, what I was going to
23 recommend was that -- there have been some
24 requests, notably from Municipal Group 2, that

1 talk about steering committees and things like
2 that, I was going to suggest that we deal with
3 those after we have dealt with the groupings.
4 Because that's something that would apply across
5 the board, not just to any individual motion. And
6 I think that the Committee may want to discuss --
7 excuse me -- discuss that, because the original
8 Order really didn't provide much guidance, which I
9 noted at the prehearing conference, that there,
10 you know, that there probably should be some more
11 guidance provided, in terms of what happens if
12 there's a disagreement within a group and things
13 like that.

14 But I would suggest that we deal
15 with those things separately. And I think, right
16 now, my plan was to deal with the actual
17 groupings. And the reason why I raised this
18 particular group is because Easton Conservation
19 Commission did indeed ask to be a separate group
20 with other conservation -- two other conservation
21 commissions, and not be in the group which is now
22 Municipal Group 2. Municipal Group 2 has filed a
23 motion that deals a lot with the procedural
24 aspects of how they're represented before the

1 Committee, and, you know, problems they have with
2 the "single spokesperson" specialty -- or,
3 requirement.

4 So, I think that we should address
5 the groupings first. But, of course, you guys are
6 the Committee, and it's up to you as to how you
7 want to proceed. You can address those issues
8 now, if you like. But I was trying to get us
9 through the groupings.

10 CHAIRMAN HONIGBERG: Commissioner
11 Bailey.

12 CMSR. BAILEY: So, we could choose
13 not to break up the groups, but we could also then
14 choose to impose some processes or some rules
15 about how the groups operate?

16 MR. IACOPINO: I think you can -- I
17 think, yes, you can. You certainly can. And I
18 think that you can also give some clarification
19 about what a "single spokesperson" means, or even
20 if you want to maintain that language. And, you
21 know, how -- really what -- sort of lay out a
22 little bit better what happens in the event that a
23 group is not in agreement on an issue, how --
24 what's the process for that.

1 As I have represented to these
2 folks at the prehearing conference, if the group
3 that you are in does not represent your interest
4 on a particular issue, we're not here to block you
5 from letting us know about that. We're here to,
6 you know, there are methods by which you can do
7 that. And the original Order wasn't very clear
8 about that.

9 CHAIRMAN HONIGBERG: All right. Is
10 there anything else that needs to be discussed
11 about who's in Municipal Group 2?

12 Who's down there? Mr. Oldenburg,
13 yes.

14 MR. OLDENBURG: I just had a
15 question about Plymouth. I didn't see anything
16 where anybody said anything about Plymouth, but it
17 seems that all the rest of the towns are further
18 up north, and Plymouth, it being in 2, it seems
19 like they should go in 3, down with Holderness and
20 everybody else. And I don't know if there was any
21 discussion about that. But it just seemed that
22 they're sort of separated by New Hampton and
23 Thornton, at quite a distance. I don't know if it
24 was because that most of Plymouth is buried, and

1 that goes along with all the other towns.

2 So, I didn't know the logic in why
3 Plymouth was in Group 2.

4 CHAIRMAN HONIGBERG: I would
5 confirm for you that that is precisely the logic.
6 That Plymouth is -- the line is largely buried in
7 Plymouth, and therefore it's more like the towns
8 to its north, rather than the towns to its south,
9 where the line comes above ground again. That's
10 the reasoning behind the -- or, that's the logic
11 in the Order as it stands right now.

12 All right. I'm not sure there's
13 anything to do. Or does anyone want to take up
14 Easton's suggestion or request that it be --
15 Easton Conservation Commission's request, rather,
16 that it be grouped with the other conservation
17 commissions it listed?

18 *[No verbal response]*

19 CHAIRMAN HONIGBERG: All right. It
20 would seem not. Mr. Iacopino.

21 MR. IACOPINO: The Ashland
22 Conservation Commission, part of Municipal Group
23 3, has also filed a motion to break up,
24 essentially, Municipal Group 3. I don't know if

1 their representative is here from the Ashland
2 Conservation Commission?

3 *[No verbal response]*

4 MR. IACOPINO: Mr. Whitley, did you
5 have anything to offer with respect to Ashland in
6 your group?

7 MR. WHITLEY: No position,
8 Mr. Chairman.

9 MR. IACOPINO: "The group is
10 excessively large, should be reconfigured in light
11 of geographic testimony and socioeconomic
12 standing, under burden on a spokesperson, and
13 leaves volunteers who do not have money to hire a
14 lawyer at a disadvantage. But there's no
15 recommendation in there that I saw at least or
16 that I noted that suggests how they suggest it
17 should be reconfigured.

18 CHAIRMAN HONIGBERG: Any comments
19 on that request by Ashland? Does anyone want to
20 do anything about that at this time?

21 *[No verbal response]*

22 CHAIRMAN HONIGBERG: All right.
23 Seeing none, Mr. Iacopino.

24 MR. IACOPINO: The City of Berlin

1 has moved for a review of their combination, the
2 grouping with Cate Street Capital. And, I guess
3 that would be the next one to take up.

4 CHAIRMAN HONIGBERG: Is there
5 somebody from Berlin?

6 Yes, sir. Why don't you come on
7 down.

8 MR. MAHER: Good morning, members
9 of the Committee. Eric Maher, from Donahue,
10 Tucker & Ciandella. I'm here on behalf of the
11 City of Berlin. We have moved for a review of our
12 grouping with Cate Street Capital. There are four
13 primary reasons. The City is, being a
14 municipality, is statutorily limited as to the
15 monies it can appropriate and expend. It cannot
16 appropriate and expend monies for a private
17 purpose or to serve a private purpose. And the
18 City is concerned that being grouped with Cate
19 Street Capital, even though there is some overlap
20 in terms of the interests and positions, that
21 there is an undue risk of the City having to
22 devote public funds for a private purpose.

23 Additionally, the City wants to
24 note that its interests are not identical to Cate

1 Street. The City is concerned and -- about the
2 impacts of the project with regard to the tax
3 base. Generally, it is in support of the project
4 as it stands. But taxation is a concern,
5 obviously. Cate Street would not be as concerned
6 with taxation as the City, just as the City is not
7 as concerned as Cate Street with the overall
8 impacts of Northern Pass on the larger energy
9 market.

10 Additionally, the City is concerned
11 that being grouped with Cate Street, there is a
12 potential conflict, primarily because Cate Street
13 is the operator of the Burgess Biomass Plant,
14 which is a taxpayer in the City. And, although
15 they have had a good relationship in the past,
16 there is the potential for conflict.

17 So, we would ask to be broken out
18 from the group with Cate Street. We have -- I
19 believe the Applicant has not taken a position on
20 this. We have not heard any opposition to it.

21 So, --

22 CHAIRMAN HONIGBERG: Just to be
23 clear, though, as we sit here today, your
24 interests are generally the same, and there is no

1 current conflict, correct?

2 MR. MAHER: There is no current
3 conflict. That is correct. But the interests are
4 not identical, but --

5 CHAIRMAN HONIGBERG: But you're
6 both generally supportive, correct?

7 MR. MAHER: Both generally support,
8 that is an accurate statement.

9 CHAIRMAN HONIGBERG: Are there
10 other questions for Mr. Maher?

11 MR. IACOPINO: As I understand it,
12 one of the things that you're both generally
13 supportive of is the upgrades to the Coos Loop
14 that are referenced in the Application, is that
15 right?

16 MR. MAHER: That is correct.

17 CHAIRMAN HONIGBERG: All right.
18 Commissioner Bailey.

19 CMSR. BAILEY: Would it be better
20 to be grouped with Franklin, another town that is
21 in support of the project?

22 MR. MAHER: I can't answer that
23 question, just because I don't know the nature of
24 Franklin's support or its interests. So, I'm

1 not -- I don't want to appear an obstructionist or
2 not supportive of a solution, I just don't know
3 enough about Franklin's position generally at this
4 time to be able to say one way or the other.

5 CHAIRMAN HONIGBERG: Any other
6 questions?

7 Ms. Weathersby.

8 MS. WEATHERSBY: Isn't what you're
9 saying applicable to pretty much any of the
10 groups, you know, that theirs -- the interests
11 aren't identical? That would be true for property
12 owner groups, municipality groups, and that
13 there's a potential conflict of interest that may
14 arise. And I don't see how your situation is
15 different than any other group?

16 MR. MAHER: Well, the City's
17 position is unique in that, unlike the other
18 municipal groups, it has been grouped with a
19 private entity. So, there is the potential that,
20 if there is a conflict, the City, just by nature
21 of it being grouped with a private entity, will
22 have to appropriate public funds, at least in part
23 to support a private interest that it -- with
24 which it might not align. That's sort of the

1 distinguishing characteristic here.

2 CHAIRMAN HONIGBERG: That's an
3 "if", there's an "if" in that sentence, isn't
4 there? You even said "if", right?

5 MR. MAHER: I did say "if". But,
6 considering that we are so early in the process
7 here, it's looking into a crystal ball. I mean,
8 if there is a conflict, then it's something that
9 needs to be addressed later on down the road,
10 rather than now, where it's -- you know, the
11 impact is relatively minimal if it's addressed
12 now.

13 CHAIRMAN HONIGBERG: Are there
14 other questions? Comments?

15 Mr. Roth, you want to say
16 something?

17 MR. ROTH: Yes, as some peril, I
18 suppose. But I thought that the point made about
19 the marriage of interests, even if they're not in
20 conflict, between a governmental entity and
21 private interests, is there's -- there may be a
22 constitutional problem about that. But I thought
23 that Commissioner Bailey's suggestion that "Berlin
24 would group with Franklin" was actually a very

1 good one, and I'm surprised that Berlin's counsel
2 is unaware of Franklin's position, which, as I
3 said, that's kind of surprising.

4 So, I would suggest that the
5 solution, where you don't end up with more groups,
6 and you take them out of the frying pan without
7 putting them in the fire, is to put them with
8 Franklin.

9 CHAIRMAN HONIGBERG: Are you saying
10 you think there's a constitutional problem with a
11 municipality working with a private entity on
12 issues -- in a matter where their interests
13 generally align?

14 MR. ROTH: Yes. The Constitution,
15 in at least one provision, maybe two, prohibits
16 the use of taxpayer funds to essentially support
17 or enhance private interests. So, I don't think
18 they need to be in conflict to run into that
19 problem. I think that that's, you know, there are
20 ways around it, and there are ways that you can
21 interpret around that. But I think the easy
22 solution is to put them in with Franklin and not
23 have to answer the other question.

24 CHAIRMAN HONIGBERG: I get the

1 solution, Mr. Roth.

2 MR. ROTH: Yes.

3 CHAIRMAN HONIGBERG: So, when a
4 municipal construction project produces a lawsuit
5 against the town and the private parties that were
6 involved in the construction, those two parties
7 defending that case, their lawyers can't work
8 together. Is that -- that there's a
9 constitutional problem with that?

10 MR. ROTH: I think they have a
11 contractual relationship there. And, without
12 getting too far into the weeds on this, but I've
13 actually done some research on this issue in a
14 matter. And there are ways, for example, in cases
15 involving redevelopment of blight, where
16 municipalities can dedicate public taxpayer money
17 towards working with a private interest. But it's
18 an area fraught with potential problems. And I
19 don't think it's necessarily related to whether
20 they're in conflict or not.

21 And, so, that's -- I raise it as
22 simply as a -- it would be a yellow flag on it,
23 and suggest the solution gets us out of it.

24 CHAIRMAN HONIGBERG: All right.

1 Are there other comments or questions?

2 *[No verbal response]*

3 CHAIRMAN HONIGBERG: Mr. Needleman,
4 do you want to offer anything?

5 MR. NEEDLEMAN: No. We'll stand --
6 we'll stand on our papers on this, too.

7 CHAIRMAN HONIGBERG: Thank you,
8 Mr. Maher.

9 MR. MAHER: Thank you.

10 CHAIRMAN HONIGBERG: Ms. Pacik.

11 MS. PACIK: I just wanted to make
12 sure that you received the City of Concord's
13 motion for reconsideration on intervention,
14 because we are a member of Municipal Group 3?

15 MR. IACOPINO: You're number 7 on
16 my list here.

17 MS. PACIK: Thank you.

18 CHAIRMAN HONIGBERG: Does anyone
19 want to discuss this situation further at this
20 time?

21 *[No verbal response]*

22 CHAIRMAN HONIGBERG: No.
23 Mr. Iacopino.

24 MR. IACOPINO: Well, the next is

1 number 7 on the list, the City of Concord's motion
2 for review of their grouping in Municipal Group 3.
3 They have laid out a number of reasons why they
4 believe they should be a stand-alone party within
5 the -- within the proceeding.

6 I think everybody has a copy of
7 their motion. It would take me a long time to go
8 through every reason.

9 CHAIRMAN HONIGBERG: And Ms. Pacik
10 is not going to go through every reason. She's
11 going to hit the highlights and supplement what
12 needs to be supplemented.

13 MS. PACIK: Absolutely. And I
14 appreciate the work of the Committee trying to
15 coordinate all of the parties and also the full
16 agenda that you have today. But Concord is very
17 concerned about the intervention order. And we
18 are asking that we be allowed to have full
19 intervention. The City of Concord is the largest
20 municipality that this project goes through. We
21 have a third of the population --

22 CHAIRMAN HONIGBERG: Ms. Pacik, let
23 me stop you right there. You were granted full
24 intervenor status. Okay?

1 MS. PACIK: We were, but we were
2 grouped with Municipal Number -- Group Number 3.

3 CHAIRMAN HONIGBERG: That's
4 correct. You're in a group, so speak to that, --

5 MS. PACIK: Yes.

6 CHAIRMAN HONIGBERG: -- because you
7 were granted full interventor status.

8 MS. PACIK: We are asking for the
9 opportunity to be able to have our own
10 spokesperson for the adjudicatory hearing, as well
11 as doing our own data requests, and also filings.
12 There are significant problems being grouped with
13 Municipal Group 3 for those aspects of this
14 process. The City of Concord is represented by
15 municipal counsel. It's unique in that situation.

16 We have unique issues in Concord
17 that are not the same as some of the other
18 municipalities. For example, Deerfield has a
19 substation. Holderness does not have any of the
20 project going through its community. Ashland has
21 issues with its water and sewer.

22 For the City of Concord, we have
23 issues where it goes through heavily populated
24 residential areas, it goes through commercial

1 areas. We have the Karner blue butterfly. We own
2 parcels of land. A lot of the property we have,
3 about 4 miles of the first 8.1 miles, are actually
4 protected by conservation easements.

5 We need to make sure that the City
6 of Concord has a spokesperson that can talk about
7 those important issues. And, as municipal
8 counsel, it's going to be difficult for me to be
9 the spokesperson on aesthetics and impacts for
10 Municipal Group 3, because I can't talk about the
11 substations. And I can't talk about the sewer and
12 the water issues that Ashland has. The only
13 issues that I can address are the ones that are
14 unique for the City of Concord.

15 We also want to put out data
16 requests. And there's a lot of information that
17 we're going to need to proceed with this case.
18 The problem with coordinating with nine other
19 municipalities, some of which have different
20 boards and commissions and boards of selectmen,
21 it's very hard. And we've experienced this in
22 just the last few weeks trying to file the motions
23 that we submitted to you. We would circulate
24 them, sometimes a few days in advance, and not

1 receive any response. And the problem is that,
2 for a lot of public forums, they need to have 24
3 hours notice before they can even schedule a
4 meeting. A lot of times these are volunteers,
5 trying to coordinate and find a quorum is very
6 difficult for these boards.

7 And, for municipalities with a big
8 interest in this case, to try to be sending our
9 pleadings or sending out, I suppose, drafts of
10 cross-examination, to different boards, where
11 you're not even getting a response, and trying to
12 do all of this in a timely manner under very
13 strict schedules, is basically impossible. And it
14 takes away our ability to protect the interests in
15 Concord, especially where we're represented, we
16 can move pretty fast on certain issues.

17 I would note, what I do not want to
18 do, and what I do not intend to do, is repeat
19 arguments that are made by other groups in this
20 case. And I appreciate your trying to consolidate
21 the case and make it go quickly and efficiently.
22 And, certainly, if another issue has been raised
23 by another party, the City of Concord will not be
24 going forward and presenting the same arguments.

1 And I would anticipate that the Chair would be
2 making rulings and stopping that from happening.

3 But, in the first instance, we do
4 ask that we have the right to be intervenors, and
5 to do our own data requests and to do our own
6 filings and to do our own cross-examination.

7 And I would note that there are
8 sometimes separate issues, for example, the
9 confidentiality objection that we recently filed.
10 We could not get agreement with all of Municipal
11 Group 3 as to whether or not this economic report
12 should be public or if it was okay to have it
13 under a protective order. We're not always going
14 to agree on everything. And, trying to get
15 filings in in a timely basis, and even getting
16 other municipalities' responses in a timely basis,
17 it's just simply unworkable.

18 CHAIRMAN HONIGBERG: Thank you,
19 Ms. Pacik.

20 Mr. Needleman, do you want to add
21 anything to what you've already said?

22 MR. NEEDLEMAN: Just one thing,
23 going back to something that Mr. Iacopino and
24 Ms. Bailey mentioned before. At the end of our

1 filing the other day on intervention motions, we
2 suggested that the Committee focus on recommending
3 procedures to groups that would better clarify how
4 they could manage these types of issues.

5 I would commend to the Committee
6 focusing on Superfund litigation as one example.
7 That is a place where there has been an enormous
8 amount of very complex civil litigation, and it
9 has specifically dealt with managing large groups
10 that necessarily have diverse interests and has
11 done so very successfully.

12 And I think the sorts of things
13 that Ms. Pacik is talking about here, I appreciate
14 those issues, but they seem to me to be largely
15 issues of management, rather than issues as to why
16 groups need to be carved out. And I think a lot
17 of the argument she's making, others could
18 probably make as well.

19 CHAIRMAN HONIGBERG: Are there
20 questions?

21 Mr. Way.

22 MR. WAY: Ms. Pacik, I was also
23 wondering, too, when you look at the sheer size of
24 Group Number 3, I can appreciate what you're

1 saying, in terms of managing logistics. But has
2 there been some discussions in Concord as if you
3 could carve up the group? Because I think some of
4 the arguments you make, I mean, would just seem to
5 suggest that everybody should have single party
6 status.

7 So, can you live with a reduced
8 grouping or have you talked about that?

9 MS. PACIK: The only thing, to me,
10 that's workable is I can certainly try to
11 coordinate as much as possible with the other
12 municipalities that are represented by counsel,
13 because that is easy, it's an easy communication
14 to have going back and forth. And we are already
15 trying to work as much together as possible, which
16 is why we have been filing some joint motions with
17 the Committee.

18 But, in terms of trying to work
19 with different boards and agencies who are not
20 represented, it's simply not workable, especially
21 because boards and -- those boards have to work as
22 a group. You can't just work with one person in
23 isolation. The board of selectmen, the only way
24 they operate is as the board of selectmen, and

1 that's with a quorum of them.

2 CHAIRMAN HONIGBERG: Are there
3 other questions? Comments?

4 Commissioner Bailey.

5 CMSR. BAILEY: Can you identify the
6 municipalities in Group 3 that are represented by
7 counsel?

8 MS. PACIK: I might need some help
9 here. Steve.

10 MR. WHITLEY: Steven Whitley, for
11 the Towns of Bridgewater and New Hampton.

12 MS. FILLMORE: Christine Fillmore,
13 for the Town of Bristol.

14 MR. IACOPINO: Ms. Pacik, you
15 mention that you're concerned about having to get
16 permission for your cross-examinations and things
17 like that. That's not really -- you're not really
18 required to do that, are you? When the City of
19 Concord is sued, you don't go into court and
20 defend the City after having your
21 cross-examination of witnesses reviewed by your
22 City Council, correct?

23 MS. PACIK: What I'm talking about
24 is, if we have to have one spokesperson for the

1 cross-examination, for example, of one witness,
2 you're asking us to coordinate between all the
3 municipalities in Group Number 3, to make sure
4 that everybody is okay with the line of
5 questioning. I'm not talking about going to my
6 City Council. I'm talking about trying to work
7 cooperatively with the other municipalities in
8 Group Number 3, and trying to coordinate, putting
9 together a cross-examination with nine other
10 municipalities, many of which are not represented,
11 is basically impossible.

12 MR. IACOPINO: Okay. So, you don't
13 think that you could designate one party -- one
14 person within your group to do a
15 cross-examination, and then vet that with them or
16 discuss it with them, find out what issues they're
17 going to address, and then let them do it?

18 MS. PACIK: Well, it's going to be
19 hard, especially where you have unrepresented
20 municipalities that need to work as a whole, in
21 terms of their entire board. So, trying to find
22 one person that's going to do everything, and
23 coordinate and vet it with them, I don't think
24 that is workable.

1 MR. IACOPINO: Maybe that's where
2 you threw me off, because I don't know that there
3 has to be a -- for instance, if you have a town in
4 a group that has a board of selectmen, I don't
5 know if there has to be a public meeting for the
6 board of selectmen to say "okay, let's ask them to
7 take these" -- "to ask these questions on
8 cross-examination".

9 MS. PACIK: Well, they could have a
10 nonpublic meeting. But, regardless, they have to
11 have a meeting, and it has to be duly noticed, and
12 it has to be under the Right-to-Know Law. I can't
13 just be e-mailing all three of them and having
14 them respond. That would violate 91-A.

15 MR. IACOPINO: When your City is
16 sued and you represent them in court, do you
17 have -- does your City Council have a public
18 meeting over your cross-examinations?

19 MS. PACIK: It's different. I
20 represent the City of Concord. So, under the
21 ordinance, I can take whatever measures are
22 necessary to prepare for the case. If I need to
23 brief our City Council, I would do it in an
24 attorney/client or a nonpublic meeting. But, no,

1 I do not work with them. But the issue is --

2 MR. IACOPINO: Can a representative
3 from each of those other towns do the same thing?

4 MS. PACIK: That's up to the town,
5 if they feel comfortable designating a
6 representative. But I would say that boards are
7 supposed to operate as a board. Typically, you
8 don't just have one person working independently.

9 MR. IACOPINO: Thank you.

10 CHAIRMAN HONIGBERG: So, if one of
11 the towns in the group, pick one, Canterbury, if
12 the Canterbury Selectmen got together and said
13 "we're authorizing this particular person to work
14 with the rest of the municipal members of this
15 group", then you could work with that person,
16 correct?

17 MS. PACIK: Theoretically. If
18 that's what the town wants to do, I could work
19 with that person. But I would note that it still
20 puts me in a position that's difficult, because,
21 if I'm the spokesperson, I can't be out there
22 advocating and working on issues that are
23 completely unrelated to the City of Concord.

24 CHAIRMAN HONIGBERG: I'm not --

1 putting aside the second part of that, I'm just
2 trying to help Mr. Iacopino and others understand
3 the difference between cities and towns. And, in
4 a city like Concord, and this is likely true in
5 other cities as well, when there's -- the
6 structure is such that you are empowered by the
7 City already by the ordinances to serve as their
8 counsel, correct?

9 MS. PACIK: That's correct. And
10 we're a city manager form of government. So, I
11 report to the City Manager, not to, necessarily,
12 the City Council.

13 CHAIRMAN HONIGBERG: Whereas, in
14 the towns, unless they hire a lawyer, they have to
15 act as a body for each decision that they make, be
16 it the board of selectmen, a planning board, a
17 zoning board, correct?

18 MS. PACIK: Yes.

19 CHAIRMAN HONIGBERG: If they were
20 to hire a lawyer, that would then become a
21 different situation, you would deal with the
22 lawyer. And that's what you're saying, isn't it?
23 That working with the towns that have retained
24 counsel is a different situation for you, correct?

1 MS. PACIK: That is correct.

2 CHAIRMAN HONIGBERG: Are there
3 other questions or comments regarding this?

4 *[No verbal response]*

5 CHAIRMAN HONIGBERG: I don't think
6 so.

7 MS. PACIK: Thank you.

8 CHAIRMAN HONIGBERG: Does anyone
9 want to take this matter up with the groupings --
10 are there other subgroupings within 3 that need to
11 be dealt with?

12 MR. IACOPINO: The group filed the
13 motion that was referenced before that addresses
14 having a steering committee in the procedural
15 matters, but I think that that is the only --

16 CMSR. BAILEY: Deerfield's.

17 MR. IACOPINO: I'm sorry, and
18 Deerfield has filed -- Deerfield Conservation
19 Commission has filed a petition for review seeking
20 to be grouped only with the Town of Deerfield.

21 CHAIRMAN HONIGBERG: Is Deerfield
22 here?

23 *[No verbal response]*

24 CHAIRMAN HONIGBERG: Anybody here

1 representing Deerfield?

2 MR. BERGLUND: I do.

3 CHAIRMAN HONIGBERG: Oh. Okay.

4 MR. BERGLUND: Erick Berglund,
5 Deerfield. Could I hear that statement again, as
6 to what this -- because there were two petitions,
7 one I think to separate the Conservation
8 Commission, and then one to undo that.

9 CHAIRMAN HONIGBERG: Well, why
10 don't you speak to what Deerfield's position is?

11 MR. BERGLUND: Deerfield's position
12 is to stay within Municipal Group 3 -- I'm sorry,
13 the Conservation Commission. But I can also, with
14 my cohort in the back who's representing the
15 Selectboard, that's the same as well, and the
16 Planning Board.

17 CHAIRMAN HONIGBERG: So, --

18 MR. BERGLUND: So, it was out, and
19 then back in.

20 CHAIRMAN HONIGBERG: So, the -- but
21 the current position is to stay within Municipal
22 Group 3?

23 MR. BERGLUND: No change.

24 CHAIRMAN HONIGBERG: All right.

1 Thank you.

2 MR. BERGLUND: Okay.

3 CHAIRMAN HONIGBERG: What's next,
4 Mr. Iacopino?

5 MR. IACOPINO: Actually, if we get
6 through the counties, and then, because both
7 Commissioner Samson, on his behalf, has filed a
8 petition for review of the grouping with Grafton
9 County, and Grafton County has filed a review --
10 has filed a request for review of their grouping
11 with Commissioner Samson.

12 CHAIRMAN HONIGBERG: Well, we heard
13 from Mr. Samson earlier. Now, is there anything
14 you want to add to what you said earlier?

15 MR. SAMSON: Yes, there is, Mr.
16 Chairman.

17 CHAIRMAN HONIGBERG: Why don't you
18 come on down.

19 And, is there someone here from
20 Grafton County?

21 MR. SAMSON: Mr. Chairman and
22 members of the Committee, my name is Richard
23 Samson, from 804 Piper Hill Road, in Stewartstown.
24 And I am the Coos --

1 *[Court reporter interruption.]*

2 MR. SAMSON: I am the Coos County
3 Commissioner representing District 3, which is the
4 largest district in the state. And it is an area
5 that will be most affected by this proposed
6 project.

7 Geographically, it is other 100
8 miles from Pittsburg to Grafton County.
9 Economically, there is little, if any, comparison
10 between the two counties, with Coos County being
11 the poorest county in our state. These are the
12 major reasons that District 3 should not be
13 combined with Grafton County and have only one
14 voice.

15 If you will bear with me, Mr.
16 Chairman, I have a couple of comments I would like
17 to make that had been raised earlier, one is
18 concerning the Coos Loop, which runs over one
19 third of it in my district.

20 CHAIRMAN HONIGBERG: Mr. Samson, I
21 hope these are comments directed at the groupings
22 of intervenors?

23 MR. SAMSON: It is.

24 CHAIRMAN HONIGBERG: Go ahead.

1 MR. SAMSON: It is. The Coos Loop
2 is not in Grafton County at all. Stewartstown,
3 Clarksville, and Pittsburg have no transmission
4 lines in their area; Grafton County does have the
5 transmission lines in their area.

6 And I would just like the Committee
7 to note, in all of the capacities that I have
8 served in for the past 51 years, I would like to
9 thank this board for trying to do the right thing
10 in the grouping. However, it appears to me that
11 most of the -- well, we the elected public
12 servants, officials and taxpayers of our state
13 should receive the same courtesy, time and respect
14 that have been be afforded to the Applicant.

15 The Site Evaluation Committee and
16 the PUC have the responsibility and the obligation
17 to make the right decisions that will reflect the
18 character of our state and also protect our land.
19 There is no right way to do the wrong thing.

20 And I would like to close, if I
21 may, Mr. Chairman, by just repeating something
22 that I had earlier said. I have attended almost
23 each and every hearing, starting with the first
24 one in Pembroke, that the smart way to keep people

1 passive and obedient is strictly limit the
2 spectrum of acceptable opinion, but allow very
3 lively debate within that spectrum. And a lot of
4 my constituents are asking if that's what this
5 process is doing? Thank you.

6 And I would be willing to answer
7 any questions that you may have.

8 CHAIRMAN HONIGBERG: Does anyone
9 have any questions for Councilor Samson?

10 *[No verbal response]*

11 CHAIRMAN HONIGBERG: I have a quick
12 question for you.

13 MR. SAMSON: Yes, Mr. Chairman.

14 CHAIRMAN HONIGBERG: Should you be
15 in both, if we were to split Group 1 into two
16 subgroups, --

17 MR. SAMSON: Yes.

18 CHAIRMAN HONIGBERG: -- would you
19 be appropriate in both groups?

20 MR. SAMSON: The only thought I
21 have on that, Mr. Chairman, is that some of the
22 towns in my district -- most of the towns in my
23 district oppose the project, but there are a
24 couple that do support the project. So, it might

1 make it difficult for me to -- I would have to be
2 a spokesman -- person for both the opponents and
3 the proponents, and that is my job. My job is to
4 represent my entire district, whether they are
5 opposed or supporting this project.

6 I think it would be difficult. I
7 probably could do that. And you're talking
8 grouping me with Pittsburg, Clarksville, and
9 Stewartstown, Mr. Chairman?

10 CHAIRMAN HONIGBERG: Yes.

11 MR. SAMSON: Yes.

12 CHAIRMAN HONIGBERG: Thank you.

13 MR. SAMSON: Thank you.

14 MS. SAFFO: Hi. It's Lara Saffo,
15 Grafton County attorney --

16 *[Court reporter interruption.]*

17 MS. SAFFO: Yes. Lara Saffo. And
18 I'm the Grafton County attorney, and the
19 Commission has asked that I appear on their
20 behalf. I won't add anything in addition to what
21 I've already written, except to note that I had
22 similar concerns to Deputy City Solicitor Danielle
23 Pacik, which is there's two of us. So, one or the
24 other is going to have to be the spokesperson,

1 logistically incredibly difficult. Commissioner
2 Samson is hours away from the commissioners in
3 Grafton County. Grafton County is 1,700 square
4 miles, 63 miles of this project goes through
5 Grafton County directly, but it's a 1,700 square
6 mile county.

7 And I'm an elected official, an
8 elected County Attorney to represent Grafton
9 County. I don't think I can be a spokesperson on
10 behalf of Coos County, because I have to speak on
11 behalf of the interests of Grafton County.

12 So, Commissioner Samson, from the
13 moment we got this order, he agreed that our -- he
14 was not comfortable being the spokesperson, and I
15 agreed I wasn't comfortable being spokesperson for
16 him either. There's no third person, and that's
17 who's in this committee. And, again, we're all
18 elected officials. So, we're very uncomfortable
19 representing the interests of another entity, and
20 legally I'm not even sure we can.

21 But, other than that, I think I
22 have the information in our written pleadings.

23 CHAIRMAN HONIGBERG: Does anyone
24 have any questions or -- yes, Commissioner Bailey.

1 CMSR. BAILEY: Is there a group
2 that you could be comfortable working in?

3 MS. SAFFO: I think that's exactly
4 what the Deputy City Solicitor mentioned. Working
5 in municipal groups can be incredibly difficult
6 coordinate schedules, and coordinating meetings,
7 and making sure everybody is complying with the
8 Right-to-Know Law. And, again, for the people who
9 have counsel, that's a lot easier. You know, they
10 have been appointed to represent their interests,
11 they report back. But, for the entities that
12 don't have counsel, they have to have meetings,
13 and they have to post those meetings, and they
14 have to operate within the confines of the
15 Right-to-Know Law, you know, as do we, but on
16 legal matters, obviously we can have nonpublic
17 sessions, but we still have sessions. So, I am
18 very concerned about being part of a group of
19 towns, especially towns not represented, because
20 we aren't an attorney for them, and I cannot be an
21 attorney for a town, and I'm worried that I would
22 be viewed as such, and that is not within the
23 scope of what we're planning on doing.

24 CMSR. BAILEY: Thank you.

1 CHAIRMAN HONIGBERG: Are there
2 other questions? Comments?

3 *[No verbal response]*

4 CHAIRMAN HONIGBERG: Thank you.

5 MS. SAFFO: Thank you.

6 CHAIRMAN HONIGBERG: Are there any
7 other grouping issues related to municipalities?
8 Just talking grouping?

9 Yes, Mr. Whitley.

10 MR. WHITLEY: I don't know if
11 you're including our motion filed by a number of
12 municipalities, because I don't think you've
13 addressed that as of yet.

14 MR. IACOPINO: That's the one that
15 addresses the steering committee and those sorts
16 of issues?

17 MR. WHITLEY: That's right.

18 MR. IACOPINO: Yes. I thought we
19 would do that after.

20 CHAIRMAN HONIGBERG: Yes. We're
21 going to do that maybe in the next round, but
22 separately from discussion of how the groups
23 should be put together.

24 All right. Seeing -- oh, yes, sir?

1 Who are you?

2 MR. BADGER: My name is Eli Badger.
3 I represent the Ashland Water & Sewer Commission,
4 who submitted a petition to break from the group
5 of Group 3.

6 CHAIRMAN HONIGBERG: All right.
7 That's number four on our list. Do you want to
8 add anything to what you have put in writing?

9 MR. BADGER: I think what we put in
10 writing should be sufficient to get us the
11 intervenor status separate from everybody else,
12 because it is a high-impact area that Northern
13 Pass wishes to go through. And it affects 550
14 households, our septic, our septage receiving,
15 our sewer lagoons, and our water lines.

16 CHAIRMAN HONIGBERG: Okay. And,
17 so, you believe you should be by yourself?

18 MR. BADGER: We believe we should
19 be by ourselves.

20 CHAIRMAN HONIGBERG: Does anybody
21 have any questions? Any other comments on that?

22 *[No verbal response]*

23 CHAIRMAN HONIGBERG: Is there any
24 other municipal group here that we haven't -- or,

1 any requests by a municipal group that we haven't
2 yet discussed?

3 Yes, Ms. Pastoriza.

4 MS. PASTORIZA: I just have a
5 question, if a municipal lawyer could explain to
6 you guys the constraints that boards operate
7 under. I'm not sure that's clear, the
8 Right-to-Know, the time we have to notice
9 meetings.

10 CHAIRMAN HONIGBERG: Did Ms. Pacik
11 not adequately do that and Ms. Saffo?

12 MS. PASTORIZA: I'm not sure about
13 that, that you understand the constraints we're
14 operating under.

15 CHAIRMAN HONIGBERG: Do you
16 disagree with anything Ms. Saffo or Ms. Pacik
17 said?

18 MS. PASTORIZA: I'm not sure they
19 made it wholly clear.

20 CHAIRMAN HONIGBERG: What would you
21 add?

22 MS. PASTORIZA: That we have to
23 notice a meeting ahead time. I think it's 24
24 hours.

1 CHAIRMAN HONIGBERG: Under RSA
2 91-A, correct?

3 MS. PASTORIZA: We cannot talk to
4 each other via e-mail about anything. Everything
5 we do has to be at a noticed meeting. We have to
6 agree on what we're going to say to another group.
7 We, most of us, meet once a month. I feel that
8 you guys are not taking that into consideration.

9 CHAIRMAN HONIGBERG: I don't know
10 how you can say that, Ms. Pastoriza. You're
11 talking to a group that's subject to 91-A, that
12 can't do anything except what it does in public,
13 as has been made clear a number of times, in
14 meetings where you were present, the limitations
15 on this body's ability to act quickly. Each of
16 us, I believe, understands that quite well. I
17 think Ms. Pacik and Attorney Saffo -- both
18 attorneys, and other attorneys in this room, have
19 articulated their positions in writing, and orally
20 here today, quite well.

21 Is there anything else you feel
22 that the group has missed?

23 MS. PASTORIZA: And that, if you
24 had to coordinate with 20 other SECs to get

1 something done, how you would do it.

2 CHAIRMAN HONIGBERG: I am aware of
3 the problem.

4 Are there any other municipal
5 groups whose requests have not yet been discussed
6 this morning?

7 *[No verbal response]*

8 CHAIRMAN HONIGBERG: All right.
9 With that, we are going to take a break. We're
10 going to hold it to 60 minutes. So, we will be
11 back here 60 minutes from now. Whatever time that
12 is on your clock, 60 minutes from now.

13 (Lunch recess taken at 12:09 p.m.
14 and the hearing resumed at 1:18
15 p.m.)

16 CHAIRMAN HONIGBERG: All right.
17 We're going to get started again. We still have
18 some -- a number of people to hear from regarding
19 groupings. We have a few people whose
20 intervention petitions were denied that we still
21 need to hear from.

22 And, where should we start,
23 Mr. Iacopino?

24 MR. IACOPINO: Iryna, is there one

1 more page?

2 CHAIRMAN HONIGBERG: Let's go off
3 the record for a minute.

4 *[Brief off-the-record discussion*
5 *ensued.]*

6 CHAIRMAN HONIGBERG: All right.
7 We're back on the record. Go ahead, Mr. Iacopino.

8 MR. IACOPINO: My apologies, Mr.
9 Chairman. My recommendation is that the next
10 thing that we take up is we take up the Abutting
11 Property Owners Group from Clarksville to Dalton,
12 also the underground portion. The grouping was
13 originally the Jordan, Zankowski, Levesque,
14 McAllaster, Lynne Placey, Arlene Placey, Brad and
15 Daryl Thompson, David Schrier, and Nancy Dodge.
16 Three -- we have three petitions in that group
17 asking for review; one filed by Jon and Lori
18 Levesque, one filed by Brad and Daryl Thompson, and
19 one filed by David Schrier.

20 CHAIRMAN HONIGBERG: Are any of
21 those people here who wish to add anything to what
22 they put in writing?

23 MR. THOMPSON: I'm Brad Thompson.

24 CHAIRMAN HONIGBERG: Why don't you

1 come forward please, Mr. Thomson.

2 MR. THOMPSON: Hello. Brad
3 Thompson, Stewartstown. And I think I can
4 represent the folks on that list. We pretty much
5 have said it and hopefully it will be heard.
6 Thank you.

7 CHAIRMAN HONIGBERG: All right.
8 Thank you. Is there anyone else from that group
9 who needs to say anything?

10 *[No verbal response]*

11 CHAIRMAN HONIGBERG: Mr. Needleman,
12 you want to say anything?

13 *[Atty. Needleman indicating in the*
14 *negative.]*

15 CHAIRMAN HONIGBERG: Mr. Needleman
16 shakes his head "no".

17 Does anyone want to -- anyone want
18 to take that issue up right now?

19 *[No verbal response]*

20 CHAIRMAN HONIGBERG: Mr. Iacopino,
21 what's next?

22 MR. IACOPINO: Next we would deal
23 with the rather large group that is contained on
24 Page 49 and 50 of your order, Mr. Chairman. It's

1 under the "Individual Parties", ii, Dummer to
2 Dalton Abutting Property Owners. I'm just going
3 to go through the names on it, so that, if they're
4 here, they can be aware.

5 That would be Eric and Margaret
6 Jones, Elmer and Claire Lupton, Mary Boone
7 Wellington, Bruce and Sondra Brekke, Elaine Olson,
8 Eric Olson, Joshua Olson, Elaine Olson again, I
9 think that's just a typo, Kevin Spencer, Rodrique
10 and Tammy Beland, Susan Percy for Percy Summer
11 Club, and then Mark Lagasse and Kevin Spencer for
12 Lagaspence Realty, LLC, Robert Heath, James and
13 Judy at Rasmdell, Charles and Cynthia Hatfield,
14 Donald and Betty Gooden, and Tim and Brigitte
15 White.

16 Of those folks, the Joneses, the
17 Brekkes, all of the Olsons, the Belands, Ms. Percy
18 for the Summer Club, and Mark Lagasse and Kevin
19 Spencer have filed petitions for review of your
20 intervention order.

21 CHAIRMAN HONIGBERG: All right. Is
22 any of that group here and wish to add anything to
23 what's in their paper filings?

24 MR. CUNNINGHAM: Mr. Chairman?

1 CHAIRMAN HONIGBERG: Mr.
2 Cunningham.

3 MR. CUNNINGHAM: Mr. Chairman, on
4 behalf of Mark Lagasse and Kevin Spencer of
5 Lagaspence Realty, I don't need to repeat my
6 filing. Other than to reiterate my deep concern
7 that Northern Pass takes a position that people
8 with individual property right issues vital
9 interests cannot -- the attorney for them cannot
10 speak for them to represent those vital interests.
11 I address that in my motion and I don't need to
12 repeat it. Certainly, attorneys can represent
13 individual intervenors in this case when they have
14 substantial interests at stake.

15 Something I do want to say, though,
16 as I'm sure this Committee is aware, I've been in
17 this state for over 50 years now. And part of my
18 responsibilities as an attorney in multiple
19 litigated cases was to ensure that there's a good
20 record, no matter what side of the case I'm on,
21 you want to ensure that there's a good public
22 record.

23 I certainly credit this Committee
24 trying to group people to alleviate multiple

1 intervenors, to deal with the communications
2 issues, the distance issues, the conflict of ideas
3 issues. But I think what you've created for
4 yourself is a tar baby. What you end up doing,
5 and I think that's already shown in the arguments
6 you've heard, what you're going to end up doing is
7 you're going to end up litigating the diverse
8 interests from people. What you're going to end
9 up litigating is whether some kind of an internal
10 protocol will assist. In other words, I can see
11 this Committee getting bogged down in these
12 diverse issues. I can see this Committee getting
13 bogged down and litigating and hearing arguments
14 about whether or not the protocol worked in a
15 given case.

16 So, I just would like to make a
17 suggestion, based on the years of practical
18 experience, just grant people that feel they have
19 different interests, that they feel that those
20 interests are going to be conflicted, that there
21 will be communication, just grant all of those
22 people their individual rights. And I almost can
23 guarantee you, in the end, Mr. Chairman and
24 members of the Committee, in the end, you will

1 have a cleaner record, people will feel less
2 concerned about their individual rights and their
3 ability to speak for their interests.

4 It's just a suggestion. I'm not
5 trying to be presumptuous here. But, I think,
6 when is all said and done, if you simply grant
7 these motions for people to represent their
8 individual interests as they ask, you'll have a
9 cleaner, better record, and you'll consume a lot
10 less time.

11 I'm not going to repeat my clients'
12 arguments. They're in the papers. I think I've
13 made strong arguments that represent my interests.

14 I have a couple of procedural
15 issues that I address in a motion and an objection
16 to something Northern Pass filed, but I don't
17 think you're ready to hear that yet.

18 CHAIRMAN HONIGBERG: All right.
19 Thank you, Mr. Cunningham.

20 Mr. Needleman, do you want to
21 respond at all? Looks like you do.

22 MR. NEEDLEMAN: Just very quickly.
23 The Applicant is not making any kind of argument
24 designed to impede anyone's rights. On the

1 contrary, we think that the order did a very good
2 job of balancing everyone's due process rights.
3 And I think everything you just heard from
4 Mr. Cunningham really goes to issue of case
5 management. It doesn't go to issues of anyone's
6 due process rights.

7 CHAIRMAN HONIGBERG: Others from
8 the group want to be heard right now?

9 Yes, please come forward.

10 Ms. Percy, right?

11 MS. PERCY: Yes. How did you know?

12 CHAIRMAN HONIGBERG: I have someone
13 sitting next to me who knew the answer, and that's
14 how I knew.

15 MS. PERCY: My name is Susan Percy,
16 and I represent the Percy Summer Club, in Stark,
17 New Hampshire. And the only thing that I would
18 add, we're in Group 2, which is a very large
19 group. I don't know any of the people in Group 2.
20 But we are seven members covering a very large
21 territory just with our issues, which are outlined
22 in our petition. And the people that I reached
23 out to in our group did say that our issues go
24 beyond the scope of their issues, and felt that,

1 by adding in our issues of public access to the
2 lake, the environmental issues, and the historic
3 significance of our camps, that we would dilute
4 their efforts. So, that's the only thing I would
5 add.

6 CHAIRMAN HONIGBERG: Thank you.
7 Mr. Needleman, do you want to say anything?

8 MR. NEEDLEMAN: No.

9 CHAIRMAN HONIGBERG: All right. Is
10 there anyone else from that group who wishes to
11 add anything to what they filed in writing?

12 Yes, sir. Please come forward.

13 MR. BREKKE: Can I use this
14 microphone?

15 CHAIRMAN HONIGBERG: Sure, as long
16 as you identify yourself clearly.

17 MR. BREKKE: Okay. My name is
18 Bruce Brekke. My wife, Sondra Brekke, and I are
19 here from Whitefield. And I apologize in advance
20 if I repeat anything that I've written in my
21 motion.

22 The group is originally 17
23 individuals. And there are two groups represented
24 by attorneys, a total of seven, five by Attorney

1 Baker, two by Attorney Cunningham. I've been in
2 contact with the Joneses and Ms. Percy from the
3 Percy Swim club, and they seem to have unique and
4 more complicated issues than I do. Mr. Jones has
5 wetland trust application in progress, and Susan
6 Percy represents several individuals. The
7 remaining seven that I see on the group, in the
8 group, are intervenors like me, whose main
9 objection is viewshed.

10 One concern I have that was not in
11 my motion is, with two attorneys in the group, and
12 two other individuals with a more complicated
13 situation than I have, the 50 requests for data
14 could easily be blown out. And I want to protect
15 myself from that. I'm not an attorney, all of
16 this is very new to me. And I think the
17 likelihood of myself, my wife and myself,
18 presenting 50 or more data requests is very not
19 likely.

20 So, for that reason, I just would
21 like to have intervenor status as a single
22 individual. If not, I would be willing to be
23 grouped with the other seven individuals that are
24 in the group now, who have like concerns as I do.

1 Thank you.

2 CHAIRMAN HONIGBERG: Thank you,
3 Mr. Brekke. Is there anyone else from that group
4 who wishes to say anything or add to what they put
5 in their written submissions?

6 CMSR. BAILEY: Could I ask
7 Mr. Brekke a question?

8 CHAIRMAN HONIGBERG: You certainly
9 may, Commissioner Bailey.

10 CMSR. BAILEY: Mr. Brekke, I was
11 trying take notes, and I didn't get it correct, I
12 don't think. You said there were "17 people in
13 the group", is that right?

14 MS. BREKKE: That's correct, Group
15 2.

16 CMSR. BAILEY: And two are
17 represented by Attorney Cunningham?

18 MR. BREKKE: Two are represented by
19 Attorney Cunningham, and five --

20 CMSR. BAILEY: Five by Attorney
21 Baker?

22 MR. BREKKE: Correct.

23 CMSR. BAILEY: And then -- that's
24 seven. And then you said seven had the viewshed

1 argument, so, that's 14. And three in the Percy
2 Summer Club?

3 MR. BREKKE: No. There's Susan
4 Percy, --

5 CMSR. BAILEY: Right.

6 MR. BREKKE: -- who represents the
7 Percy Summer Club. Jones is another one. And,
8 then -- oh, okay. There was one intervenor
9 request that was presented to Pamela Monroe. It
10 was a photocopy of a handwritten note from I think
11 it was -- I have it here -- Robert Heath, he's the
12 other one on the list. I believe he was from
13 Stark.

14 CMSR. BAILEY: So, you grouped
15 Percy and her Summer Club, Jones and Heath in one
16 group, is that --

17 MR. BREKKE: No. No, I don't --

18 CMSR. BAILEY: Okay.

19 MR. BREKKE: I don't want to speak
20 for them. But I can see where I don't want to be
21 in their group. Because the Jones and the Percy
22 Summer Club, along with the attorneys, I could
23 foresee several data requests that may exceed the
24 50. I'm not familiar with the proceedings, but it

1 looks like, if anybody can file data requests, it
2 would be attorneys. So, I want to distance myself
3 from those groups --

4 CMSR. BAILEY: I understand.

5 MR. BREKKE: -- those individuals.

6 CMSR. BAILEY: Thank you.

7 CHAIRMAN HONIGBERG: Anyone else
8 from that group have anything they want to add?

9 *[No verbal response]*

10 CHAIRMAN HONIGBERG: What's next,
11 Mr. Iacopino?

12 MR. IACOPINO: Next group would be
13 the -- thank you -- would be 2.b, the Non-Abutting
14 Property Owners from Clarksville to Bethlehem.
15 This is a group that includes Robert Martin;
16 Mr. Moore, Dunlap, Brady, and Thompson;
17 Mr. Kaufman, Brad Thompson, and John Petrofsky on
18 behalf of 44 residents of Stewartstown and East
19 Colebrook, referred to as the Dixville
20 Notch-Harvey Swell location residents; Mr. and
21 Mrs. Orzek, I believe they're Mr. and Mrs, Mark
22 and Susan Orzek; John Davidge for Prospect Farm;
23 Linda Upham-Bornstein; Rebecca Weeks Sherrill More
24 for the Weeks Lancaster Trust; Mr. Richard

1 McGinnis; Frederick Fitts; Gerald and Vivian Roy;
2 Edward Piatek; Frank and Kate Lombardi; Marsha
3 Lombardi; Alexandra Dannis and James Dannis; David
4 Van Houten; Wendy Doran; and Andrew Dodge.

5 Of those members of this group, we
6 have nine petitions to review. Those petitions
7 were filed by Mr. Moore and his group; Mr.
8 Kaufman; Mr. Thompson and their group, that's the
9 Dixville Notch-Harvey Swell location; Mr. and Mrs.
10 -- Mark and Susan Orzek; Ms. Bornstein; the Weeks
11 Lancaster Trust, Rebecca Weeks; Frederic Fitts;
12 Alexandra and James Dannis; David Van Houten; and
13 Andrew Dodge. They have all filed petitions to
14 review the order.

15 CHAIRMAN HONIGBERG: All right. Is
16 anyone from that group here who would like to say
17 anything in addition to what they filed?

18 Yes, sir. Please come forward.

19 MR. VAN HOUTEN: Hi. I'm David Van
20 Houten, from Bethlehem. I'll be brief. I have
21 three concerns.

22 CHAIRMAN HONIGBERG: Just, if you
23 have something that's in writing, if you could
24 leave it in the box when you're done, that would

1 be great.

2 MR. VAN HOUTEN: Sure. One, I
3 would like to confirm that the Committee knows
4 that I am the owner of the property upon which the
5 Applicant proposes to construct towers numbered
6 DC-685 and DC-686. That would change my status
7 from "a non-abutter" to "an abutter".

8 My second point is that, on March
9 28th, I requested clarification of the term
10 "abutter". The landowner upon whose property the
11 project is proposed cannot be characterized as an
12 "abutter". The landowner is the servient estate
13 or host, and the easement holder does not hold
14 exclusive rights to the property. I didn't see
15 that posted anywhere, it may have been in the
16 comments. But I do want the Committee to clarify
17 this. Those of us who own land that is going to
18 be affected by this has a different interest from
19 someone who is an abutter. And I don't think I
20 should be called an "abutter" on my own property.

21 Number three, concerning the
22 grouping of private property intervenors,
23 landowners singly or together, I endorse the
24 suggestion submitted by Andrew Dodge on March 28.

1 The SEC should allow these parties to form their
2 own groups and give us enough time to begin to get
3 organized.

4 That's what I have to say.

5 CHAIRMAN HONIGBERG: If you are
6 granted intervenor status, does it matter to you
7 whether you're called -- what name it carries?

8 MR. VAN HOUTEN: Not necessarily.
9 It's just the implication that I am abutting my
10 property is different. I mean, they're building
11 something on my property, not next to my property.

12 CHAIRMAN HONIGBERG: Do you also
13 own land that will be next to the project, if it
14 is built?

15 MR. VAN HOUTEN: I do.

16 CHAIRMAN HONIGBERG: Okay. Any
17 other -- any questions or comments?

18 *[No verbal response]*

19 CHAIRMAN HONIGBERG: Mr. Needleman,
20 do you want to say anything?

21 MR. NEEDLEMAN: No.

22 CHAIRMAN HONIGBERG: All right.

23 Thank you.

24 Are there other members -- oh, yes,

1 if you could leave that little paper in the
2 basket, that would be helpful. Thank you.

3 Are there others from that group
4 who wish to say anything at this time?

5 Yes. Come forward.

6 MR. THOMPSON: Good afternoon.
7 Again, my name is Brad Thompson. I have property
8 on Bear Rock Road, in Stewartstown. I'm
9 representing the Harvey Swell-Dixville Notch
10 group. The group, when the Petition has listed
11 are 41 abutters and non-abutters, has grown to
12 approximately 70, of which about 25 are direct
13 abutters, probably roughly 12 to 13 miles of
14 overhead and underground lines, from the Canadian
15 border to the Wagner woodlot.

16 Our request for review is we don't
17 have a problem, all of the abutters and the
18 non-abutters in that area to the Wagner woodlot,
19 can be grouped in one, as one group. But we have
20 a great deal of problem being grouped with the
21 folks that we're calling the "southern group",
22 from Dummer down to Bethlehem. We have vastly,
23 vastly different concerns.

24 And, as soon as I get specific with

1 the concerns, which the Committee asked us to do
2 in our request for review, I believe that our
3 approach as a group in the North Country will be
4 to present to the Committee at hearing a tour of
5 the 12 to 13 miles that exist by way of a
6 PowerPoint presentation. It's going to be of no
7 service to be equated and involved with the
8 southern group and what they might be doing.
9 We're separated by about 25 miles of the Wagner
10 woodlot. We talked about some of the major
11 issues, like communications and so forth, and that
12 certainly is part of our concern.

13 When we get to specifics, it
14 becomes very apparent that we have many different
15 problems and issues to contend with, to talk about
16 at hearing, that don't -- aren't representative of
17 the southern group. In particular, two places of
18 underground and two places -- three places,
19 really, of overhead lines, four transmission --
20 transition areas, and then many issues that get
21 involved with the underground part of
22 construction, like pipe jacking in wetlands,
23 manholes every quarter of a mile to a third of a
24 mile. Many issues that are just totally

1 unrepresentative of the southern group.

2 So, we please beg to be put in our
3 own group. The group is growing. I think we have
4 a need to have a voice, and we'd appreciate that
5 chance.

6 CHAIRMAN HONIGBERG: Thank you.

7 MR. THOMPSON: Thank you.

8 CHAIRMAN HONIGBERG: I believe
9 there was someone else who wanted to --

10 MR. IACOPINO: I have a question
11 for him.

12 CHAIRMAN HONIGBERG: Or, actually,
13 sir, Mr. Thompson, if you could wait. I think
14 Attorney Iacopino has a question for you.

15 MR. IACOPINO: You say that the
16 group, that I guess that you have identified as
17 the "Dixville Notch-Harvey Swell group", is
18 growing. Is it growing by the addition of any
19 other of the folks that are in this intervenor
20 group?

21 MR. THOMPSON: Some of the northern
22 group, yes.

23 MR. IACOPINO: Who are the others
24 that --

1 MR. THOMPSON: Without looking at
2 the list, Nancy Dodge comes to mind for one that I
3 think is on the list.

4 MR. IACOPINO: We have an "Andrew
5 Dodge", is that the same?

6 MR. THOMPSON: No, that's a
7 different Dodge. There were a number of other
8 abutters and non-abutters in addition to the 41,
9 and --

10 MR. IACOPINO: If you were to take
11 a look at my list, would that help you?

12 MR. THOMPSON: Sure.

13 CHAIRMAN HONIGBERG: While
14 Mr. Thompson is looking at the list, do we have
15 someone else from that group who wanted to come up
16 and speak?

17 MR. IACOPINO: I will need that
18 back, Mr. Thompson.

19 CHAIRMAN HONIGBERG: Mr. Thompson,
20 why don't you step aside for just a minute, --

21 MR. THOMPSON: Okay.

22 CHAIRMAN HONIGBERG: -- take a look
23 at that list, and we'll let the next gentleman
24 speak.

1 Sir.

2 MR. DODGE: Andrew Dodge. So, this
3 is all kind of new to me. So, apologize if I
4 don't get this quite right. But I'm not going to
5 go over the stuff that was in the request. But,
6 as I -- basically, as I understand it that, you
7 know, once you've granted someone intervenor
8 status, which you did and I appreciate, you can
9 group people together, but you can only do that to
10 the extent that it doesn't prevent people from
11 representing their interests. And I've written in
12 the request all the reasons why I think, you know,
13 this grouping actually prevents me from
14 representing my interests, but -- so, I won't go
15 through that.

16 But the one thing that I did hear
17 at the prehearing conference was that, you know,
18 groupings can be good and be quite powerful. I
19 think the example that was given was the -- I hope
20 I pronounce this right -- the Antrim Wind case,
21 where they had a group of large intervenors
22 together.

23 And, so, I just wanted to sort of
24 comment on that as you're thinking through this,

1 as to, you know, it's worked in the past, and we
2 all kind of stop whining about it and kind of get
3 on with it. But, you know, that group was
4 different, in that, you know, they were -- it was
5 much smaller, it was seven or eight groups, I
6 think, when you parse out all the different people
7 that were there that own property, you're talking,
8 I think, 12 people.

9 Here, we've got 17 different
10 groups, and I think it was 66 people. But, if I
11 heard correctly, it might more like 96 now. I
12 just don't know, if you have to respond within ten
13 days, how you're actually going to get all those
14 different people, a group that large, to even find
15 the time to talk, and maybe that's why we haven't
16 selected a spokesperson yet.

17 In addition, you know, when I
18 looked at that Antrim situation, they were all in
19 the same town. I think there was one person that
20 was in the town immediately next to it. You know,
21 we've got all these 17 or 66 or 96, whatever it
22 is, you know, we're kind of sprinkled over
23 properties that are 50 miles apart. And, some
24 people like me, it's a vacation property, so, I'm

1 actually just north of Boston. So, from, you
2 know, Winchester, where I live, to Clarksville,
3 it's 177 miles. So, even if we could pick a time
4 to all get together, I'm not really sure how we
5 would do that. In person, it's going to be long
6 drives, like two hours each way, I think, to meet
7 in the middle for some people. You know, you
8 can't do conference calling, or you need
9 specialized equipment. I guess we'd have to do it
10 by email, with no face-to-face. I just don't know
11 how you do that. It just seems like a group that
12 large, that's that geographically dispersed, I
13 just don't know how you can have everyone
14 represent their interests, even if you could, you
15 know, find some way to solve it.

16 That's the remark here. I think
17 I've got everything in the request. I just wanted
18 to, you know, respond to that, because it kind of
19 came from the -- I think the Presiding Officer
20 last time at the prehearing conference, who said
21 "Look, this is like Antrim. It worked well. It
22 should work well here." But it really is quite
23 different with a group this large.

24 CHAIRMAN HONIGBERG: Thank you.

1 Does anyone have any questions for Mr. Dodge?

2 MR. WAY: Mr. Dodge -- what town
3 are you from?

4 MR. DODGE: The property up here?
5 Bethlehem.

6 MR. WAY: Bethlehem?

7 MR. DODGE: Yeah.

8 CHAIRMAN HONIGBERG: Anyone else?

9 MS. WEATHERSBY: Just a quick
10 question.

11 CHAIRMAN HONIGBERG: Ms.
12 Weathersby.

13 MS. WEATHERSBY: Mr. Dodge, there's
14 been a suggestion to divide the group north and
15 south of the Wagner lot. Would that be of
16 assistance in addressing most of your concerns?

17 MR. DODGE: I guess I'd have to see
18 what the grouping is. I mean, you've got, again,
19 17 or 66 or 96 you'd have to -- to me, there seems
20 to need some practical limitations on the number
21 of people you can get together. I mean, I
22 appreciate the issue that the towns have with
23 boards and so forth, but a number of people are
24 represented by counsel. I don't know how many

1 people in this group are represented by counsel.
2 For me, for example, I work unpredictable hours.
3 So, you know, the response that I submitted, I
4 think I submitted it at 11:50 on the day it was
5 due. Sometimes I'm called out for travel or other
6 things, and it would be a burden I think on the
7 rest of the group to try to get my opinion if I
8 couldn't get there till the last minute. You
9 know, things like that come up. Again, I just --
10 with a group that large, I just don't know how you
11 make it all work. I have no problem with the
12 group. I do think there are benefits to grouping
13 people. But, you know, my suggestion was to kind
14 of let some people, at least in the first pass --
15 you know, why go through all this. Why not let
16 people group as many as they can and take all
17 those people off the table, and then they'll all
18 be happy with their own groups. And then we can
19 kind of force the rest of the people, if that make
20 sense.

21 CHAIRMAN HONIGBERG: All right.

22 Thank you, Mr. Dodge. Any other questions?

23 Mr. Thompson, how are you doing on
24 the review of the list?

1 MR. THOMPSON: Did good. I don't
2 recognize the name Robert Martin, but I believe
3 he's in one of the three -- I believe, he's in the
4 Clarksville, but I'm not positive of that. I do
5 recognize the four guys that's called the "Heath
6 Road Group" -- Moore, Thompson, Dunlap and
7 Brady -- and I think they're represented by
8 Attorney Baker at this point. I do believe, to
9 override them a little bit, I do believe that we
10 represent many of the same concerns, and it would
11 be wise to put all of us in the same group, but it
12 would be representative of a pretty large group in
13 a pretty critical area with a lot to say.

14 CHAIRMAN HONIGBERG: All right.
15 Thank you, Mr. Thompson.

16 Is there anyone else from that
17 group who would like to speak or add anything to
18 what they put in writing?

19 (No verbal response)

20 CHAIRMAN HONIGBERG: All right.
21 Mr. Iacopino, which group is next?

22 MR. IACOPINO: Next is another
23 fairly large group. It's the Abutting Property
24 Owners from Bethlehem to Plymouth. It includes:

1 Nigel Manley, Judy Ratzel, Russell and Lydia
2 Cumbee, Walter Palmer, Kathryn Ting, Peter and
3 Mary Grote, Paul and Dana O'Hara, Virginia
4 Jeffreys, Carol Dwyer, Gregory Wolf, Susan
5 Schibanoff, Ken and Linda Ford, Campbell McLaren,
6 Eric and Barbara Meyer, Robert Thibault, Dennis
7 Ford, Carl and Barbara Lakes, Bruce Ahern and
8 Frank Pinter. And as I understand it, two people
9 in that group have filed a petition for review,
10 that being Carl and Barbara Lakes and Mr. Bruce
11 Ahern.

12 CHAIRMAN HONIGBERG: All right.
13 Who's here from that group who'd like to speak?
14 Yes, sir.

15 MR. AHERN: Bruce Ahern from
16 Plymouth. Thank you, Mr. Chairman. I've put in
17 my motion most of the things that I would like to
18 have considered, but I also thought of something
19 else. My family's been researching the road
20 right-of-way through my property for over 40
21 years, and we've dealt with other conflicts with
22 the road. And there is no way that I could, if I
23 am not spokesman for the group, there's no way
24 that I could transfer that information to whoever

1 was going to be the spokesman for our group. I've
2 worked with attorneys for months at a time trying
3 to explain stuff to them, and they still don't
4 understand all the things that need to be
5 considered as far as my property is concerned. So
6 I don't see how I could ever speak for the people
7 of Easton, and I don't see how anybody in Easton
8 could ever speak for me, because I could never get
9 it explained to them totally so that they could
10 ask the appropriate questions. There's a good
11 chance that, if this continues through, that I am
12 going to have to retain an attorney, and so I
13 would like to be separated from my group so that
14 my attorney, whoever it's going to be, can speak
15 for me.

16 CHAIRMAN HONIGBERG: Does anyone
17 have any questions for Mr. Ahern? Commissioner
18 Bailey.

19 CMSR. BAILEY: Just hypothetically,
20 if there was no way that this Committee was going
21 to grant you individual status, which group would
22 you like to be in?

23 MR. AHERN: There is no group that
24 has the same problems that I have.

1 CMSR. BAILEY: But everybody has
2 problems.

3 MR. AHERN: But as I've said,
4 there's no way that I could be a spokesman for
5 somebody else, and there's no one -- there's not
6 enough time in this limited time frame that we
7 have for me to ever explain to the person who's
8 going to be the spokesman to understand my
9 situation at my property.

10 CMSR. BAILEY: All right.

11 CHAIRMAN HONIGBERG: Anything else
12 for Mr. Ahern?

13 (No verbal response)

14 CHAIRMAN HONIGBERG: All right.
15 Thank you. Is there anyone else from the group
16 who wishes to speak?

17 (No verbal response)

18 CHAIRMAN HONIGBERG: All right, Mr.
19 Iacopino.

20 MR. IACOPINO: All right. Thank
21 you, Mr. Chairman. We would move down to Page 51
22 of your order to 2E, Abutting Property Owners from
23 Ashland to Deerfield. This group originally
24 includes: Carol Carrier; Mary Lee; Craig and

1 Corinne Pullen; the McKenna's Purchase Unit Owners
2 Association; Taras and Marta Kucman; Kelly
3 Normandeau; Laura Bonk; Philip and Joan Bilodeau;
4 Erick and Kathleen Berglund; Rebecca Hutchinson;
5 Torin Judd and Brian Judd; Jo Anne Bradbury;
6 Jeanne Menard, in her capacity Menard Forest
7 Family Limited Partnership; Jeanne Menard, on
8 behalf of Peter Menard; Anne Burnett; Kevin and
9 Lisa Cini, C-I-N-I; Bruce Adami and Robert Cote
10 and Eric and Sandra Lahr, L-A-H-R.

11 Now, we have a petition for review
12 filed by the McKenna's Purchase Unit Owners
13 Association; we have one filed by the Bilodeaus;
14 we have one filed by the Berglunds; Rebecca
15 Hutchinson; the Judds; Jeanne Menard, in both
16 capacities; Ms. Cini; the Cotes and the Lahrs.
17 And I skipped over Jo Anne Bradbury, who also has
18 a petition filed. But these parties -- there's
19 one, two, three, four, five, six, seven asked to
20 be grouped together out of this group, and those
21 are: The Berglunds; Hutchinson; Judd; Jeanne
22 Menard, on behalf of both entities; Kevin and Lisa
23 Cini; Mr. Adami and Mr. Cote and Mr. and Mrs.
24 Lahr. So, those seven have asked to be grouped

1 together.

2 And then the other folks who have
3 filed petitions, again, are McKenna's, Bilodeau
4 and Bradbury who have filed separately.

5 CHAIRMAN HONIGBERG: All right.
6 Anyone from that group who would like to speak or
7 add anything to which they've said?

8 MR. HOGAN: Thank you, Mr.
9 Chairman. Good afternoon, everyone. My name is
10 Scott Hogan. I'm a land-use attorney from Durham,
11 New Hampshire. I'm here representing Phil and
12 Joan Bilodeau of 140 Nottingham Road in Deerfield.
13 The Bilodeaus are in a unique position, being
14 direct abutters to the proposed terminus
15 substation in Deerfield. I'm not sure if folks
16 are familiar with it, the plan itself of the
17 proposed substation. There is an existing
18 substation shown here. The footprint in white is
19 the proposed new substation. The Bilodeaus'
20 property is right here, less than 200 feet away or
21 so from one of the most close, temporary
22 construction paths. And so one of the specifics
23 about the Bilodeaus I think -- and as I said,
24 they're in a unique position, and their unique

1 focus and concerns are around the fact of a
2 proposal of this size and scope being right
3 next -- being constructed next to the property. I
4 think the problem, and we've talked about -- we've
5 heard a lot of issues today, referred I think from
6 the Applicant twice, that the issues that we're
7 discussing about the grouping problems have been
8 characterized as "managerial" issues. But they
9 really are substantive issues in many ways. And
10 for my own clients in a case like this, in the
11 normal course of reviewing a project like this, if
12 you're a residential property owner and you have a
13 project of this scale and type, an industrial
14 facility or something else like this next to your
15 residential property, in the normal course you're
16 going for your own personal review before a local
17 planning board, for instance, as an individual.
18 And so in that context, if I'm there representing
19 a residential abutter, which is most of my
20 practice -- and sometimes it's one residential
21 abutter and sometimes it's a neighborhood full of
22 them at the same time -- but in the course of
23 doing that, the most difficult thing, even if
24 you're there as an individual, is to make your own

1 record with that board and to clearly identify
2 what your own personal interests are in this
3 project. And for something like this it's
4 obvious: White noise, odor, vibration, wetlands
5 impacts, potential flooding, lighting, a whole
6 variety of conditions that are almost unmitigable
7 in some instances when you're looking at a project
8 with this kind of proximity and the type of
9 construction during the construction process
10 itself. Future operation and maintenance is
11 something different than that. And I would note,
12 in the order that granted my clients intervention
13 status, the order itself didn't refer at all to
14 the unique factors that the Bilodeaus are facing.
15 Their concerns are the proximity of their property
16 to the terminus substation itself. The others in
17 the group have right-of-way concerns and viewshed
18 concerns that are certainly distinct from the
19 Bilodeaus. And so when we look at -- and
20 normally, the group conflict dynamics, even
21 amongst direct abutting residential property
22 owners or adjoining property owners or neighboring
23 property owners, are quick and multiple. Some
24 folks are concerned about traffic because they get

1 those impacts. Some folks are concerned about
2 lighting or noise because they are particularly
3 affected, or aesthetics or viewshed or flooding or
4 wetland issues or wildlife impacts.

5 So, here, in terms of trying for me
6 personally to represent the Bilodeaus' own
7 specific situation and make their record for them
8 in the course of this project, it goes beyond just
9 being, you know, largely issues of management, or
10 "case management" as we've heard today. And the
11 standard of review that was just referred to, I
12 think just a few minutes ago, and in paraphrasing,
13 but it's right out of your own rules here, in
14 terms of you certainly have the authority to make
15 these groupings and to limit intervenors in the --
16 procedurally as they go through this process. But
17 it goes on to say "so long as the limitations
18 placed on the intervenors do not prevent the
19 intervenor from protecting the interest that
20 formed the basis for intervention." And so I
21 don't know that we've heard from another
22 residential abutter that's in the truly unique
23 position that the Bilodeaus are in, facing
24 whatever the court order issues are, whatever the

1 right-of-way issues are, the other issues that are
2 in play for other municipalities and environmental
3 groups, et cetera. The Bilodeaus' issues are
4 truly, I believe, unique in the position they have
5 in proximity to this aspect of this project. So,
6 for that reason alone, they are asking to be their
7 own party, a sole intervenor.

8 CHAIRMAN HONIGBERG: Does anyone
9 have any questions for Mr. Hogan? Commissioner
10 Bailey.

11 CMSR. BAILEY: I actually have a
12 question for the Applicant's attorney.

13 Can you show him that picture that
14 you have? I think I asked at the Deerfield
15 hearing that the Applicant submit a map showing
16 the Bilodeaus' property line, the new territory
17 that the -- the new part that the substation would
18 take up, and with the old substation, so that we
19 can kind of see that. And I'm wondering -- I
20 don't recall seeing that. You may have filed it
21 and I haven't seen it yet, but I don't think you
22 did. Is that accurate?

23 CHAIRMAN HONIGBERG: Commissioner
24 Bailey, is the question, is the map accurate, or

1 is it accurate that they haven't filed anything?

2 CMSR. BAILEY: I was asking if the
3 picture that this attorney is showing us is
4 accurate.

5 MR. BELLIS: Commissioner Bailey,
6 this map here is a general representation. It's
7 not accurate from an engineering standpoint, but
8 it shows the approximate dimensions of what would
9 be disturbed. It was, I believe, part of the
10 wetlands application, and so for that purpose it
11 showed the area that the substation would occupy.
12 But it's not meant to be an engineered drawing.

13 CMSR. BAILEY: Okay. Thank you.

14 MR. HOGAN: And Commissioner,
15 that's out of the Applicant's AOTM Wetlands
16 Application.

17 CMSR. BAILEY: Okay.

18 MR. BELLIS: We're happy to provide
19 a map to the Commission to show more detail of
20 this location with the Bilodeaus' property
21 present. If that's something you asked for, I'm
22 sorry I didn't recall doing that.

23 CMSR. BAILEY: Yes. Thank you.

24 CHAIRMAN HONIGBERG: Mr. Way.

1 MR. WAY: Could I see that map?

2 Thank you.

3 CHAIRMAN HONIGBERG: Are there
4 other questions for Attorney Hogan?

5 MR. IACOPINO: I have a question,
6 Mr. Chairman, if you don't mind.

7 Mr. Hogan, is your position with
8 respect to Mr. Bilodeau that, if he were to be
9 carved out the group that he's in and permitted
10 to -- or the Bilodeau family, if they were carved
11 out of the group, that they would only address
12 those issues that directly affect their particular
13 land?

14 MR. HOGAN: Yes. Yes, that's the
15 case.

16 MR. IACOPINO: So they would not be
17 interested, for instance, in getting into some of
18 the stuff that we talked about NEPGA with respect
19 to -- for instance, they're not going to be
20 concerned about emissions and things like that,
21 except as they come from the substation itself.

22 MR. HOGAN: Yes, that's correct.

23 CHAIRMAN HONIGBERG: Mr. Needleman,
24 you wanted to say something?

1 MR. NEEDLEMAN: I did. I wanted to
2 pick up on Mr. Iacopino's point. We've heard a
3 number of people argue that they've got unique
4 interests that they believe justifies them being
5 carved out from these groups. You know our
6 position about that generally. But what I would
7 ask is, to the extent that the Committee believes
8 any of those interests are valid and do carve any
9 of those people out, that you limit the scope of
10 their intervention to the precise interests that
11 they've articulated which becomes the basis for
12 them to be carved out.

13 CHAIRMAN HONIGBERG: Are there
14 other questions or comments from members of the
15 Committee?

16 (No verbal response)

17 CHAIRMAN HONIGBERG: Thank you, Mr.
18 Hogan.

19 MR. HOGAN: Thank you, Mr.
20 Chairman.

21 CHAIRMAN HONIGBERG: Mr. Iacopino,
22 next.

23 MR. IACOPINO: Nobody else in this
24 group?

1 CHAIRMAN HONIGBERG: Oh, yeah. I'm
2 sorry. I forgot. To my left and then to my
3 right. Sorry. I lost track of where I was.

4 MS. KLEINDIENST: Michelle
5 Kleindienst, K-L-E-I-N-D-I-E-N-S-T, manager from
6 McKenna's Purchase. We'd like to file and be
7 recognized as individual intervenors, as this
8 project will have quite an effect on 148
9 individual homeowners at the Project. We feel
10 we're unique, just like everybody else feels
11 they're unique. But in our particular case, if we
12 would like to hire an attorney, we'd like to do it
13 on our own.

14 CHAIRMAN HONIGBERG: All right.
15 Thank you, Ms. Kleindienst. Any questions for Ms.
16 Kleindienst?

17 (No verbal response)

18 CHAIRMAN HONIGBERG: All right.
19 Thank you, ma'am.

20 MS. BRADBURY: I am Jo Anne
21 Bradbury. I live in Deerfield. I believe that
22 the hearing officer erred -- honest mistake, I'm
23 sure -- when he only identified my interests as
24 those shared with other abutters. I do have

1 unique direct and substantial financial interest
2 in the Project, in that, in 1991 I entered into an
3 agreement with the Town of Deerfield to improve
4 and maintain Thurston Pond Road for purposes of
5 passenger car traffic to a house farther in down
6 that road. And I have done that since 1991 for
7 sedans or ordinary passenger cars, several
8 Toyotas. I have photographs here taken yesterday
9 afternoon of the road which I'd like to share with
10 you. This is just a portion of the road showing
11 the bridge. Here's another picture of just the
12 sideview of the bridge. And I will be happy to
13 give that to you. But it -- let me give you that.

14 CHAIRMAN HONIGBERG: Thank you.

15 MS. BRADBURY: The road is a
16 one-lane gravel road. The bridge is a one-lane
17 bridge. If you encounter someone on the road on
18 the way in or out, you have to back up until you
19 find a wider spot so that the two cars can pass.
20 So the construction vehicle traffic on that road
21 will damage it. It will damage the bridge. And
22 it's my responsibility to keep the bridge in good
23 repair and the road in good repair. And I have
24 done so for all of the major storms that have come

1 through since I entered into that agreement,
2 starting with Hurricane Bob in 1991, and
3 proceeding right through all the spring floods
4 that you're all familiar with.

5 So, my financial interest I think
6 is clear from what I've shown you and what I told
7 you. There are no other abutters in my group that
8 share that interest. I'm sure that no one in
9 Ashland has ever been to Deerfield or traversed
10 Thurston Pond Road. A little further past the
11 bridge is where the right-of-way crosses and is
12 the access into the right-of-way, right across
13 that little, tiny bridge that I maintain along
14 with my neighbor.

15 So I request to be a sole
16 intervenor because of my unique situation on that
17 road. No one maintains it but me. It's a
18 town-owned road, but I agreed with the Town to
19 maintain and improve it, which I've done for 25
20 years. I think grouping me with others will limit
21 my opportunity to make data requests. It will
22 limit my ability to be my own spokesperson and
23 also to protect generally my property and
24 financial interests. So...

1 CHAIRMAN HONIGBERG: All right.
2 Does anyone have questions for Ms. Bradbury?
3 Mr. Way.

4 MR. WAY: Attorney Needleman, what
5 is the responsibility of the Applicant in this
6 situation with access roads and bridges?

7 MR. NEEDLEMAN: I don't know the
8 specific facts of this particular bridge. As a
9 general matter, the Applicant is going to -- my
10 understanding is that we're going to maintain and
11 restore any roads that we do any damage to so that
12 they're not going to be any worse than they were
13 before we started, and in many cases, perhaps
14 better. But I don't know the specific facts of
15 this road.

16 CHAIRMAN HONIGBERG: Are there
17 other questions for Ms. Bradbury or about Ms.
18 Bradbury's situation?

19 I have a question, Ms. Bradbury.
20 Did you hear the exchange between Attorney Hogan
21 and Attorney Iacopino a few moments ago about the
22 interests that you're articulating, which is very
23 specific to your piece of property, that if you --
24 would you be willing to be limited to just that

1 issue and then not discuss anything about view or
2 effect on aesthetics or economics that many other
3 people share?

4 MS. BRADBURY: Well, I wouldn't
5 want to limit my ability to protect all of my
6 financial interests, which would include all the
7 things you just mentioned. The reason I've asked
8 for full intervenor status on my own is because no
9 one shares that particular issue of my road and
10 dealing with the road damage. But I would not
11 want to sacrifice my ability to discuss or make
12 data requests about the view, the noise, the
13 aesthetics, the historical little cemetery just
14 beyond that bridge. You know, there's a lot of --
15 this is not just a one-issue situation for me.

16 CHAIRMAN HONIGBERG: Okay. Thank
17 you. Are there other questions?

18 (No verbal response)

19 CHAIRMAN HONIGBERG: All right.
20 Thank you very much. Is there anyone else from
21 the group we're discussing right now who wishes to
22 speak?

23 Mr. Bilodeau, your attorney has
24 already spoken for you. Mr. Hogan?

1 MR. HOGAN: At the Chair's
2 discretion.

3 CHAIRMAN HONIGBERG: Mr. Bilodeau,
4 what would you like to discuss beyond what your
5 attorney has already told us? Please, from where
6 you are. There's a microphone right next to you.
7 Without getting into the specifics, would you tell
8 me what it is you'd like to tell us that your
9 attorney didn't already say.

10 MR. BILODEAU: I'd like to thank
11 you for the opportunity to speak today and would
12 call your attention to the March 18th --
13 March 16th meeting in Deerfield at which I did
14 present to all the members of the Committee this
15 plan that Public Service did not provide you.
16 Thank you.

17 CHAIRMAN HONIGBERG: All right.
18 Thank you, Mr. Bilodeau.

19 Yes, ma'am. Why don't you come up
20 here. It will be better for the stenographer.

21 MS. LEE: Can you hear me?

22 CHAIRMAN HONIGBERG: Yes.

23 MS. LEE: Hi, I'm Mary Lee from
24 Northfield. I'm an intervenor, and I'm in the

1 same group that I think six parties have just
2 seceded from. So --

3 MR. IACOPINO: Well, they've tried.
4 Nobody's seceded yet.

5 MS. LEE: I'd like to just make a
6 note that I do have a very unique status. We'd
7 all like to think we're so unique. And the three
8 previous people from this same group just iterated
9 some points exactly like mine, the maintaining of
10 the road by myself, which is only fit for one
11 vehicle at a time to pass. And I find a unique
12 status in that I have a deeded right-of-way, which
13 is my property. I walk it every day or drive it
14 every day, quarter of a mile. And if I stand at
15 the end of my road, I can look down the line and I
16 can see all of the transmission lines, the
17 above-ground, would be built on. So I am in a
18 "bi" status. I am both abutter or host, and I'm
19 also a non-abutter because of the property. So it
20 is very, very unique. But I do agree to be in the
21 same group, the Southern Abutters Group, I think.

22 CHAIRMAN HONIGBERG: Ms. Lee, did
23 you file any document asking the full Committee to
24 review the intervention order and groupings?

1 MS. LEE: I did not.

2 CHAIRMAN HONIGBERG: I didn't think
3 so. And it sounds like you're willing to remain
4 in the group. Am I right about that?

5 MS. LEE: Right, because thus far I
6 have heard here and there, not just in my group,
7 but others who have represented my position. So I
8 would be happy to do that. But I do ask the
9 Committee, if there is concern about access and
10 decommissioning, which was part of the partial
11 request for waiver, and I filed objection to that
12 because I have concerns about the access, repair,
13 maintenance and construction on that road. And I
14 also live in a conservation zone, which someone
15 has covered already, the conservation commission.
16 And of course, real estate value and, of course,
17 view. And I've stated in my comments exactly what
18 my concerns are.

19 So I just wanted to ask the
20 Committee: Do I have full due process, given that
21 my group has shrunk? Do I still have the same due
22 process to give you input with whoever might be
23 the spokesperson? Because at the prehearing
24 conference we had selected a temporary

1 spokesperson, and that spokesperson is Ms. Menard.

2 Are you here?

3 CHAIRMAN HONIGBERG: Ms. Menard is
4 right behind you, yes.

5 MS. LEE: And she spoke very well
6 for our interests. So now I'm asking you, where
7 do I stand if we have a group that was formed by
8 the Committee that has disbanded?

9 CHAIRMAN HONIGBERG: Well, to be
10 clear, I think, as Attorney Iacopino indicated
11 when you first started speaking, nothing has
12 changed yet. And if and when something changes, a
13 new order would be issued, and it would explain
14 whatever the new situation is. But as we stand
15 here right now, nothing has changed.

16 MS. LEE: All right. Thank you.

17 CHAIRMAN HONIGBERG: Thank you.

18 Is there anyone else from that
19 group who wishes to speak? Ms. Menard is coming
20 forward.

21 MS. MENARD: Good afternoon. As
22 was mentioned, our current grouping was 25
23 individuals, and with Deerfield there are 14
24 Deerfield intervenors that have requested to form

1 a separate grouping.

2 And for Mary Lee's benefit, it
3 isn't our intent to exclude people from our group,
4 but rather ensure that your interests are not
5 diminished in terms of data requests primarily.

6 I think in our -- you're probably
7 well versed with our reasons for this request, and
8 I'll just add that our landscape, Deerfield's
9 landscape, has the potential of becoming more
10 industrial in nature, as opposed to the other
11 communities that just may have the lines going
12 through, with the additional substation addition
13 and as well as a future substation that we're
14 still gathering information about. So, same
15 concerns as other groupings, but primarily we do
16 not want our interests as a group diminished in
17 being able to access information through the
18 process. That's our primary goal.

19 CHAIRMAN HONIGBERG: Thank you, Ms.
20 Menard. Does anybody have any questions for Ms.
21 Menard?

22 (No verbal response)

23 CHAIRMAN HONIGBERG: Seeing none,
24 thank you.

1 MS. MENARD: Thank you.

2 CHAIRMAN HONIGBERG: Anyone else
3 from that group?

4 (No verbal response)

5 CHAIRMAN HONIGBERG: All right.
6 Thank you.

7 Mr. Iacopino.

8 MR. IACOPINO: I believe that the
9 next group would be the Non-Governmental
10 Organizations -- I don't believe that there are
11 any Non-Abutters from Ashland to Deerfield that
12 filed a motion for review. That group consists
13 of: Joanna and Robert Tuveson; Nina and Elisha
14 Gray; Rodney and Laura Felgate; the Webster Family
15 Group; Lawrence and Maxine Phillips; Lisa Wolford
16 and Pamela Hanglin; Maureen Quinn; Madelyn and
17 Thomas Foulkes; and then Jeanne Menard, as
18 managing member of Pawtuckaway View, LLC. I don't
19 have -- and if I'm wrong, please correct me. I
20 don't have a motion for review from any of those
21 parties regarding that grouping or regarding their
22 individual status.

23 (No verbal response)

24 MR. IACOPINO: So we would then

1 move on to the Non-Governmental Organizations --

2 CHAIRMAN HONIGBERG: Just a minute,
3 Mr. Iacopino.

4 Mr. Roth, you have something?

5 MR. ROTH: I just wanted to speak
6 very briefly about the requests by the individuals
7 in the last few groups in terms of grouping, and
8 just a general comment, if I may.

9 I share some of the concerns that
10 have been raised by people, and I appreciate fully
11 the tasks that the Committee is attempting to do
12 here with this. I also appreciate the Applicant's
13 concerns about too much is too much, because I
14 have those concerns, too, because we have to work
15 in this process as well. But I think Attorney
16 Cunningham hit it pretty well in his remarks that
17 focused on the appellate record, which I guess is
18 sort of looking further down the tunnel than I
19 would. But to me, I look at this and I think:
20 Are we focusing enough on the manageability issues
21 amongst them, or are we focused too much on the
22 manageability amongst the parties and the
23 Committee? And it seems to me that perhaps it
24 makes some sense to do a little fine tuning with

1 some of these groups that are strung out over long
2 distances or include large numbers of people. And
3 so I would support the Committee's effort to do
4 some of that, even if it creates some more groups.
5 I don't know that we need to sort of tell
6 everybody that they can proceed individually that
7 wants to do that, because I also I tell people
8 this whenever they ask me, that there's a benefit
9 to being a group. There's sort of safety in
10 numbers. You can divide up the workload. If you
11 want to hire an attorney, you can pool funds. If
12 you want to hire an expert, you can pool funds.
13 So there's value to doing it that way. But I
14 think if there's some fine tuning, where the
15 groups are made sort of more "neighborly" I guess
16 is the word for it, and put into a situation where
17 they are more likely to succeed as a unit, rather
18 than strung out or having such diverse interests,
19 sort of geographical distances between them.
20 That's all. Thank you.

21 CHAIRMAN HONIGBERG: Thank you, Mr.
22 Roth. I'm sure we'll take that to heart as we
23 deliberate on the many requests that we've
24 received.

1 Mr. Iacopino, I think you mentioned
2 the Non-Governmental Organizations.

3 MR. IACOPINO: Yes. But before we
4 do that, let me raise one issue. There is a
5 correct -- there was an error in the order pointed
6 out by Daryl Thompson with respect to a typo
7 identifying folks who lived in Whitefield
8 incorrectly, by nature of the town that they're
9 in -- actually, from Stewartstown, not from
10 Whitefield. We did get that, and we recognize
11 that that was an error. And depending how the
12 Committee rules with respect to groupings, that
13 will be corrected. Likewise, there was a pleading
14 filed by Lee Sullivan and Stephen Buzzell about
15 some names being omitted on Page 23 of the order;
16 however, those names were in appropriate groups at
17 the end of the order. And we do have that as
18 well. But both of those are things that will --
19 that are taken care of. I just didn't want to
20 lose sight of them before we got into the other
21 pleadings.

22 CHAIRMAN HONIGBERG: I apologize to
23 the affected people for the errors or the
24 confusion within the order.

1 MR. IACOPINO: The Non-Governmental
2 Agencies that were grouped together -- the
3 Appalachian Mountain Club, Conservation Law
4 Foundation, Sierra Club and the Ammonoosuc
5 Conservation Trust -- we have two motions for
6 review: One filed by the Sierra Club; the other
7 appears to be filed jointly by the AMC and CLF and
8 the ACT. In the first instance, they each asked
9 to be allowed to intervene individually. If not
10 permitted to do that, they have some
11 recommendations for how they should be permitted
12 to participate. And that's the AMC, CLF and
13 Ammonoosuc. And then Sierra Club asked to be
14 permitted to participate as an independent
15 intervenor and alleged that they have declined --
16 that the other groups have declined to collaborate
17 with them.

18 CHAIRMAN HONIGBERG: All right. Is
19 there a representative of any of those groups that
20 wishes to supplement what is already in their
21 written submissions? Yes, please come forward.

22 MS. BIRCHARD: Good afternoon, Mr.
23 Chairman, members of the Committee. My name is
24 Melissa Birchard. I'm the attorney for

1 Conservation Law Foundation. I apologize for the
2 weakness of my voice today.

3 On behalf of Conservation Law
4 Foundation, Appalachian Mountain Club, Ammonoosuc
5 Conservation Trust, we are all experienced
6 organizations with a great respect for
7 administrative efficiency; however, we all have
8 memberships -- we all have different strengths and
9 weaknesses, different strategies, and in some
10 instances conflicting positions. And so, to that
11 end, we have laid out in our March 28th filing the
12 minimum conditions for participation that would be
13 needed to enable us to protect each of our
14 respective interests in this matter. Absent those
15 conditions, we don't believe that we will be able
16 to protect our interests within a consolidated
17 framework. So we've laid out the conditions that
18 would reasonably allow us to participate within
19 that framework. Absent those conditions, we would
20 ask to be unconsolidated. If you have any
21 questions about the conditions that we've
22 described for participation, I would be happy to
23 try to respond to those questions.

24 I would also, on behalf of

1 Conservation Law Foundation, be happy to address
2 Sierra Club's separate filing. We are aware that
3 Sierra Club made a separate filing also on
4 March 28th stating that Conservation Law
5 Foundation, Appalachian Mountain Club and
6 Ammonoosuc Conservation Trust declined to
7 collaborate with New Hampshire Sierra Club. To be
8 clear, CLF never declined to collaborate with
9 Sierra Club. We were never asked by Sierra Club
10 to collaborate and then declined. We were under
11 the impression, based on statements made by Sierra
12 Club, that they planned to object to being part of
13 the group and to seek separate status. Nowhere in
14 our pleading is there any objection to the
15 grouping itself, with or without Sierra Club,
16 although there is a concern that consolidation
17 will abridge our ability to protect our interests.
18 After we circulated the March 28, 2016, pleading
19 seeking the assent of other parties, and before
20 filing, Sierra Club did not contact us to express
21 their objection or concern with the pleading, and
22 had they done so, CLF certainly would have amended
23 the pleading to include Sierra Club. We have
24 subsequently coordinated with New Hampshire Sierra

1 Club on a filing regarding the scheduling in this
2 proceeding, among other subjects, and would be
3 happy to do so if that is the Committee's
4 determination.

5 CHAIRMAN HONIGBERG: Does anyone
6 have questions for Attorney Birchard?
7 Commissioner Bailey.

8 CMSR. BAILEY: Does that
9 willingness to work with Sierra Club extend to the
10 Ammonoosuc Conservation Trust and AMC as well, or
11 are you just speaking for CLF when you say that?

12 MS. BIRCHARD: I believe that it
13 extends to the others. The statement made in our
14 pleading extends to all of the other
15 organizations. But as to CLF's communications
16 with Sierra Club, those I can represent. I can't
17 represent to the other parties' communications
18 with Sierra Club.

19 CMSR. BAILEY: Okay. Thank you.

20 CHAIRMAN HONIGBERG: Any other
21 questions?

22 (No verbal response)

23 CHAIRMAN HONIGBERG: Does any other
24 member of that group wish to be heard?

1 Yes, sir. Please come forward.

2 Actually, we'll go here and then here.

3 MR. CURRAN: I am Jerry Curran, the
4 Chair of the New Hampshire Sierra Club. And the
5 reason that we would like to be separated -- and
6 most of this is in our documentation, but there's
7 a few things I'd like to add. One is we have very
8 different interests in this project. What would
9 be a success for us would be very different from
10 what it would be for them. They've already agreed
11 to work together, and they've established a
12 protocol that we don't believe will adequately
13 reflect our interests and would allow -- would
14 make it so that we just couldn't do the things
15 that we want and wouldn't get the information that
16 we need. So, for us, it would be very important
17 to be able to intervene separately. As I said, we
18 have very different concerns with the Project.

19 CHAIRMAN HONIGBERG: If you could,
20 what do you perceive -- or what would constitute
21 "success" for you, and what do you perceive would
22 constitute "success" for the others?

23 MR. CURRAN: I believe the other
24 groups would feel successful if they would bury

1 most of the pipeline. We object to the pipeline
2 itself and the type of power being brought down
3 from Quebec.

4 CHAIRMAN HONIGBERG: Understanding
5 that you meant "transmission line," not "pipeline"
6 --

7 MR. CURRAN: I'm sorry.
8 Transmission line. Excuse me.

9 CHAIRMAN HONIGBERG: That's a
10 different proceeding, not this one.

11 MR. CURRAN: It is.

12 CHAIRMAN HONIGBERG: All right.
13 Questions for Mr. Curran?

14 (No verbal response)

15 CHAIRMAN HONIGBERG: Thank you.
16 Oh, sorry, Mr. Wright.

17 DIR. WRIGHT: Just to clarify, if
18 you would remain in the group, do you feel you
19 wouldn't be able to bring that interest forward?

20 MR. CURRAN: I don't believe with
21 the way the protocol's already set up by the group
22 that we would be adequately represented.

23 MR. PLOUFFE: Mr. Chairman, my
24 name's Bill Plouffe, counsel to the Appalachian

1 Mountain Club. And just in response to
2 Commissioner Bailey's question, the AMC does not
3 believe that it ever declined to collaborate with
4 the Sierra Club of New Hampshire. And if we were
5 consolidated, we would, of course, collaborate
6 with the Sierra Club of New Hampshire.

7 CHAIRMAN HONIGBERG: Commissioner
8 Bailey.

9 CMSR. BAILEY: So do you already
10 have protocols established among the three of you
11 that would somehow exclude Sierra Club?

12 MR. PLOUFFE: No.

13 CMSR. BAILEY: Okay. Thank you.

14 MR. PLOUFFE: As a matter of fact,
15 we've had conversations with the Sierra Club in
16 the past week.

17 CHAIRMAN HONIGBERG: Anyone else
18 from that group need to speak?

19 (No verbal response)

20 CHAIRMAN HONIGBERG: All right.
21 What's next, Mr. Iacopino?

22 MR. NEEDLEMAN: Could I speak
23 quickly?

24 CHAIRMAN HONIGBERG: Oh, I'm sorry,

1 Mr. Needleman. You wanted to say something?

2 MR. NEEDLEMAN: I want to call your
3 attention to two issues. One, on Pages 6 through
4 8 of our filing, we specifically addressed our
5 concerns about this proposal. And I would also
6 point out that organizations like, for example,
7 Conservation Law Foundation and Sierra Club, do
8 have a track record of working together and
9 proceeding before the PUC.

10 CHAIRMAN HONIGBERG: Mr. Iacopino.

11 MR. IACOPINO: Thank you, Mr.
12 Chairman. I think we would now proceed to those
13 individuals who were denied intervenor status, as
14 opposed to those who were seeking a review based
15 upon their grouping --

16 CHAIRMAN HONIGBERG: Before you do
17 that, let's make sure we didn't miss any grouping,
18 petitions or requests that were filed by people
19 who are here in the room.

20 (No verbal response)

21 CHAIRMAN HONIGBERG: Seeing no
22 hands being raised, all right.

23 MR. IACOPINO: The first would be
24 Ms. Pastoriza, in her individual capacity.

1 CHAIRMAN HONIGBERG: Ms. Pastoriza,
2 do you wish to add anything to what you've
3 submitted in writing? She's shaking her head
4 "No."

5 Does anybody have questions for Ms.
6 Pastoriza?

7 (No verbal response)

8 CHAIRMAN HONIGBERG: All right.
9 Seeing none, who are the others? There are two
10 others, I believe.

11 MR. IACOPINO: Three others.

12 CHAIRMAN HONIGBERG: Three others.

13 MR. IACOPINO: Next is Peter
14 Powell.

15 CHAIRMAN HONIGBERG: Is Mr. Powell
16 here?

17 (No verbal response)

18 MR. IACOPINO: Mr. Page, James
19 Page?

20 CHAIRMAN HONIGBERG: I believe
21 Mr. Page's submission said that he is actually an
22 abutter, said that his property abuts the line.

23 MR. IACOPINO: Yes.

24 CHAIRMAN HONIGBERG: Mr. Needleman,

1 have you had a chance to review Mr. Page's
2 submission? I believe he refers to a driveway
3 that's on his property.

4 MR. IACOPINO: Hummingbird Lane.

5 MR. NEEDLEMAN: I don't believe so.

6 CHAIRMAN HONIGBERG: I'm sorry?

7 MR. NEEDLEMAN: I don't believe so,
8 no.

9 CHAIRMAN HONIGBERG: You haven't
10 had a chance to look at it, or you don't believe
11 he has abutting property?

12 MR. NEEDLEMAN: Oh, I'm not sure we
13 reviewed his submission. I'm unclear of the
14 status of his property.

15 CHAIRMAN HONIGBERG: If he in fact
16 does own abutting property, you wouldn't object to
17 him being placed in whatever appropriate group
18 that property is located in; correct?

19 MR. NEEDLEMAN: No, of course not.

20 MR. IACOPINO: Last in this group
21 is Dr. Kaufman.

22 (No verbal response).

23 CHAIRMAN HONIGBERG: Is Dr. Kaufman
24 here? I don't remember -- I don't remember the

1 basis for Dr. Kaufman's submission.

2 MR. IACOPINO: He didn't
3 actually -- he filed a submission talking mostly
4 about the group, not actually asking that he be
5 reconsidered. But I wanted to just make sure he
6 had the opportunity if he's here to address it.

7 I know that Mr. Mullen is raising
8 his hand. I don't have a petition from him.

9 CHAIRMAN HONIGBERG: Mr. Mullen,
10 what can we do for you?

11 MR. MULLEN: I'm here today
12 appearing on behalf of Mr. Powell and myself, and
13 I do have a submission that I know reached your
14 desk.

15 CHAIRMAN HONIGBERG: Yes, we have
16 Mr. Powell's submission. I didn't recall your
17 name was associated with it. But I remember Mr.
18 Powell's. Is there something you want to add to
19 it?

20 MR. MULLEN: Actually, did he
21 supply something in writing? It may be what I
22 supplied.

23 CHAIRMAN HONIGBERG: I remember
24 receiving something that had Mr. Powell's name on

1 it.

2 MR. MULLEN: That was probably my
3 submission. So, yes, I do wish to speak to that.

4 CHAIRMAN HONIGBERG: All right.
5 Why don't you -- off the record.

6 (Discussion off the record.)

7 CHAIRMAN HONIGBERG: Why don't you
8 go ahead, Mr. Mullen.

9 MR. MULLEN: Thank you for
10 indulging my bad back. I appreciate it.

11 Mr. Powell is a very well-known
12 realtor up in the northern part of the state,
13 basically Franconia Notch to the north. I think
14 I'm a reasonably well-known realtor from Franconia
15 Notch south towards the Concord area. And we have
16 joined forces to represent those two areas, and
17 hopefully we may get Ms. Menard to join forces
18 with us to represent the impacts on the real
19 estate business in southern New Hampshire. But
20 that is our interest. That is -- we're appearing
21 as professionals and as realtors, although there
22 is no specific group that represents the areas
23 we've talked about. So we're referring to our
24 group as "Realtors Along the Northern Pass Route."

1 And we do have written testimony that's been
2 submitted to you.

3 We are the only two individuals who
4 have sought intervenor status that are
5 representing one of the most important business
6 interests in the state - namely, the real estate
7 sales industry. As you and the rest of the SEC
8 are aware, one of the most commonly referred to
9 impacts of the proposed Northern Pass is the
10 damage it has already inflicted on the values and
11 saleability of view and aesthetically-oriented
12 properties around the state of New Hampshire,
13 impacted by this project. I'm skipping over
14 important parts, but they're in the written
15 testimony.

16 Our industry contributes many
17 millions of dollars in real-estate transfer taxes
18 into the State of New Hampshire's coffers. We
19 suggest that SEC should appoint a subcommittee to
20 look into the relative contributions to this
21 source of income in Northern Pass-affected areas,
22 and it will see a huge fall-off from these
23 impacted communities, and none of that has been
24 taken into consideration, to our knowledge, at

1 this point. It's just not my income that's been
2 greatly impacted, but the residents of the towns,
3 towns where values have been badly reduced by
4 Northern Pass are paying a huge price if they must
5 sell their homes.

6 We've been told by Northern Pass
7 representatives that the Northern Pass Project
8 will lower residents' electricity bills by an
9 average of \$5 per month, \$60 per year. Come on.
10 Are you kidding me? We're being asked to put up
11 with years of construction, roads torn up, wetland
12 violated like they always do, vistas destroyed,
13 property values decimated, hundreds of thousand of
14 citizens' lives turned upside down. And for what?
15 A measly \$5 reduction in our power bills that will
16 very quickly get eaten up by next year's rate
17 increase. Five dollars off our monthly bills, and
18 in exchange, many of our friends, neighbors and
19 ourselves will experience tens of thousands of
20 dollars in reduced property values. I'm almost
21 done.

22 This is a lousy deal for New
23 Hampshire's property owners, and that's who we're
24 representing at this stage, owners who want and

1 need to sell their homes but can't because the
2 shadow of Northern Pass is hanging over them.
3 Unlike the paid consultants from other regions in
4 the country, where gazing out on a city skyline or
5 highway passing by counts as a view, our New
6 Hampshire skylines, lakes, rivers and mountains
7 are more than just views. They are a constant
8 reminder that where we live is a gift from God,
9 created for our peace, comfort and pleasure, never
10 to be compromised, and always to be protected from
11 being compromised. We pass on this reverence for
12 our surroundings to our children, and we teach
13 them to protect these special gifts from God from
14 all who would sacrifice what we have in exchange
15 for profits, for special interests, and who have
16 no appreciation whatsoever for what they will
17 destroy in the name of making money. We've been
18 telling these Northern Pass people that the beauty
19 and tranquility of New Hampshire is not for sale.
20 Peter Powell and I can help you temporarily
21 purchase a small chunk of it from our real-estate
22 businesses, but you'd better take good care of it
23 and then pass it on to someone else who
24 appreciates it as much as you do. This is a

1 message that Peter and I are uniquely qualified as
2 North Country realtors to pass on to our
3 neighbors, friends, and especially our customers.

4 On behalf of Peter and myself, I
5 respectfully ask the New Hampshire SEC to
6 reconsider Peter Powell's and my status as
7 intervenors with the right to fully participate as
8 a group of two in all aspects of the current
9 proceedings as unique and badly needed voices in
10 this critical matter. Thank you.

11 CHAIRMAN HONIGBERG: Mr. Mullen,
12 when did you file that? When did you file your
13 motion?

14 MR. MULLEN: I don't... I don't
15 know when it was received. It's dated March 21st,
16 and it was sent by e-mail. I've been told that --

17 (Court Reporter interrupts.)

18 MR. ROTH: I have a date on mine,
19 March 28th. He just read most of it.

20 CHAIRMAN HONIGBERG: So I gathered.
21 Does anyone have any questions for
22 Mr. Mullen?

23 (No verbal response)

24 CHAIRMAN HONIGBERG: All right.

1 Thank you.

2 MR. MULLEN: Thank you.

3 CHAIRMAN HONIGBERG: Are there any
4 others that were denied, Mr. Iacopino?

5 MR. IACOPINO: No, that's the ones
6 that I have.

7 CHAIRMAN HONIGBERG: All right. Is
8 there anyone else here who was denied intervenor
9 status and filed a request for the full committee
10 to review that decision?

11 (No verbal response)

12 CHAIRMAN HONIGBERG: All right.
13 Seeing none, what else do we have in the hopper,
14 Mr. Iacopino?

15 MR. IACOPINO: I think you are
16 ready to deliberate.

17 CHAIRMAN HONIGBERG: I think we
18 need to hear from the towns --

19 MR. CUNNINGHAM: Mr. Chairman.

20 CHAIRMAN HONIGBERG: Wait.

21 (Court Reporter interrupts.)

22 CHAIRMAN HONIGBERG: I think we
23 have a motion from the towns regarding how to
24 participate. Do you want to take that before

1 we -- actually, that's a question you should ask
2 me.

3 MR. IACOPINO: I had assumed you
4 would deal with the groupings first, but I would
5 say that's entirely up to you, Mr. Chairman.

6 CHAIRMAN HONIGBERG: I would like
7 to hear from counsel regarding his motion about
8 how to participate within that group.

9 Mr. Cunningham, what is it you
10 wanted to say?

11 MR. CUNNINGHAM: Mr. Chairman, I
12 have a couple procedural issues that I raised in
13 my filings. One was the request that --

14 (Court Reporter interrupts.)

15 CHAIRMAN HONIGBERG: You need to
16 speak directly into the microphone.

17 MR. CUNNINGHAM: Sorry. One was my
18 request that, as part of the procedural schedule,
19 the Committee set a date certain by which parties
20 can file dispositive motions. As the Chairman is
21 aware, the central point of my client's
22 intervention is that the Northern Pass, as a
23 threshold matter, cannot establish that they own
24 the rights to build this project on these old

1 easements. So, once discovery is complete, I
2 expect -- I fully anticipate that I will be filing
3 a motion to dismiss this action to save people
4 money.

5 The other challenge I filed
6 recently --

7 CHAIRMAN HONIGBERG: Mr.
8 Cunningham, is this one you're about to talk about
9 in any way related to intervention and groupings?

10 MR. CUNNINGHAM: No. I'm getting
11 ahead of myself. Shut me down.

12 CHAIRMAN HONIGBERG: I think you're
13 getting ahead of yourself. I want to talk about
14 interventions and groupings.

15 MR. CUNNINGHAM: All right.

16 CHAIRMAN HONIGBERG: You may
17 proceed.

18 MR. WHITLEY: Thank you, Mr.
19 Chairman. Steven Whitley. I represent a number
20 of municipalities in Groups 1, 2 and 3. That's
21 Littleton in Group 1, Woodstock in Group 2,
22 Bridgewater and New Hampton in Group 3. I'm here
23 before you to speak on a motion filed by those
24 municipalities, as well as a number of others, and

1 those would be: Bristol, Easton, Franklin,
2 Northumberland, Sugar Hill, Whitefield. And I
3 believe that may have been all. And I should say
4 that the co-signer on that joint motion, Attorney
5 Fillmore, is present here as well; so, to the
6 extent you have questions about the municipalities
7 that I do not speak for, she is here to address
8 those questions.

9 CHAIRMAN HONIGBERG: I know Ms.
10 Fillmore, and she's not shy.

11 MR. WHITLEY: I won't belabor or
12 repeat the written submission because I understand
13 that there's quite a bit on this docket for today.
14 It sounds like, from statements made by Attorney
15 Iacopino, both today and at the prehearing
16 conference, that much of what we are concerned
17 about, the SEC may be moving towards a solution.
18 So I just want to see if we can move the ball a
19 little bit. Our concerns were the single
20 spokesperson component of the grouping. And we
21 proposed a couple modifications. The first was a
22 steering committee or executive committee to do
23 discovery and for procedural issues. That
24 modification the Applicant assented to. If I'm

1 misstating the Applicant's position, I'm sure
2 Attorney Needleman will correct me.

3 CHAIRMAN HONIGBERG: He's not shy
4 either.

5 MR. WHITLEY: You are correct.

6 The second component that was of
7 great concern to us was not being able to file
8 motions or pleadings and to cross-examine
9 witnesses that were appearing before the
10 Committee. But it sounds as if Attorney Iacopino
11 and the Committee are considering clarifying the
12 intervention order to state something along the
13 lines that, if you're a municipality, in our
14 instance, and you feel that your interests are not
15 being adequately represented in your grouping,
16 that you're not restricted from then filing a
17 pleading or cross-examining a witness, or doing
18 something of that nature. And if that is indeed
19 the case, I believe that kind of proposed
20 solution, which I know has not been ruled on yet,
21 would go a long way towards addressing our
22 concerns. I've not heard the Applicant's response
23 on whether they're amenable to that or not, but it
24 seems that that would address the concerns that

1 we've raised in our motion.

2 CHAIRMAN HONIGBERG: Mr. Needleman.

3 MR. NEEDLEMAN: You have our papers
4 on this. Very briefly, to the extent that we're
5 on the same page about steering committees, and I
6 think we are, I think it's a great idea. And I
7 would like to see all the intervenors consider it
8 because I think it could help a lot to streamline
9 the management of this case. It's what I talked
10 about earlier with respect to, for example, the
11 Super Fund litigation.

12 With respect to the second point
13 about individual cross-examination, that is
14 something we do object to for obvious reasons. It
15 would be very problematic for multiple entities
16 within a particular party to cross-examine the
17 same witness, I think.

18 MR. WHITLEY: If I may respond? I
19 think what at least I have envisioned and what the
20 SEC may be considering, and it's what we
21 represented in our papers as well, is that, you
22 know, we would endeavor in good faith to work
23 cooperatively so that we were not repetitive in
24 cross-examination questions, in the filing of

1 pleadings. And I believe our record before the
2 Committee so far buttresses that. I mean, we
3 filed joint motions in an effort to make it as
4 efficient as possible. And Mr. Chairman, you
5 know, you, as you well know, have the authority to
6 cut off those sorts of repetitive questions, to
7 the extent that they arise.

8 CHAIRMAN HONIGBERG: Understood.

9 Thank you.

10 Does anyone have any questions for
11 either Mr. Needleman or Mr. Whitley on this
12 particular topic? Commissioner Bailey.

13 CMSR. BAILEY: Could you explain to
14 me why you think you need you need the Committee
15 to tell you that it's okay to form a steering
16 group within your subgroup?

17 MR. WHITLEY: Certainly. The order
18 on intervention simply is silent on that. I'm
19 looking at Page 8 on the order of intervention,
20 and it's says, "Each municipal group, however" --
21 on the bottom of Page 8 -- "must designate a
22 single spokesperson for the purposes of filing
23 pleadings, conducting discovery and for examining
24 witnesses at evidentiary hearings." So there's

1 nothing else in there about a committee or any
2 sort of indication of any latitude about how the
3 spokesperson is set up, how the various parties
4 within the municipal groups are supposed to
5 communicate and arrive at decisions.

6 CMSR. BAILEY: Follow-up?

7 CHAIRMAN HONIGBERG: Sure.

8 CMSR. BAILEY: Don't you think it
9 would be better to leave that up to each
10 individual group to figure out on their own?
11 Because if we impose some rules to that effect, it
12 might work for your group, but it may -- some
13 other group may want to do it differently. I
14 don't read this order as preventing you from doing
15 that, and I think it's efficient to do it that
16 way. But I don't understand why you need us to
17 tell you that's okay.

18 MR. WHITLEY: Well, I guess I have
19 two answers to that: One is I can only speak for
20 my clients in the groups that we're associated
21 with. We feel that a steering committee would be
22 beneficial. Can't speak for any of the other
23 non-municipal parties that are also in groups. I
24 don't know how they feel about that.

1 And secondly, it would make me feel
2 more comfortable if that sort of latitude to set
3 up a committee was explicitly addressed in any
4 subsequent order that comes out from the SEC, so
5 that it's clear to the parties, for instance, if
6 they don't agree with the steering committee,
7 executive committee approach, that they're free to
8 do something else within whatever parameters are
9 set by the SEC.

10 CHAIRMAN HONIGBERG: Are there
11 other questions for Mr. Whitley or Mr. Needleman
12 on this topic?

13 MR. IACOPINO: I have one question.
14 Oh, go ahead, Ms. Weathersby.

15 MS. WEATHERSBY: I'm just trying to
16 understand the concept here. Are you getting, in
17 the single spokesperson issue, where you would
18 replace that with a committee, where one member of
19 the committee may do discovery and lead that
20 charge and another member may do
21 cross-examination? Or how -- tell me about the
22 roles in this committee.

23 MR. WHITLEY: Sure. And that's a
24 good question.

1 The way that I understand it is
2 that each municipality within a group would
3 designate one person to be their representative.
4 For those that are represented by counsel, I
5 presume that it would be their counsel. For those
6 unrepresented, it would be up to their decision.
7 But then, that group of four or five, seven, eight
8 people would then collaborate and try to arrive at
9 some consensus on discovery and procedural issues.
10 Only discovery and procedural issues. And then
11 with regards to filing of motions and pleadings
12 and questioning witnesses, there would be an
13 obligation of the group, the same group, to work
14 together to reduce repetitive submissions and
15 questions. But each entity within the group would
16 still have latitude to do their own pleadings and
17 their own questioning if the consensus in the
18 group, or the majority of the group was contrary
19 to that party's interest.

20 MS. WEATHERSBY: Thank you.

21 CHAIRMAN HONIGBERG: Attorney
22 Iacopino.

23 MR. IACOPINO: I'm not even sure I
24 want to raise it, but I'm going to because I don't

1 want to deal it with down the road.

2 Some of the other intervenors
3 complained about their groupings based upon the
4 rule on limitation on data requests. I don't see
5 that in your pleading. Is there a reason it isn't
6 in there? Is it because you believe you can work
7 it out with the Applicant, I hope?

8 MR. WHITLEY: We haven't
9 specifically addressed it with the Applicant. At
10 least my municipalities have not. Our hope is
11 that we can work within that data request
12 limitation. If we believe that we needed to go
13 over it, my first thing that I would probably do
14 is to reach out to the Applicant to see if they
15 have an objection to however far above the
16 50-question requests we needed to go. And I would
17 hope that we could work out an understanding. And
18 then, obviously, we may be forced to file
19 something. But that would be our last resort.

20 MR. IACOPINO: Thank you.

21 CHAIRMAN HONIGBERG: Mr. Whitley, I
22 have a couple questions. This morning we had a
23 little discussion about the town's limitations and
24 obligations under 91-A and their ability to act

1 quickly, nimbly. I heard -- I thought I heard you
2 say that you would expect each of those
3 municipalities or sub-governmental units within
4 those municipalities to designate someone? Did I
5 hear you correctly?

6 MR. WHITLEY: You did.

7 CHAIRMAN HONIGBERG: In your view,
8 would that eliminate the 91-A problem for those
9 municipalities?

10 MR. WHITLEY: Potentially. It's a
11 bit of an open question. And frankly, some
12 municipalities may be comfortable with designating
13 one person for that reason, and other
14 municipalities may not be comfortable with it. So
15 I don't know if I can say that every single
16 municipality before the SEC would be comfortable
17 with that. And I think that the law on that is
18 gray enough that they would be within their rights
19 to prefer not to designate someone and want to
20 make those decisions as a whole body with a quorum
21 present.

22 CHAIRMAN HONIGBERG: In a situation
23 where they are involved in a legal proceeding, is
24 it common for a municipality to make all the

1 decisions through its governing body? Or isn't it
2 more common that they either designate someone or
3 hire a lawyer?

4 MR. WHITLEY: Again, I can only
5 speak to my personal experience here. But in my
6 experience, it's the governing body that makes the
7 decisions, just like an individual, private party
8 would. And they don't typically designate one
9 person for that. In my personal experience when
10 I'm dealing with a town that's in litigation, I go
11 and meet with the board of selectmen, and we have,
12 you know, a meeting with counsel so that it's
13 not -- it's exempt from 91-A.

14 CHAIRMAN HONIGBERG: But in those
15 situations, they've already hired a lawyer.

16 MR. WHITLEY: Correct.

17 CHAIRMAN HONIGBERG: So they made
18 the decision that way. They retained you --

19 MR. WHITLEY: But they're still
20 consulting with me before they make a decision.
21 They're not -- they don't hire me and then, you
22 know, next time I talk to them is when the case is
23 resolved adversely or beneficially to them.
24 There's regular communication, and sometimes

1 that's meetings and sometimes that's conference
2 calls.

3 CHAIRMAN HONIGBERG: And to be
4 clear, when you said, and I just want to make sure
5 that it's clear, that when you are "meeting" as
6 their attorney, that actually is not a meeting
7 under RSA 91-A; correct?

8 MR. WHITLEY: That's correct.
9 That's right. Meeting in person --

10 CHAIRMAN HONIGBERG: I interrupted
11 you. I didn't mean to.

12 MR. WHITLEY: No, no, that's fine.

13 CHAIRMAN HONIGBERG: Are there
14 other questions or comments for Attorney Needleman
15 or Attorney Whitley?

16 (No verbal response)

17 CHAIRMAN HONIGBERG: Thank you.

18 MR. WHITLEY: Thank you.

19 CHAIRMAN HONIGBERG: My inclination
20 right now is to at least start the deliberation
21 process on interventions, and to the extent we
22 need to clarify regarding how to participate in
23 groups, if that's the will of the Subcommittee.
24 Mr. Cunningham and others who are interested in

1 other motions that are pending, I think we're
2 going to take those up after, if we are able to,
3 after we resolve the intervention issues that have
4 been presented. That sound all right to
5 everybody?

6 (No verbal response)

7 CHAIRMAN HONIGBERG: All right.

8 Mr. Iacopino, I know we dealt with
9 one this morning very quickly, but we have a whole
10 bunch of others we still have to talk about. Do
11 you want to take them roughly in the order that we
12 dealt with them this morning, or do you want to
13 bounce around? I'll let you set the order here.

14 MR. IACOPINO: Well, I can try to
15 keep them in the same order. We might wind up
16 bouncing around, but I think I've got the order we
17 have them in.

18 So, my recollection is the
19 Committee has already denied the petitions to
20 intervene based on the alternate route. Some of
21 them were out of time, some were in time.

22 So the next thing that we dealt
23 with after that was the power gen -- I'm sorry --
24 state legislators. That was the second group that

1 we dealt with. So if you want to go in order,
2 that would be next in order to deliberate.

3 CHAIRMAN HONIGBERG: All right.
4 Who would like to start us off with the discussion
5 about the state legislators? Don't all jump at
6 once.

7 (No verbal response)

8 CHAIRMAN HONIGBERG: Is there
9 anyone who wants to make a motion to essentially
10 change what is in the order? If nothing happens,
11 the order stays as is.

12 (No verbal response.)

13 CHAIRMAN HONIGBERG: All right.
14 What's the next one?

15 MR. IACOPINO: Next would be the
16 New England Power Generators Association.

17 CHAIRMAN HONIGBERG: Commissioner
18 Bailey.

19 CMSR. BAILEY: Could we take that
20 one up at the break? I'd like a little bit of
21 time to write something down, and I can't
22 articulate it unless I write it down.

23 CHAIRMAN HONIGBERG: Sure.

24 CMSR. BAILEY: I'm still of the

1 same mind that I was, but I want to somehow
2 propose --

3 CHAIRMAN HONIGBERG: That's fine.
4 We're going to be taking a break in a little
5 while, so we'll go on to some others that don't
6 require a drafting.

7 MR. IACOPINO: We will then go to
8 Municipal Group 1. That is the grouping of
9 Bethlehem, Ashland --

10 CHAIRMAN HONIGBERG: Is it
11 everybody north of someplace?

12 MR. IACOPINO: Pittsburg,
13 Clarksville, Stewartstown, Colebrook,
14 Northumberland, Whitefield, Dalton, Bethlehem and
15 Littleton. And there is the motion of the
16 northern folks to break away from that group.

17 CHAIRMAN HONIGBERG: All right.
18 Does anyone have any opinions or want to make a
19 motion regarding Municipal Group 1? Attorney
20 Weathersby.

21 MS. WEATHERSBY: I'll share my
22 opinion. I'm not quite ready to make a motion.
23 But I was persuaded that, geographically speaking,
24 that group is unwieldy and that some of the issues

1 may be different as well. So I would be inclined,
2 I think, to split off bits of Clarksville and
3 Stewartstown. I'd like to discuss whether
4 Colebrook should join them and also whether County
5 Commissioner Samson might be lumped in with that
6 group. It's kind of my inclination, as he doesn't
7 represent the commission itself, the county
8 commissioners. He's acting, as I understand it,
9 individually, on behalf of some of his
10 constituents of those towns. So I'm throwing that
11 out for discussion, I guess.

12 CHAIRMAN HONIGBERG: All right. So
13 is anyone else so inclined or have a different
14 inclination? Mr. Way.

15 MR. WAY: I agree. And I'm looking
16 at the non-abutter proposal of Pittsburg,
17 Clarksville, Stewartstown. And I have to think
18 that, however we group this, we want to have some
19 sort of consistency of who would be abutters and
20 non-abutters. So I'd be interested in hearing
21 from Commissioner Samson as well, maybe about your
22 thoughts about where that line ends.

23 CHAIRMAN HONIGBERG: Commissioner
24 Samson, you've been invited to speak.

1 MR. SAMSON: Thank you, Mr.
2 Chairman. And I will try to adhere to the time
3 limits.

4 Again, I'd like to reiterate that
5 Pittsburg, Clarksville and Stewartstown have no
6 transmission lines at all. Out of the towns that
7 you just mentioned, I also represent Groveton and
8 Northumberland, if you will, and unincorporated
9 places. And I would have no objection to being in
10 that group. But as I stated before, you know,
11 there are several towns that have changed their
12 position, and I would still have to represent both
13 the opponents and proponents, and I would be more
14 than willing to do that.

15 CHAIRMAN HONIGBERG: All right.
16 Are there other comments or thoughts on Municipal
17 Group 1? Commissioner Bailey.

18 CMSR. BAILEY: I agree. I think
19 geographically it makes sense to break it up as
20 Attorney Weathersby proposed.

21 I'm not clear, Commissioner Samson.
22 You need to be in more than one group? Is that
23 what you're saying?

24 MR. SAMSON: No. I would like to

1 have my own group. But I would be comfortable
2 being in the group of Pittsburg, Stewartstown and
3 Clarksville.

4 CMSR. BAILEY: All right. So, then
5 I think that's what we should do. Thank you.

6 CHAIRMAN HONIGBERG: We're going to
7 treat that as a motion, which I think Attorney
8 Weathersby is going to second.

9 MS. WEATHERSBY: Yes.

10 CHAIRMAN HONIGBERG: She did.

11 Is there any further discussion of
12 the motion to split Municipal Group 1, putting
13 Pittsburg, Stewartstown and Clarksville in one
14 group and the rest of the towns in the other
15 group? Well, let's hold off on Colebrook for just
16 a minute.

17 MS. WEATHERSBY: And Samson.

18 CMSR. BAILEY: And Commissioner
19 Samson in that group.

20 CHAIRMAN HONIGBERG: And
21 Commissioner Samson in that group. In the
22 Stewartstown group; correct?

23 CMSR. BAILEY: Yes.

24 CHAIRMAN HONIGBERG: All right.

1 Any further discussion?

2 (No verbal response)

3 CHAIRMAN HONIGBERG: Seeing none,
4 all in favor say "aye."

5 *[Multiple members indicating*
6 *"aye".]*

7 CHAIRMAN HONIGBERG: Any opposed?

8 (No verbal response)

9 CHAIRMAN HONIGBERG: All right.

10 The "ayes" have it.

11 What about Colebrook? Commissioner
12 Bailey.

13 CMSR. BAILEY: Colebrook's not
14 here, so I don't think that they -- it doesn't
15 seem like they're really upset with the group that
16 they were put in. I guess if -- I think we should
17 leave them in the second half of the municipal
18 group. And if they disagree with that, do they
19 have an opportunity to say they'd rather be with
20 the other guys?

21 CHAIRMAN HONIGBERG: All of the --
22 I mean, one of the things about this whole process
23 is that intervention status can change throughout
24 this process under the statute and laws and rules

1 of the state of New Hampshire. These things
2 are -- they're open. They continue to be open as
3 circumstances change. If Colebrook is unhappy
4 with where it is or feels it needs to be someplace
5 else, it can let us know.

6 Mr. Wright.

7 DIR. WRIGHT: No, you just
8 clarified. I wanted to make sure that Colebrook
9 would have the opportunity to petition and get
10 back into that group.

11 CHAIRMAN HONIGBERG: All right. Is
12 there anything else we need to do with Municipal
13 Group 1, Attorney Iacopino?

14 MR. IACOPINO: No, but I assume
15 that that, that motion as passed, resolves the
16 motion filed by Bethlehem -- I guess it doesn't.
17 That would be the next thing that we deal with.

18 CHAIRMAN HONIGBERG: And that
19 motion is to have the Bethlehem municipal
20 organizations peel off into their own group?

21 MR. IACOPINO: That's correct.

22 CHAIRMAN HONIGBERG: All right.
23 Anyone want to weigh in on that?

24 (No verbal response)

1 CHAIRMAN HONIGBERG: If no one says
2 anything, nothing changes.

3 (No verbal response)

4 CHAIRMAN HONIGBERG: All right.
5 Sounds like there's is no action going to be taken
6 in favor of that.

7 Attorney Iacopino, is what I'm
8 saying correct, that that is, in effect, a denial,
9 or do we actually need to take a vote to deny a
10 motion like that?

11 MR. IACOPINO: Well, the motion is
12 technically made by the litigant. So, the
13 litigant gets an order. The order that I would be
14 writing would be that their motion failed because
15 of the failure of a motion from the Committee to
16 take up their request.

17 CHAIRMAN HONIGBERG: I'm a little
18 uncomfortable with that. I'd like to call for a
19 vote on the one we didn't vote on earlier and then
20 also on the Bethlehem one.

21 Is there anyone -- all in favor of
22 the legislators' motion to reconsider their
23 status, their denial of intervention, please say
24 "aye."

1 CMSR. BAILEY: Wait. What are
2 we --

3 CHAIRMAN HONIGBERG: It's the
4 legislators.

5 CMSR. BAILEY: I know it's the
6 legislators. But are we -- what are we -- could
7 you explain a little better?

8 CHAIRMAN HONIGBERG: Yes. The
9 parliamentary rule is a "yes" vote would be in
10 favor of granting them intervenor status; a "no"
11 vote would be denying intervenor status. And the
12 current status is their motion has been -- their
13 request was denied, and they filed a motion to
14 reconsider that. The affirmative question is in
15 favor of their request to be added. If you vote
16 "yes," you want them in; if you vote "no," you
17 don't want them in.

18 CMSR. BAILEY: Thank you.

19 CHAIRMAN HONIGBERG: All right.
20 All in favor of the legislators' motion say "aye"?

21 (No verbal response)

22 CHAIRMAN HONIGBERG: All opposed?

23 *[Multiple members indicating*

24 *"nay".]*

1 CHAIRMAN HONIGBERG: The noes have
2 it.

3 On the Bethlehem motion, same
4 thing. If you vote "yes," you are voting to peel
5 the Bethlehem governing entities out and put them
6 in their own group; otherwise, a "no" vote leaves
7 them in Municipal Group 1.

8 All in favor say "aye"?

9 (No verbal response)

10 CHAIRMAN HONIGBERG: All opposed?

11 *[Multiple members indicating*
12 *"nay".]*

13 CHAIRMAN HONIGBERG: The noes have
14 it.

15 MR. IACOPINO: The next formal
16 motion that was filed was the Ashland Conservation
17 Commission.

18 CHAIRMAN HONIGBERG: Does anyone
19 want to say anything about the Ashland
20 Conservation Commission's request?

21 (No verbal response).

22 CHAIRMAN HONIGBERG: All right.
23 All in favor of granting the Ashland Conservation
24 Commission's request to be made its own entity

1 please say "aye"?

2 (No verbal response)

3 CHAIRMAN HONIGBERG: All opposed

4 please say "no"?

5 *[Multiple members indicating "no."]*

6 CHAIRMAN HONIGBERG: All right.

7 The noes have it.

8 What's next?

9 MR. IACOPINO: I'm just going down
10 the list at this point. We have the City of
11 Berlin seeking review of their grouping with Cate
12 Street Capital.

13 CHAIRMAN HONIGBERG: Anyone have
14 any thoughts on the City of Berlin? Commissioner
15 Bailey.

16 CMSR. BAILEY: Yes, Mr. Chairman.
17 I would move to group the City of Berlin with the
18 City of Franklin. And then we'd have to deal with
19 a stand-alone organization of Cate Street Capital,
20 but maybe we could group them with somebody else.

21 CHAIRMAN HONIGBERG: All right. So
22 the motion at this point is to peel Berlin out of
23 its grouping with Cate Street Capital and combine
24 it with the City of Franklin; correct?

1 CMSR. BAILEY: Correct.

2 CHAIRMAN HONIGBERG: Is there a
3 second to that motion?

4 (No verbal response)

5 MS. WEATHERSBY: Second.

6 CHAIRMAN HONIGBERG: All right.
7 It's been seconded. Is there any further
8 discussion?

9 DIR. WRIGHT: Mr. Chairman, I
10 assume, again, Franklin would have the ability to,
11 if they disagreed with that --

12 CHAIRMAN HONIGBERG: Oh, yeah. Any
13 further discussion?

14 (No verbal response)

15 CHAIRMAN HONIGBERG: Seeing none,
16 all in favor say "aye"?

17 *[Multiple members indicating*
18 *"aye".]*

19 CHAIRMAN HONIGBERG: Any opposed?

20 (No verbal response)

21 CHAIRMAN HONIGBERG: Now, what
22 about Cate Street Capital?

23 MR. IACOPINO: Before we get to
24 Cate Street Capital, Mr. Chairman, so what has

1 been done there is the City of Berlin's motion has
2 been granted in part and denied in part; granted
3 in part, to the extent they're not grouped with
4 Cate Street. But to the extent they wanted to be
5 solely alone, it's denied, and they're grouped
6 with Franklin.

7 CHAIRMAN HONIGBERG: That is
8 correct.

9 MR. IACOPINO: Okay. Thank you.

10 CHAIRMAN HONIGBERG: What about
11 Cate Street? Anybody have any thoughts?
12 Commissioner Bailey.

13 CMSR. BAILEY: I think perhaps we
14 could group Cate Street maybe with IBEW because
15 they both have business interests that are not the
16 same interests, but they both support the Project
17 because of their business interests. So I would
18 move that we group Cate Street with IBEW.

19 CHAIRMAN HONIGBERG: I know the
20 IBEW is here. So is there a second for
21 Commissioner Bailey's motion?

22 MR. WAY: I'll second the motion.

23 CHAIRMAN HONIGBERG: All right.
24 Would IBEW wish to comment on this?

1 MR. RAFF: Alan Raff, IBEW. Not at
2 this time. I'd like to hear, you know, what that
3 would entail. But as far as being able to do
4 everything that we currently are able to do in our
5 intervenor status right now, as long as that is
6 maintained, I can't see any reason why we'd be
7 opposed to that.

8 CHAIRMAN HONIGBERG: And am I
9 correct that there's no one here from Cate Street
10 Capital?

11 (No verbal response)

12 CHAIRMAN HONIGBERG: That's what I
13 thought.

14 MR. ROTH: There was earlier.

15 CHAIRMAN HONIGBERG: They left?

16 MR. ROTH: Apparently, yeah. I did
17 see somebody from there.

18 If it's not out of order, I would
19 offer a suggestion that we consider whether to
20 group all the businesses and organizations with
21 economic interests be admitted intervention
22 together.

23 CHAIRMAN HONIGBERG: And those
24 would include what entities, Mr. Roth?

1 MR. ROTH: All under No. 4 on Page
2 52 of your order: Cate Street, IBEW, Coos County
3 Business, North Country Chamber, Dixville Capital
4 and Wagner Forest.

5 CMSR. BAILEY: Mr. Chairman.

6 CHAIRMAN HONIGBERG: Commissioner
7 Bailey.

8 CMSR. BAILEY: Do we know that all
9 of them support the Project?

10 CHAIRMAN HONIGBERG: Well, you
11 know, all we've done, I guess, is -- oh, I see
12 what we've done here.

13 CMSR. BAILEY: And -- well, no.
14 Ms. Weathersby has --

15 MS. WEATHERSBY: Mr. Chairman --

16 CHAIRMAN HONIGBERG: Yes, Ms.
17 Weathersby.

18 MS. WEATHERSBY: I would think we'd
19 probably want to leave out Wagner Forest since
20 they're the owner of the land through which the
21 Project will pass, whereas the others are more
22 business entities.

23 CHAIRMAN HONIGBERG: Mr. Wright.

24 DIR. WRIGHT: Yeah, I would totally

1 agree with that. I think Wagner Forest needs to
2 remain its own party.

3 MR. IACOPINO: I know that, at
4 least based upon the previous filings in this
5 case, of that group of six that are under No. 4 on
6 Page 53, one of them, I believe North Country
7 Chamber, was on record with us as being opposed to
8 the Project. And I've read newspaper articles
9 since, but I don't know what their official
10 position is at this point in time. But at least
11 in their filings with the Committee, it's my
12 recollection that they were opposed to the
13 Project, as opposed to the other five entities
14 listed in that section of Page 52 which I think
15 were all generally in favor of the Project.

16 CHAIRMAN HONIGBERG: All right.
17 Mr. Roth, you want to reconsider your suggestion?

18 MR. ROTH: It was only a
19 suggestion. But you could group those that are --
20 the thing about the North Country Chamber, they
21 could change again tomorrow, at least what I'm
22 reading in the papers. So I agree that separating
23 Wagner and making it a full party as host makes
24 sense. But then, perhaps you could group Cate

1 Street, IBEW, Coos County Business and Dixville
2 Capital and Balsams together.

3 MR. IACOPINO: And I have been
4 informed, I guess we got a letter yesterday from
5 North Country Chamber indicating that they take no
6 position on the Project now. So we have received
7 something new.

8 CHAIRMAN HONIGBERG: Attorney
9 Iacopino, do you see any limitations on our
10 ability to do the kind of additional combination
11 of the entities listed under Item 4 on Page 52?

12 MR. IACOPINO: The only concern I
13 have is that none of these entities have asked for
14 any change in their status, and I know that at
15 least -- for instance, I know that Dixville has
16 counsel. I'm not sure about the other ones. But
17 none of them have requested it, and there may
18 be -- you know, they may argue that they didn't
19 have sufficient notice that their status may
20 change.

21 CMSR. BAILEY: Could I ask a
22 question?

23 CHAIRMAN HONIGBERG: Commissioner
24 Bailey.

1 CMSR. BAILEY: Now I'm confused.
2 Were Cate Street and City of Berlin already in
3 this group with businesses with economic
4 interests?

5 MR. IACOPINO: Not a group. No. 4
6 is not a group. As you can see at the end of each
7 letter --

8 CMSR. BAILEY: Oh, I see. Okay.

9 MR. IACOPINO: -- it was -- they
10 were designated as "parties." So each of the
11 entities listed in Section 4 on Page 52 were
12 individual parties A through F.

13 CMSR. BAILEY: Thank you. Sorry.
14 I missed that.

15 CHAIRMAN HONIGBERG: Mr. Wright.

16 DIR. WRIGHT: Mr. Chairman, I think
17 I would just be more comfortable to go back to the
18 original suggestion of maybe Cate Street Capital
19 with IBEW, seeing that we haven't heard from these
20 other parties.

21 CHAIRMAN HONIGBERG: I'll be voting
22 against that. My inclination is to leave them as
23 they are right now. And it may be that we'll want
24 to combine them at some point in the future, but

1 I'm not inclined to do that without some
2 indication that that's something that's going to
3 be wanted. It may well be that it is because they
4 either don't want to participate in any
5 significant way and there'd be no problem to
6 combine them. But at this point, I'm not inclined
7 to change what's going on under No. 4 myself.

8 MR. ROTH: Mr. Chairman, if I may,
9 without picking a quarrel with you? I think most
10 of the people in this room didn't ask to be
11 grouped together the way they were. And the Chair
12 chose to do that, and they all had an opportunity
13 to ask for that to be reviewed. And you've
14 granted them that opportunity. Seems to me you
15 could treat the business groups in precisely the
16 same way.

17 CHAIRMAN HONIGBERG: Yes, we could.
18 There's no question. I'm just one vote. I have
19 no problem with that. You're absolutely right.

20 Commissioner Bailey.

21 CMSR. BAILEY: I think you and Mr.
22 Roth are saying the same thing, except for the
23 combination of Cate Street with IBEW. So, are you
24 saying that you disagree with the combination of

1 Cate Street and IBEW or that you disagree with
2 further consolidating any of the parties in that
3 list?

4 CHAIRMAN HONIGBERG: The only
5 motion that has been made is to combine Cate
6 Street Capital and IBEW. And I expect I would
7 vote against that.

8 CMSR. BAILEY: Okay.

9 MR. RAFF: Mr. Chairman, Alan Raff,
10 IBEW. We're all for making this go as expediently
11 and smoothly as possible. That said, without Cate
12 Street Capital here to see how they feel about us
13 being grouped together, I would prefer if we could
14 remain as our own intervenors for the time being.
15 If it comes about that it would go more smoothly
16 in the Committee's eyes for us to be grouped
17 together, then we're all set with that, too. But
18 at this time, maybe we keep it the way that it is.
19 Thank you.

20 CHAIRMAN HONIGBERG: All right.
21 Are there other thoughts or comments on this? Mr.
22 Wright.

23 DIR. WRIGHT: I'm just trying to
24 figure out, does that leave Cate Street as a

1 stand-alone party at this point?

2 CHAIRMAN HONIGBERG: At this point
3 it would, yeah.

4 MS. WEATHERSBY: May I make a
5 suggestion?

6 CHAIRMAN HONIGBERG: Ms.
7 Weathersby, yes.

8 MS. WEATHERSBY: Seems that the
9 interest of Cate Street and Dixville Capital are
10 pretty similar, and maybe that's a better pairing.
11 I mean, in some ways I would actually be in favor
12 of combining all of them but Wagner Forest and
13 North Country Chamber together. But if you're
14 only going to smaller groups, I wonder about
15 putting Cate Street with Dixville Capital and
16 Balsams. I guess my view is this: If we're going
17 to make changes within this area, we should do
18 what we think is the right answer going forward.
19 If that's to combine four of them, that's the
20 direction we should go. If it's to leave them
21 separate, that's what we should do. We shouldn't
22 take a half-measure. We shouldn't just combine
23 two of them. That would be -- so, if the pending
24 motion -- I forgot who made the pending motion --

1 MR. IACOPINO: Commissioner

2 Bailey --

3 CHAIRMAN HONIGBERG: If you want to
4 see a different array based on this conversation
5 of combining four of the six that are listed here,
6 maybe that motion should be made instead or what?
7 I'm open to suggestions.

8 CMSR. BAILEY: I actually am
9 persuaded as well. And maybe I didn't realize --
10 I forgot about these other groups. That might
11 make sense since they all support the Project and
12 they have interests, economic interests in their
13 business. So maybe it does make sense to combine
14 them. Not Wagner Forest. And I don't know about
15 North Country Chamber of Commerce. If they have
16 no position, then they probably don't care if
17 they're grouped with people. But I don't know
18 that. And Coos Business and Employers Group,
19 that's similar to IBEW, I would think.

20 So I would amend my motion to group
21 Cate Street Capital, IBEW, Coos County Business
22 and Employers Group, Dixville Capital, and ask
23 counsel what he thinks I should do with North
24 County Chamber.

1 MS. WEATHERSBY: And Balsams, too;
2 right?

3 CMSR. BAILEY: Yes. Dixville
4 Capital and Balsams Resort Holdings, yes.

5 MR. IACOPINO: I mean, counsel's
6 response to your request of what he thinks you
7 should do is, if you're inclined to combine those
8 other parties, not knowing what the position of
9 North Country Chamber of Commerce is, and maybe
10 they don't want to participate going forward, if
11 indeed they just simply have no position, that's
12 something that we can follow up with them in the
13 future. But you should do what you think is the
14 appropriate way to combine parties.

15 CMSR. BAILEY: Well, do you think
16 that the North Country Chamber of Commerce has
17 similar interests to the Coos Business and
18 Employers Group?

19 MR. IACOPINO: I'm not sure what
20 their interests are. They initially were on the
21 record with us as being in opposition to the
22 Project. They've now filed something yesterday
23 indicating that they take no position. If they
24 continue to take no position, I don't know why

1 they would participate in the proceedings, so --

2 CHAIRMAN HONIGBERG: From a legal
3 perspective, then, Mr. Iacopino, there's nothing
4 preventing us from putting them in that group.

5 MR. IACOPINO: Correct. There's
6 nothing that prevents you. But to the extent that
7 you have staff that can check with them and find
8 out, Hey, do you still really want to participate
9 in this process since you're not taking a position
10 any longer, you know, we can check in with them.
11 But that doesn't stop you from putting them into a
12 group. We can still do it after the group is set
13 up.

14 CHAIRMAN HONIGBERG: Commissioner
15 Bailey, am I correct that you're withdrawing your
16 original motion and substituting the one mentioned
17 a moment ago and including North Country Chamber
18 of Commerce?

19 CMSR. BAILEY: Yes, that would be
20 correct.

21 CHAIRMAN HONIGBERG: Ms.
22 Weathersby, are you willing to second that motion?

23 MS. WEATHERSBY: Yes, I am.

24 CHAIRMAN HONIGBERG: All right. Is

1 there any further discussion?

2 MR. SAMSON: Mr. Chairman.

3 CHAIRMAN HONIGBERG: Yes.

4 MR. SAMSON: May I add to the
5 discussion?

6 CHAIRMAN HONIGBERG: I don't know,
7 Mr. Samson. Why don't you give it a whirl.

8 MR. SAMSON: The North Country
9 Chamber of Commerce, last Tuesday, took a vote of
10 their executive board to remain neutral on the
11 Project and to withdraw their request for full
12 burial at the insistence of two of the Dixville
13 Capital people. And two of the members resigned.
14 And this is official. Two of the members
15 resigned, did not vote. So the rest of the board
16 voted to remain neutral and to withdraw that
17 request at the insistence of Mr. Hahn and
18 Mr. Dagesse. And so they're looking into the
19 legality of that --

20 CHAIRMAN HONIGBERG: Well, we
21 didn't know any of that, Mr. Samson.

22 MR. SAMSON: Okay.

23 CHAIRMAN HONIGBERG: As far as we
24 know, all we -- I don't think I've even seen it.

1 We have a letter that changes their position.
2 That's all we know. At this point, they have been
3 granted intervenor status. They were not put into
4 a group. The current motion would put them into a
5 group.

6 MR. SAMSON: In lieu of the
7 proponents or opponents or --

8 CHAIRMAN HONIGBERG: Intervening
9 groups who are generally supporting.

10 MR. SAMSON: Okay. Thank you.

11 CHAIRMAN HONIGBERG: Is there any
12 further discussion among Subcommittee members of
13 the motion?

14 (No verbal response)

15 CHAIRMAN HONIGBERG: Seeing none,
16 all in favor say "aye"?

17 *[Multiple members indicating*
18 *"aye".]*

19 CHAIRMAN HONIGBERG: Any opposed?

20 (No verbal response)

21 CHAIRMAN HONIGBERG: All right.

22 Mr. Iacopino, do you understand what just
23 happened?

24 MR. IACOPINO: So we now have a

1 business group that consists of Cate Street, IBEW,
2 Coos County Business and Employers Group, the
3 Dixville, Balsams and North Country Chamber?

4 CMSR. BAILEY: Yeah.

5 CHAIRMAN HONIGBERG: Correct.

6 MR. IACOPINO: I understand.

7 CHAIRMAN HONIGBERG: Just wanted to
8 make sure we're all on the same page. What's
9 next, Mr. Iacopino?

10 MR. IACOPINO: Good question.
11 There is the request for the Easton Conservation
12 Commission to review their request and to group
13 them with the other conservation commissions from
14 Franconia and Sugar Hill.

15 CHAIRMAN HONIGBERG: Oh, you were
16 done?

17 MR. IACOPINO: Yes. That's the
18 Conservation Commission's suggestion.

19 CHAIRMAN HONIGBERG: All right. Is
20 there anyone who wants to comment on that request
21 by Easton Conservation Commission?

22 CMSR. BAILEY: Question.

23 CHAIRMAN HONIGBERG: Commissioner
24 Bailey.

1 CMSR. BAILEY: The conservation
2 commissions are currently in Municipal Group 2; is
3 that correct?

4 CHAIRMAN HONIGBERG: No, they are
5 in whatever -- they're in the same group with
6 their towns and in whatever group that
7 geographically they're based in. Easton is in 2.

8 CMSR. BAILEY: Right. Easton and
9 Franconia and Sugar Hill are all in 2 --

10 CHAIRMAN HONIGBERG: That's
11 correct.

12 CMSR. BAILEY: -- so that all of
13 those conservation commissions are also in Group
14 2, Municipal Group 2.

15 CHAIRMAN HONIGBERG: That's
16 correct.

17 CMSR. BAILEY: All right. Thank
18 you.

19 MR. IACOPINO: And the gist of
20 their motion was to peel the conservation
21 commissions out of that because there's also the
22 towns and the boards of selectmen and planning
23 boards that are also in that combination.

24 CHAIRMAN HONIGBERG: All right.

1 Does anyone want to take that on substantively?

2 (No verbal response)

3 CHAIRMAN HONIGBERG: All right. So
4 I'll recall the question. Those in favor of
5 granting Easton Conservation Commission's approach
6 to group it with the other conservation
7 commissions and peel it out of Municipal Group 2
8 will vote "yes." Those opposed to that and who
9 instead believe that it should be as it is will
10 vote "no."

11 All in favor say "aye"?

12 (No verbal response)

13 CHAIRMAN HONIGBERG: Any opposed,
14 "no"?

15 *[Multiple members indicating "no".]*

16 CHAIRMAN HONIGBERG: All right.

17 The noes have it.

18 MR. IACOPINO: We then move on to
19 the City of Concord's request to be an individual
20 intervenor.

21 CHAIRMAN HONIGBERG: Attorney
22 Weathersby.

23 MS. WEATHERSBY: Before we get to
24 Concord, I'm just thinking about Municipal Group

1 2. And right now we have the Grafton County
2 Commission out there by themselves, and I'm
3 wondering if they should stay by themselves or
4 whether it would also make sense for them to also
5 join Municipal Group 2. Just for discussion.

6 CHAIRMAN HONIGBERG: All right.
7 Does anyone -- what are people's thoughts on
8 Grafton County? Mr. Iacopino, the effect of what
9 we've done earlier has already separated
10 Commissioner Samson from the Grafton County group;
11 is that correct?

12 MR. IACOPINO: That's correct.

13 CHAIRMAN HONIGBERG: All right. So
14 right now, as Attorney Weathersby said, Grafton
15 County is on its own. What do people think about
16 Attorney Weathersby's thought balloon?
17 Commissioner Bailey.

18 CMSR. BAILEY: Question. Is all of
19 Grafton County covered by Municipal Group 2, or is
20 Municipal Group 2 all of Grafton County?

21 MR. IACOPINO: I don't think
22 it's -- it's not every town in the county. But I
23 think that every town that is presently in
24 Municipal Group 2 is in Grafton County.

1 CMSR. BAILEY: Okay.

2 MR. IACOPINO: In Municipal Group 2
3 right now, and I'm sure I'll be corrected
4 immediately if I'm wrong, Sugar Hill, Franconia,
5 Easton, Woodstock and Plymouth are in Municipal
6 Group 2, and I believe they're all in Grafton
7 County. Am I wrong?

8 AUDIENCE MEMBER: Bethlehem is in
9 Grafton.

10 (Court Reporter interrupts.)

11 CHAIRMAN HONIGBERG: I understand
12 Bethlehem is in Grafton County. Mr. Van Houten
13 said that. But the question is, all of the towns
14 in Group 2 are in Grafton County; correct?
15 There's also a Grafton County town in Municipal
16 Group 1; is that correct? All right.

17 MS. WEATHERSBY: And are there any
18 Grafton towns in Municipal Group 3?

19 CHAIRMAN HONIGBERG: Yes, there
20 are.

21 MS. WEATHERSBY: A lot of them.
22 Several of them.

23 MR. IACOPINO: Holderness, Ashland,
24 Bridgewater.

1 MS. WEATHERSBY: So maybe it
2 doesn't make sense, too diverse.

3 MR. WAY: Are you saying carve out
4 Municipal Group 3?

5 CHAIRMAN HONIGBERG: No, I think
6 she's --

7 MS. WEATHERSBY: I think I'm
8 wishing I never brought that subject up and remove
9 it from discussion.

10 CHAIRMAN HONIGBERG: She just
11 punctured the thought balloon she floated.

12 Are we ready to take up Concord?
13 Anybody have thoughts on Concord? Commissioner
14 Bailey.

15 CMSR. BAILEY: Just for discussion
16 purposes, I don't think Concord should be their
17 own group. But I'm wondering if there should be a
18 group of municipalities represented by counsel.
19 And could you explain to me why I, as a
20 non-lawyer, was -- I don't know if I'm persuaded,
21 but interested in the idea that it would be very
22 difficult to deal with towns that aren't
23 represented by lawyers who have to convene a board
24 of selectmen. So if we kept them all grouped

1 together, would that mean that we would leave
2 just -- it would be up to the town to hire a
3 lawyer to represent them in these groups or -- you
4 know, I mean, Concord is a lot bigger than some of
5 these small towns that may or may not ever hire a
6 lawyer and have to meet once a month as a board of
7 selectmen. So I'd just be -- I'm not making a
8 motion. I'm just interested if anybody else
9 thought that was an interesting thing to think
10 about.

11 CHAIRMAN HONIGBERG: Anyone have
12 any thoughts on that?

13 MR. WAY: If nothing else, I would
14 say Municipal Group 3, I agree that it's pretty
15 unwieldy. And looking down here at Concord,
16 Pembroke, Deerfield, I mean, you could split it
17 up -- well, Canterbury thrown in with Concord.
18 But you could split it up after Bristol, and at
19 least you've settled a little bit of a problem.
20 But Municipal Group 3 is, in my opinion, too
21 large.

22 CHAIRMAN HONIGBERG: I guess,
23 Commissioner Bailey, my thought on the towns that
24 want to be intervenors but don't want to designate

1 someone to speak for them, either by hiring a
2 lawyer or designating one of their employees to
3 act for it in this proceeding, is it's going to be
4 extremely difficult for them to participate,
5 regardless of what we do with them. They clearly
6 are going to be an obstacle -- to the extent that
7 they are expected to work within a group, they'll
8 be an obstacle to the group. But the group's
9 responsibilities at that point are to ask, and if
10 it doesn't get any response from the town that is
11 not set up to respond, they're going to have to --
12 they're going to be left behind. And it's the
13 situation that most -- not every, but most towns
14 in the state have a lawyer they can call when they
15 need legal advice. There are law firms that do
16 extensive municipal work, some of them in the room
17 today. There are others who could set themselves
18 up to designate the town administrator to speak
19 for them, for the group. Mr. Whitley pretty much
20 outlined how the structure could work. We can't
21 order a town to do that. That would be far beyond
22 our authority. If they want to participate,
23 however, ultimately someone is going to have to
24 come and do something. If we were to grant every

1 town individual status and the town wanted to
2 actually do something here, they'd have to hire
3 somebody or designate somebody to come and speak.
4 So I am sympathetic with Ms. Pastoriza's plight.
5 I'm sympathetic to the small towns that don't have
6 budgets to do a lot of these things. But if they
7 feel strongly about this, that it's something that
8 is important for them to participate in,
9 ultimately they're going to have to do something
10 to participate or say, "You can speak for us. You
11 can -- I agree with what you are going to do;
12 therefore, you're going to be saying what I agree
13 with, and we're not going to speak separately."
14 That's the best I can do. I don't think I have a
15 better explanation or a better outline for how the
16 towns can do this.

17 CMSR. BAILEY: Thank you.

18 CHAIRMAN HONIGBERG: Mr. Oldenburg.

19 MR. OLDENBURG: Given that, I'll go
20 back to what Mr. Way just said, that Municipal
21 Group 3 is too large and unwieldy. And I sort of
22 agree that, geographically, that at least open for
23 discussion is separating that into two groups,
24 maybe Holderness, Ashland, Bridgewater, New

1 Hampton, Bristol as one, then Canterbury, Concord
2 and Deerfield as another group.

3 CHAIRMAN HONIGBERG: Pembroke as
4 well.

5 MR. OLDENBURG: Yeah, Pembroke.

6 CHAIRMAN HONIGBERG: Mr. Oldenburg,
7 is that a motion?

8 MR. OLDENBURG: Make that as a
9 motion.

10 CHAIRMAN HONIGBERG: I think
11 Mr. Way is going to second that motion. Correct?

12 MR. WAY: I second that.

13 CHAIRMAN HONIGBERG: All right. Is
14 there any further discussion of this?

15 (No verbal response)

16 CHAIRMAN HONIGBERG: Seeing none,
17 all in favor say "aye"?

18 *[Multiple members indicating*
19 *"aye".]*

20 CHAIRMAN HONIGBERG: Any opposed?

21 (No verbal response)

22 CHAIRMAN HONIGBERG: All right.

23 The "ayes" have it.

24 Is there any further action we want

1 to take in response to Concord's motion and the
2 arguments that have been made?

3 (No verbal response)

4 CHAIRMAN HONIGBERG: Is that
5 sufficient action on Concord's motion, Mr.
6 Iacopino, or is there some further --

7 MR. IACOPINO: I just want to be
8 sure. I take that as granting, in part, Concord's
9 motion and denying it, in part. It's granted, in
10 part, to the extent that they are no longer
11 grouped in Municipal Group 3, but would be in what
12 would be retitled as "Group 4," I guess, which is
13 a smaller group.

14 CHAIRMAN HONIGBERG: Might be 3B.

15 MR. IACOPINO: 3B? Okay.

16 CHAIRMAN HONIGBERG: We'll come up
17 with a new number scheme.

18 MR. IACOPINO: And it's denied to
19 the extent that they seek to be their own entity
20 within the proceeding.

21 CHAIRMAN HONIGBERG: All right. Is
22 there any further discussion of Concord's motion
23 by the group?

24 (No verbal response)

1 CHAIRMAN HONIGBERG: All right.

2 Seeing none, what's next?

3 MR. IACOPINO: One second.

4 CHAIRMAN HONIGBERG: I believe that
5 the next thing on the agenda, actually, is going
6 to be a short break. So we'll take 10 minutes and
7 be back as soon as we can.

8 *(Whereupon a brief recess was taken*
9 *at 3:30 p.m., and the proceedings*
10 *resumed at 3:52 p.m.)*

11 CHAIRMAN HONIGBERG: We're going to
12 get started. Mr. Iacopino, you can stay where you
13 are for just a minute. We're going to circle back
14 to NEPGA. I think Commissioner Bailey has a
15 motion.

16 CMSR. BAILEY: Do we need to wait
17 for our counsel or you want me to just --

18 CHAIRMAN HONIGBERG: He's here. I
19 told him he could stay where he is. I think you
20 can do the motion without Mr. Iacopino.

21 CMSR. BAILEY: Okay. All right.
22 Okay. I move to allow NEPGA to intervene on a
23 limited basis. I move that NEPGA be limited
24 participation on the following issues: In respect

1 to the proposed project on the public interest, so
2 far as it relates to the economic impact on the
3 competitive electric energy market and the effect
4 of any PPA on the competitive electric energy
5 market.

6 CHAIRMAN HONIGBERG: Is there a
7 second to Commissioner Bailey's motion?

8 MR. WAY: I'll second to motion.

9 CHAIRMAN HONIGBERG: All right. Is
10 there any discussion?

11 *[No verbal response]*

12 CHAIRMAN HONIGBERG: Commissioner
13 Bailey, am I correct that you did not include in
14 that motion the affiliate transaction rules that
15 are in the PUC's rules, is that correct?

16 CMSR. BAILEY: That is correct,
17 because I believe that that can be dealt with at
18 the PUC.

19 CHAIRMAN HONIGBERG: All right. Is
20 there any further discussion of Commissioner
21 Bailey's motion?

22 MS. WEATHERSBY: Commissioner
23 Bailey, could just repeat the motion please?

24 CMSR. BAILEY: Sure. In respect of

1 the proposed project on the public interest, so
2 far as it relates to the economic impact on the
3 competitive electric energy market and the effect
4 of the PPA on the competitive energy market.

5 MS. WEATHERSBY: Thank you.

6 CHAIRMAN HONIGBERG: Is there any
7 discussion? Questions?

8 *[No verbal response]*

9 CHAIRMAN HONIGBERG: Seeing none,
10 are you ready for the question? All in favor say
11 "aye"?

12 *[Multiple members indicating*
13 *"aye".]*

14 CHAIRMAN HONIGBERG: Any opposed?

15 *[No verbal response]*

16 CHAIRMAN HONIGBERG: All right.
17 The "ayes" have it.

18 What's next, Mr. Iacopino?

19 MR. IACOPINO: The next -- well,
20 you've already dealt with the next motion that
21 would be up, which is the motion of the Grafton
22 County Commissioners to be separated from
23 Commissioner Samson. At this point in time,
24 Grafton County is it's own entity, it's own party,

1 and Mr. Samson has been combined with the
2 Municipal Group 1. So, those two motions have
3 been taken care of.

4 Now, just for the sake of being
5 complete, I want to point out that there was the
6 towns of Bristol, Easton, Franconia, a number of
7 other towns that filed the motion that we've sort
8 of referred to as dealing with steering committees
9 and issues like that. However, I would point out
10 that each of those -- it's my understanding that
11 each of the towns also wish to be on their own,
12 but you've already split up Group 3 and Group 1
13 into things. So, I don't know that anything
14 actually needs to be done with respect to that,
15 until you get to the issue of the governance of
16 the individual communities -- individual parties.

17 UNIDENTIFIED SPEAKER: Or groups.

18 MR. IACOPINO: Groups.

19 CHAIRMAN HONIGBERG: Governance of
20 groups.

21 MR. IACOPINO: Right.

22 CHAIRMAN HONIGBERG: Governance of
23 some parties within those groups who have
24 problems?

1 MR. IACOPINO: Correct.

2 CHAIRMAN HONIGBERG: So, we'll get
3 to that later? Is that right?

4 MR. IACOPINO: That's fine.

5 CHAIRMAN HONIGBERG: Okay.

6 MR. IACOPINO: And, then, we did
7 have the Deerfield Conservation Commission, but
8 they want to stay in the group that they're in.

9 We then move on to the
10 non-governmental organizations. And, there is the
11 petition of Sierra Club to not be grouped with
12 AMC, Conservation Law and Ammonoosuc. And there
13 is also -- each one of the groups has also asked
14 that -- has stated that they prefer to be
15 individualized, but they have their method for
16 governance, if the Committee does not do that.
17 So, it's sort of a two-part thing.

18 The first thing you should consider
19 is the grouping, if you want to grant the Sierra
20 Club's motion to be separated from that particular
21 group.

22 CHAIRMAN HONIGBERG: All right. Is
23 there any thoughts or discussion of the Sierra
24 Club and the other groups?

1 *[No verbal response]*

2 CHAIRMAN HONIGBERG: Anyone?

3 *[No verbal response]*

4 CHAIRMAN HONIGBERG: All right.

5 Which one do you want to take first? Let's start
6 with -- let's start with the Sierra Club's motion
7 first. If you vote "yes" on this, you'll be --
8 you would be in favor of granting the Sierra
9 Club's request to be its own party. If you vote
10 "no", you're in favor of leaving the Sierra Club
11 in the group with the others.

12 All in favor say "aye"?

13 *[No verbal response]*

14 CHAIRMAN HONIGBERG: All opposed
15 say "no"?

16 *[Multiple members indicating "no".]*

17 CHAIRMAN HONIGBERG: All right.

18 The noes have it.

19 Now, with respect to the request by
20 each of the members of the group to be its own
21 separate party. If you're in favor of splitting
22 the group into individual members, you'll be
23 voting "yes". If you're opposed to that, you'll
24 be voting "no".

1 All in favor say "yes"?

2 *[No verbal response]*

3 CHAIRMAN HONIGBERG: All opposed
4 say "no"?

5 *[Multiple members indicating "no".]*

6 CHAIRMAN HONIGBERG: The noes have
7 it.

8 Is there other business that we
9 need to deal with with their governance proposal,
10 Attorney Iacopino?

11 MR. IACOPINO: I don't know if you
12 want to take that up now or if you wanted to come
13 back to it? It's up to you, Mr. Chairman.

14 CHAIRMAN HONIGBERG: Is it
15 related -- it's related to the other governance
16 questions, is it not?

17 MR. IACOPINO: It's similar. They
18 talk about designating two points of contact from
19 each of the organizations. They argue that they
20 should not be limited to a single spokesperson.
21 They request flexibility with respect to who
22 speaks at different times on their behalf. It's
23 primarily concerns with the "spokesperson" theory,
24 and that they be given additional data requests,

1 in order to provide them with flexibility.

2 CHAIRMAN HONIGBERG: I'd be
3 inclined to push that off to the other governance
4 discussions. Let's see if we can plow through the
5 other grouping questions first.

6 MR. IACOPINO: Did we already vote
7 on the denied intervenors?

8 CHAIRMAN HONIGBERG: I don't
9 believe we did.

10 MR. IACOPINO: Okay. So, then, the
11 next motion would be Ms. Pastoriza's request
12 appealing her denial of intervenor status for
13 herself. It's 14 on my list. So, that would be
14 the next motion that would be up, is her motion to
15 become an intervenor, essentially.

16 CHAIRMAN HONIGBERG: All right.
17 Does anyone have any discussion of Ms. Pastoriza's
18 request?

19 Commissioner Bailey.

20 CMSR. BAILEY: Isn't Ms.
21 Pastoriza's request based on the alternative
22 route? And didn't we vote the people on the
23 alternative route we would not have as
24 intervenors, whether they were abutters or not?

1 CHAIRMAN HONIGBERG: My memory is
2 that there were two reasons that Ms. Pastoriza
3 gave. That was the second of the two reasons.
4 The first was that it was premature to determine
5 that a non-abutter in her situation had no direct
6 interest in the project. She's in Easton, and not
7 directly abutting the line, which will be buried
8 in Easton.

9 CMSR. BAILEY: Okay. Thank you.
10 So, that's what we're voting on now? Well, I
11 guess what we're talking about.

12 CHAIRMAN HONIGBERG: I mean, we're
13 voting on the motion.

14 CMSR. BAILEY: Okay.

15 CHAIRMAN HONIGBERG: And if
16 you're -- is there any other discussion or
17 questions about Ms. Pastoriza's motion?

18 MS. WEATHERSBY: Quick question.

19 CHAIRMAN HONIGBERG: Ms.
20 Weathersby.

21 MS. WEATHERSBY: Isn't it true --
22 or, is it true that anyone at any time can
23 petition to become an intervenor in this
24 proceeding down the road?

1 MR. IACOPINO: RSA 541-A:33 has a
2 "three day before the hearing" limit, if the
3 chairman of the Committee determines that it will
4 not interfere with the prompt and orderly
5 disposition of the proceedings. We did set a
6 deadline for the filing of petitions to intervene,
7 and the statute sets forth the ten-day deadline to
8 appeal those decisions. But, technically, until
9 three days before the hearing, somebody can file
10 under 541-A. It is highly discouraged, since
11 there's a long -- long ways that goes up to the
12 adjudicative proceeding in these things.

13 So, is it statutorily allowed to
14 file the motion? Yes. If somebody filed at that
15 time, I think that would be problematic.

16 CHAIRMAN HONIGBERG: Any further
17 comments or discussion of Ms. Pastoriza's motion?

18 *[No verbal response]*

19 CHAIRMAN HONIGBERG: If you're
20 voting -- if you vote "yes", you'll be in favor of
21 granting Ms. Pastoriza intervenor status. If you
22 vote "no", you'll be denying intervenor status.

23 All in favor say "aye"?

24 *[No verbal response]*

1 CHAIRMAN HONIGBERG: All opposed
2 say "no"?

3 *[Multiple members indicating "no".]*

4 CHAIRMAN HONIGBERG: The noes have
5 it.

6 MR. IACOPINO: Next is the request
7 of Peter Powell and Thomas Mullen. They were
8 denied intervenor status. Mr. Mullen spoke on
9 behalf of Mr. Powell today. And they seek to be
10 permitted to intervene, I believe, as he indicated
11 today, as a realtors group.

12 CHAIRMAN HONIGBERG: Any comments
13 or discussion of the Powell/Mullen request?

14 CMSR. BAILEY: Mr. Chairman?

15 CHAIRMAN HONIGBERG: Yes,
16 Commissioner Bailey.

17 CMSR. BAILEY: Attorney Iacopino,
18 do we have any other group that is opposed to the
19 project because of business/economic interests?

20 MR. IACOPINO: At present, I don't
21 think so. I mean, at least as far as business
22 entities that we have are Cate Street, which does
23 not appear to be opposed to the project; IBEW,
24 which does not appear to be opposed to the

1 project; the Coos County Business and Employers
2 Group does not appear to be opposed to the
3 project; Dixville Capital/Balsams Resort do not
4 appear to be opposed; Wagner Forest does not
5 appear to be opposed; North Country Chamber of
6 Commerce, we received that letter yesterday, which
7 discusses -- says they take no position. I'm not
8 sure, unless there is some of the entities that
9 have been identified as "family trusts" or, you
10 know, small companies that have been included in
11 some of the individual petitions. I don't know of
12 any other businesses.

13 CMSR. BAILEY: And, for the same
14 reason that we allowed NEPGA in, what was the
15 reason that we would -- that we denied this
16 request?

17 MR. IACOPINO: I believe that it
18 was essentially the lack of a stated -- or, lack
19 of a stated substantial interest, and that the
20 interest in the real estate market was
21 insufficient, if I remember correctly. On
22 Pages -- if you look at the Order, on Page -- Page
23 27, it begins with Ms. Menard, on behalf of Parade
24 Properties, and addresses Mr. Mullen's on Page 28

1 of the Order, and then Mr. Powell's at the bottom
2 of Page 28. So, that's where it would begin the
3 discussion.

4 CHAIRMAN HONIGBERG: The conclusion
5 of that discussion is on the top of Page 30.

6 MR. IACOPINO: Yes. Generally,
7 that their interests were the same as the
8 interests of the public in general, the effect on
9 tourism, property values, and business, without
10 more, were sufficiently -- were insufficiently
11 specific to warrant intervention.

12 MS. WEATHERSBY: Mr. Chair?

13 CHAIRMAN HONIGBERG: Ms.
14 Weathersby.

15 MS. WEATHERSBY: It strikes me that
16 Mr. Powell and Mr. Mullen's interests are rather
17 similar to those or can be kind of grouped with
18 Liebl Printing and Design and Garland Mill
19 Timberframes, which were denied intervenor status.
20 That's on Page 38 and 39 of the opinion. Liebl
21 Printing was arguing that it has a negative impact
22 on tourism in the area, and therefore negatively
23 affected their business. And the Timberframe
24 Company asserted that, again, it would have a

1 negative effect on its business by discouraging
2 people to move and reside in the North Country.

3 And it seems though the impacts on
4 the real estate business throughout the state are
5 kind of similarly situated. And Liebl Printing
6 and the Timberframe Company were found to not
7 raise specific interests that would be affected by
8 the projects, and that their assertions were more
9 generally speculative.

10 And, so, therefore, I would think
11 that Mr. Powell and Mr. Mullen's request would
12 fall in that same category, and therefore not be
13 granted intervenor status.

14 CHAIRMAN HONIGBERG: All right. Is
15 there any further discussion?

16 *[No verbal response]*

17 CHAIRMAN HONIGBERG: All right.
18 So, if you're in favor of granting Mr. Mullen and
19 Mr. Powell intervenor status, you'll be voting
20 "yes". If you're opposed, you'll be voting "no".

21 All in favor say "yes"?

22 *[One member indicating "yes".]*

23 CHAIRMAN HONIGBERG: All opposed
24 say "no"?

1 *[Multiple members indicating "no".]*

2 CHAIRMAN HONIGBERG: The noes have
3 it.

4 MR. IACOPINO: The next was
5 Mr. Page, who's -- and, actually, this is
6 something we need to probably investigate. You
7 asked the Applicant's counsel whether or not they
8 were able to look into whether Mr. Page is
9 actually an abutter to the property or not, his
10 driveway being on Hummingbird Lane. I don't know
11 if you want to proceed with his motion, given that
12 outstanding request?

13 CHAIRMAN HONIGBERG: What I'd like
14 to do is get a conditional or contingent approval,
15 and ask the Applicant to look into it and let us
16 know if, in fact, Mr. --

17 MR. IACOPINO: Page.

18 CHAIRMAN HONIGBERG: -- Page is, in
19 fact, an abutter.

20 MR. BELLIS: If I might?

21 CHAIRMAN HONIGBERG: And, if he is,
22 then we'll have it. Yes, sir?

23 MR. BELLIS: I don't know exactly
24 which of the properties off of Hummingbird Lane

1 that his property is. But Hummingbird Lane does
2 come off of Route 112. We had it as a different
3 road name, which is why it didn't show up on our
4 records. But, to the extent that the Committee is
5 allowing folks who have just driveway access to
6 some backlot, it appears, you know, to be adjacent
7 to the underground portion of the route in Easton.

8 CHAIRMAN HONIGBERG: Okay.

9 MR. BELLIS: So, that's -- I cannot
10 confirm that his lot is back there, I don't have
11 that record. But I can confirm that that's right
12 off of 112.

13 CHAIRMAN HONIGBERG: All right.
14 So, I will ask you to confirm that when you can.
15 I think you'll have enough information from his --
16 from what he filed to confirm that from the
17 records that you have.

18 So, if I can get a motion to
19 conditionally grant Mr. Page's motion, I'd like
20 that motion to be made?

21 MR. WAY: I'd make a motion to
22 grant Mr. Page conditional abutter status.

23 CHAIRMAN HONIGBERG: Is there a
24 second?

1 DIR. WRIGHT: I'll second.

2 CHAIRMAN HONIGBERG: Is there any
3 further discussion?

4 MS. WEATHERSBY: Just that would he
5 be grouped in with Municipal Group 2 -- not
6 "Municipal Group", but abutting?

7 CHAIRMAN HONIGBERG: Yes.

8 MS. WEATHERSBY: He's not an
9 individual intervenor, he's grouped into the other
10 Easton residents?

11 CHAIRMAN HONIGBERG: Well, we
12 haven't -- we actually haven't dealt with the
13 individual groupings. But I think we will put
14 him -- we would put him, for now, in whatever
15 group he would be in. And, then, if we made a
16 change to that group, his situation will change,
17 as will anybody else who's similarly situated.

18 Does that make sense?

19 CMSR. BAILEY: Yes.

20 CHAIRMAN HONIGBERG: All right. Is
21 there any further discussion?

22 *[No verbal response]*

23 CHAIRMAN HONIGBERG: Seeing none,
24 all in favor say "aye"?

1 *[Multiple members indicating*
2 *"aye".]*

3 CHAIRMAN HONIGBERG: Any opposed?
4 *[No verbal response.]*

5 CHAIRMAN HONIGBERG: The "ayes"
6 have it.

7 MR. IACOPINO: The next motion is a
8 motion of Philip and Joan Bilodeau.

9 CHAIRMAN HONIGBERG: Daryl
10 Thompson?

11 MR. IACOPINO: Mr. Thompson's was
12 just a correction with respect to his address.

13 CHAIRMAN HONIGBERG: Oh, okay.

14 MR. IACOPINO: He lived in -- we
15 had him listed as being in Whitefield, but they're
16 actually from Stewartstown. It's my understanding
17 we had to correct in the context of the Order.

18 CHAIRMAN HONIGBERG: So, does
19 Mr. Thompson have other motions -- has separate
20 motions, because Mr. Thompson is up here a couple
21 times? I just want to make sure that we --

22 MR. IACOPINO: I think that might
23 be a different Mr. Thompson.

24 CHAIRMAN HONIGBERG: Oh, no. I

1 think it was the same person.

2 MR. THOMPSON: It's the same one,
3 sir.

4 CHAIRMAN HONIGBERG: Yes.

5 MR. IACOPINO: Oh. Okay.

6 CHAIRMAN HONIGBERG: So, I think
7 there may be a second entry for Mr. Thompson.
8 Let's skip over this one and to talk about Mr. and
9 Mrs. Bilodeau.

10 MR. WAY: I guess I would say, I
11 think Mr. Bilodeau has made a fairly good case
12 that his situation is somewhat unique. We had
13 talked a little bit about limiting his status,
14 much in the way we talked about earlier, limiting
15 it to the interests that he brings to the table.

16 CHAIRMAN HONIGBERG: Is there
17 further discussion of Mr. Bilodeau's -- Mr. and
18 Mrs. Bilodeau's request?

19 Commissioner Bailey.

20 CMSR. BAILEY: Is your proposal to
21 limit their participation to strictly the issues
22 that affect their property? I mean, I'm not sure,
23 as part of the -- are we discussing or do we have
24 to have a second?

1 CHAIRMAN HONIGBERG: We do not have
2 a pending motion right now.

3 MR. IACOPINO: There's no motion.

4 MR. WAY: Let me put it in a motion
5 for discussion. A motion to grant Philip and Joan
6 Bilodeau sole abutting status with restricted
7 input based upon the interest to their property.
8 I don't know if that makes sense.

9 MR. IACOPINO: So, if I understand
10 your motion that you're trying to make correctly,
11 it's a motion grant them limited intervenor
12 status, with their status as intervenors limited
13 to the direct effects upon their property?

14 MR. WAY: I couldn't have said it
15 better.

16 *[Laughter.]*

17 CHAIRMAN HONIGBERG: Is there a
18 second?

19 DIR. WRIGHT: I'll second.

20 MR. OLDENBURG: Second.

21 CHAIRMAN HONIGBERG: All right.
22 Commissioner Bailey, you had a --

23 CMSR. BAILEY: Yes. Just sort of
24 thinking out loud, I see that their interests are

1 unique, but we had a lot of people say their
2 interests were unique. And I don't know how to
3 draw the line. I mean, limiting the intervention
4 is good, I just want to make sure that we're
5 consistent.

6 And, so, if anybody has any
7 thoughts on that, I'd like to hear them.

8 CHAIRMAN HONIGBERG: Ms.
9 Weathersby.

10 MS. WEATHERSBY: My thought is, I
11 think the Bilodeaus, I'm sorry if I'm messing up
12 their name, but they're one of the most affected
13 parties being next to that substation, and the
14 expanded nature of it coming so close to their
15 home. And I think that their situation is
16 different than really anybody else on the entire
17 right-of-way. There's no one else that's as
18 affected by any other sub or transition station.

19 So, I would be in favor of granting
20 them intervenor status. I think it should be
21 limited to -- as it affects their property.
22 Although, I want to be a little bit careful,
23 because they are residents of Deerfield, and may
24 have opinions as well as to how it affects their

1 community. So, I may broaden the limitation a
2 bit. But I think that it -- I think their
3 situation is a very unique situation and is
4 particularly affected by this project.

5 CHAIRMAN HONIGBERG: I believe I
6 heard his counsel represent that he would limit
7 his participation to the issues that were specific
8 to his property. Am I remembering that correctly?

9 Yes, I see nodding heads.
10 Others -- I think the others who were asked that
11 weren't necessarily willing to make that
12 representation.

13 CMSR. BAILEY: Uh-huh.

14 CHAIRMAN HONIGBERG: And, so, is
15 there any further discussion regarding the motion
16 of the Bilodeaus?

17 *[No verbal response.]*

18 CHAIRMAN HONIGBERG: Seeing none,
19 all in favor say "aye"?

20 *[Multiple members indicating*
21 *"aye".]*

22 CHAIRMAN HONIGBERG: Any opposed?

23 *[No verbal response.]*

24 CHAIRMAN HONIGBERG: All right.

1 The "ayes" have it.

2 MR. IACOPINO: The next request was
3 Jo Ann Bradbury's. Ms. Bradbury spoke to you
4 about the bridge and the maintenance that she's
5 responsible to on Thurston Pond Road, in
6 accordance with her agreement with the Town of
7 Deerfield.

8 CHAIRMAN HONIGBERG: All right.
9 Any discussion of Ms. Bradbury's motion or
10 request?

11 Commissioner Bailey.

12 CMSR. BAILEY: I fully expect that
13 the Applicant will pay for any damage to that
14 bridge and road. I can't -- I can't envision a
15 situation where they wouldn't. But, if they
16 didn't, I think then she would have, I guess, a
17 right to raise her voice again and provide some
18 evidence that that's not the case.

19 CHAIRMAN HONIGBERG: Other
20 thoughts? Ms. Weathersby.

21 MS. WEATHERSBY: Just that the
22 route of this project passes over a good number of
23 private driveways and private roads. And, I, too,
24 fully expect the Applicant to repair any damage to

1 the roads. So, while Ms. Bradbury may be unique
2 in Deerfield, I think that her concern is shared
3 along the way, and it makes her less unique.

4 CHAIRMAN HONIGBERG: Any other
5 thoughts?

6 *[No verbal response.]*

7 CHAIRMAN HONIGBERG: All right. If
8 you are in favor of granting Ms. Bradbury
9 individual status and removing her from the group
10 that she's been put in, you'll vote "yes". If
11 you're opposed to that and want to leave her in
12 the group, you'll vote "no".

13 All in favor say "yes"?

14 CHAIRMAN HONIGBERG: All opposed
15 say "no"?

16 *[Multiple members indicating "no".]*

17 CHAIRMAN HONIGBERG: The noes have
18 it.

19 MR. IACOPINO: Okay. The next one
20 may get a little complicated. This is the request
21 of a number of Deerfield abutters on the
22 right-of-way that have asked that they be
23 designated as a separate group, and a subsequent
24 consideration that you might want to have with

1 respect to this consideration is what then becomes
2 of Ms. Bradbury and Ms. Lee, who also testified
3 here, who I believe is also a Deerfield resident.
4 Oh, she's Northfield?

5 MS. LEE: I'm from Northfield.

6 CHAIRMAN HONIGBERG: She's -- yes.

7 MR. IACOPINO: I'm sorry. Okay.
8 Doesn't affect Ms. Lee then. And this is the
9 motion of Bruce Adami and Robert Cote, Mr. and
10 Mrs. Berglund, Kevin and Lisa Cini, Rebecca
11 Hutchinson, --

12 *[Court reporter interruption.]*

13 CHAIRMAN HONIGBERG: Slow down.
14 Slow down.

15 MR. IACOPINO: -- sorry -- Torin
16 and Brian Judd, Eric and Sandra Lahr, and Ms.
17 Menard for the Forest Family Limited Partnership
18 and for Peter Menard and Anne Burkett **[Burnett?]**.
19 And this is a request that they be designated as a
20 separate group. Which would mean the breaking up
21 of the abutting property owners from Ashland to
22 Deerfield, which would have, essentially, the
23 folks from Deerfield peeled out as a separate --
24 as a separate group.

1 CHAIRMAN HONIGBERG: Earlier we
2 split Municipal Group 3, Concord, Pembroke,
3 Deerfield, --

4 MR. IACOPINO: Canterbury?

5 CHAIRMAN HONIGBERG: Yes.
6 Canterbury, and the southern and the northern
7 towns, the towns north of Canterbury in Group 3
8 were in a different group. Is that correct?

9 MR. IACOPINO: Yes.

10 CHAIRMAN HONIGBERG: And, so, here
11 one might make the same -- the same move, that
12 would -- because what we also have in this group,
13 don't we have the McKenna's Purchase people?

14 MR. IACOPINO: McKenna's Purchase;
15 Mr. and Mrs. Kucman, who are from Concord; Mr. and
16 Mrs. Pullen, who are from Canterbury; Ms. Lee, who
17 is from Northfield; and the remaining -- Ms. Bonk
18 is from -- I believe she owns property next to
19 Bear Brook State Park, in Allenstown; and
20 Ms. Currier, I forget where she's from, but she's
21 from in between Ashland and Deerfield, apparently.
22 So that there would be those people, it's not as
23 clean a division as the municipal division is, but
24 it's clearly a division where those who are in

1 Deerfield will be separated out, and the majority
2 of folks in this group -- grouping are from
3 Deerfield.

4 CHAIRMAN HONIGBERG: Any discussion
5 of this request, understanding the other things
6 we've already done and the other people who are
7 in -- who are currently in this group?

8 Commissioner Bailey.

9 CMSR. BAILEY: Is this the group
10 that there were a lot of petitions that they be
11 joined together or is this --

12 MR. IACOPINO: Yes. This was --
13 the unusual thing about this group was that there
14 was a group of intervenors who got together and
15 said "we would like to be joined together as a
16 separate group." And it's roughly half of the
17 group that was initially formed by the original
18 Order, and it's all folks from Deerfield, in this
19 group originally, most of the folks were from
20 Deerfield.

21 You've already dealt with the
22 Bilodeaus. And, so, there are one, two, three,
23 four, five, six, seven -- eight different either
24 individuals or parties who are seeking to be

1 grouped together. So, this was the one, yes, that
2 was unusual, in that it said "we're okay with
3 being grouped together, and we would like to be
4 this group."

5 CMSR. BAILEY: And, it's a pretty
6 significant group.

7 MR. IACOPINO: Yes. It's seven
8 folks, out of about 16, I think.

9 MR. WAY: Are both of Jeanne
10 Menard's groupings in Deerfield?

11 MR. IACOPINO: Yes. I believe they
12 are.

13 MS. MENARD: Yes.

14 MR. IACOPINO: Yes.

15 CHAIRMAN HONIGBERG: Ms. Menard
16 confirms that.

17 MS. MENARD: Yes.

18 MR. WAY: So, once again, in
19 response to Ms. Lee's question, who will be left
20 over in her group, if we split it up as we did in
21 Municipal Group 3?

22 MR. IACOPINO: The remaining group
23 would consist of Carol Currier; Mary Lee; Craig
24 and Corinne Pullen, who live in Canterbury; the

1 McKenna's Purchase Unit Owners Association; Taras
2 and Marta Kucman, who live in Concord; Kelly
3 Normandeau, I don't know where Kelly lives; Laura
4 Bonk, who owns property, I'm not sure she resides,
5 next to Bear Brook State Park, in Allenstown.
6 That would be the remaining group, because the
7 Bilodeaus have already been separated.

8 And the question would be -- there
9 would be a question about Ms. Bradbury. But I
10 guess you all would have to vote to put her in
11 that group.

12 CHAIRMAN HONIGBERG: Ms. Bradbury,
13 did you want to say something?

14 MS. BRADBURY: Yes. Thank you. I
15 would like to be added to that group in Deerfield.

16 CHAIRMAN HONIGBERG: I think that
17 answers that question.

18 MR. IACOPINO: So, you would have
19 one group that's a little bit larger, one group
20 that's a little bit smaller, and separated
21 geographically. Basically, taking the folks that
22 are at the terminus of the -- at least the major
23 part of the line into one group, and leaving the
24 folks from the Concord area and surroundings,

1 Canterbury, Northfield, Allenstown, in another
2 group.

3 CHAIRMAN HONIGBERG: Commissioner
4 Bailey.

5 CMSR. BAILEY: Would it make sense
6 to group the Deerfield people who requested to be
7 their own separate group in with the Bilodeaus?
8 Could we do that?

9 MR. IACOPINO: I think what you
10 just did was you granted the Bilodeaus limited
11 intervention --

12 CMSR. BAILEY: Oh, it's limited.

13 MR. IACOPINO: -- for the purposes
14 of their own property.

15 CMSR. BAILEY: Right.

16 MR. IACOPINO: So, I don't know
17 that that would advance the ball, so to speak.

18 CMSR. BAILEY: Okay. All right.
19 Then, I move that we separate this group out into
20 its own group. I appreciate the fact that they
21 all willingly worked together to form a reasonable
22 group. And, so, I so move that they be their own
23 separate group.

24 CHAIRMAN HONIGBERG: Mr. Wright?

1 DIR. WRIGHT: Would we include
2 Ms. Bradbury in that group then?

3 CHAIRMAN HONIGBERG: Yes. All
4 right. Is there a second for Commissioner
5 Bailey's motion?

6 DIR. WRIGHT: I would second.

7 CHAIRMAN HONIGBERG: Any further
8 discussion?

9 MS. WEATHERSBY: Just one point. I
10 just pulled up Ms. Normandeau's submittal, and she
11 lives in Concord. So, she would be grouped with
12 the folks who are left behind.

13 CHAIRMAN HONIGBERG: All right.
14 Any further discussion?

15 *[No verbal response.]*

16 CHAIRMAN HONIGBERG: Seeing none,
17 all in favor say "aye"?

18 *[Multiple members indicating*
19 *"aye".]*

20 CHAIRMAN HONIGBERG: Any opposed?

21 *[No verbal response.]*

22 CHAIRMAN HONIGBERG: The "ayes"
23 have it.

24 MR. IACOPINO: Okay. The next

1 petition in the list is listed as number "21",
2 the petition of Alexandra Dannis and James
3 Dannis --

4 CHAIRMAN HONIGBERG: Wait. We've
5 got to do McKenna's Purchase.

6 MS. KLEINDIENST: Yes.

7 CHAIRMAN HONIGBERG: We have to do
8 McKenna's Purchase right now.

9 MR. IACOPINO: Okay.

10 CHAIRMAN HONIGBERG: Because we're
11 in the same -- we're in the same group, we need to
12 deal with that group.

13 MR. IACOPINO: It's number "28" on
14 my list. They're requesting single party status,
15 arguing that they have 148 individual property
16 owners who have a substantial interests, and
17 therefore should be granted full party status
18 individually.

19 CHAIRMAN HONIGBERG: And, as we
20 have left the group that they are in, we've peeled
21 out some number, and I'm not finding your list
22 right here.

23 MR. IACOPINO: It's seven.

24 CHAIRMAN HONIGBERG: Oh, here it

1 is.

2 MR. IACOPINO: These ones with the
3 black marks next to them are the "Deerfield Group"
4 now we'll call them. So, that leaves -- they're
5 in a group now with Ms. Currier, Ms. Lee, the
6 Pullens, Mr. and Mrs. Kucman, Kelly Normandeau,
7 and Laura Bonk.

8 CHAIRMAN HONIGBERG: Any thoughts
9 on the McKenna's Purchase situation?

10 Commissioner Bailey.

11 CMSR. BAILEY: It seems like their
12 group has been significantly reduced. I guess I'm
13 wondering what the impact of the McKenna's
14 Purchase group would have on the remaining one,
15 two, three -- six people in that group that aren't
16 part of McKenna's Purchase? And, if we should be
17 concerned about that? Or, I mean, some of them
18 are from Concord. Where are the Pullens from, do
19 we know?

20 CHAIRMAN HONIGBERG: Canterbury.
21 So, basically, we'd be leaving one from
22 Northfield, one from Canterbury, two from Concord,
23 and one who owns property in Allenstown, near Bear
24 Brook.

1 MR. WAY: Are you including the
2 Cinis in that? Kevin and Lisa Cini?

3 MR. IACOPINO: They were included
4 in the Deerfield Group.

5 MR. WAY: Deerfield? Okay.

6 CMSR. BAILEY: Where is Ms. Currier
7 from?

8 MR. IACOPINO: I'm not sure. I
9 think she's Concord, but I'm not sure.

10 CHAIRMAN HONIGBERG: No. I think
11 she's north. This list is north and south.

12 Ms. Weathersby.

13 MS. WEATHERSBY: So, my thoughts
14 are that the McKenna's Purchase homeowners are
15 greatly affected by this project. That said, the
16 other folks that are in what are now grouped with
17 them, the line will pass either on their property
18 or next to their property, and may also be
19 profoundly affected. So, in some ways, their --
20 the issue is quite similar. And I think with the
21 group being so much smaller now, that those issues
22 can be better articulated and presented.

23 Actually, I would be in favor of leaving the
24 McKenna's Purchase group -- Purchase Unit Owners

1 Association in that same group in which it is
2 placed now.

3 CHAIRMAN HONIGBERG: Any other
4 thoughts or discussion of the McKenna's Purchase
5 request?

6 *[No verbal response]*

7 CHAIRMAN HONIGBERG: All right.
8 So, we'll need to vote on that. If you are in
9 favor of granting the McKenna's Purchase motion to
10 remove itself from the Abutting Property Owners
11 Group that it's in and making its own group up,
12 it's own party or it's own individual participant,
13 you'll be voting "yes". If you are opposed to
14 that, you'll be voting "no".

15 All in favor say "yes"?

16 *[No verbal response.]*

17 CHAIRMAN HONIGBERG: All opposed
18 say "no"?

19 *[Multiple members indicating "no".]*

20 CHAIRMAN HONIGBERG: The noes have
21 it.

22 MR. IACOPINO: I was going to go
23 back to the list again, and then go to number 21,
24 which is Alexandra Dannis and James Dannis. They

1 are in the Non-Abutting Property Owners Group from
2 Clarksville to Bethlehem, which is on Page --

3 MR. OLDENBURG: Fifty.

4 MS. WEATHERSBY: Fifty.

5 MR. IACOPINO: Fifty. Thank you.

6 CHAIRMAN HONIGBERG: Well, don't we
7 have multiple motions from non-abutting property
8 owners in the --

9 MR. IACOPINO: We do.

10 CHAIRMAN HONIGBERG: -- what is, in
11 effect, --

12 MR. IACOPINO: We do.

13 CHAIRMAN HONIGBERG: And we've
14 already split Municipal Group 1 in half. Does it
15 make sense to do the same with the abutting and
16 non-abutting property owners who are in that
17 northern part of the line?

18 MR. IACOPINO: So you know, those
19 who have filed for, in that group, who have filed
20 petitions for review are the Moore group; the
21 Kaufman group, and that includes the Bradley
22 Thompson, John Petrofsky, and the Dixville
23 Notch-Harvey Swell Location residents; the Orzeks;
24 Linda Upham-Bornstein; Rebecca Weeks Sherrill More

1 and Weeks Lancaster Trust; Frederic Fitts; the
2 Dannises; Mr. Van Houten; and Mr. Dodge.

3 So, those are the ones in that
4 group that have filed a petition for review.

5 CHAIRMAN HONIGBERG: Well, how
6 similar is Mr. Thompson and his group and how
7 similar is his situation to what we just did with
8 the people in Deerfield, and then refused to do
9 with the people in McKenna's Purchase?

10 Commissioner Bailey.

11 CMSR. BAILEY: I believe the Weeks'
12 motion says that they could live with a grouping
13 of southern -- a northern and southern group, like
14 we did for Municipal Group 1, and make Pittsburg,
15 Clarksville and Stewartstown non-abutters one
16 group, and those south of that another group. And
17 I think we had some others that kind of agreed to
18 that, the Fitts --

19 MR. IACOPINO: Just to be clear,
20 the Weeks Trust does, in the first instance,
21 requests that it be granted individual
22 intervention status.

23 CMSR. BAILEY: Yes.

24 MR. IACOPINO: However, it does

1 suggest that, in the alternative, that the group
2 be divided between Pittsfield [Pittsburg?],
3 Clarksville, and Stewartstown property owners, and
4 Dummer, Stark, Northumberland, Lancaster,
5 Whitefield, Dalton, and Bethlehem property owners.

6 CMSR. BAILEY: These are
7 non-abutting property owners, though, right?

8 MR. IACOPINO: That's my belief,
9 except for Mr. Van Houten, who has apparently
10 purchased property that abuts after -- I don't
11 know if it actually occurred after our last order
12 or was in the process of closing or whatever it
13 was.

14 CMSR. BAILEY: I think making these
15 groups a little bit smaller, like we did with the
16 municipal groups, is a good idea. But I wouldn't
17 go any farther than that.

18 CHAIRMAN HONIGBERG: Commissioner
19 Bailey moves that both the abutting and
20 non-abutting property owners in the equivalent of
21 Municipal Group 1 be split the same way we split
22 Municipal Group 1. Have I got that right,
23 Commissioner Bailey?

24 CMSR. BAILEY: Yes, you do.

1 CHAIRMAN HONIGBERG: Is there a
2 second?

3 MR. WAY: I'll second that.

4 CHAIRMAN HONIGBERG: All right. Is
5 there further discussion?

6 Ms. Weathersby.

7 MS. WEATHERSBY: Nope. I'm just
8 getting ready to vote.

9 MR. IACOPINO: Okay.

10 CHAIRMAN HONIGBERG: We still need
11 to vote. So, don't jump the gun on me,
12 Mr. Iacopino.

13 MR. IACOPINO: Not jumping the gun,
14 trying to figure out who's who then.

15 CHAIRMAN HONIGBERG: All right. Is
16 there any further discussion?

17 Mr. Oldenburg.

18 MR. OLDENBURG: Not to complicate
19 it, but do we know where all these people live,
20 and whether that's an equal divide? Or is 90
21 percent of them going to be in one group and there
22 will only be two left in the other group? Do we
23 know how it divides out?

24 MR. IACOPINO: I'll tell you, we

1 have the information, it's just not readily handy,
2 because I don't have them listed by their towns.

3 MR. OLDENBURG: I mean, we
4 specifically didn't do that for the
5 Deerfield/Concord groups because it didn't split
6 out right.

7 CHAIRMAN HONIGBERG: Commissioner
8 Bailey.

9 CMSR. BAILEY: I wouldn't say that
10 that's not why we did Deerfield and Concord. I
11 think, in this case, because the geography is so
12 large, that, in order for these people to have a
13 reasonable chance of working together, that's why
14 I would support splitting it out. And, if it ends
15 up that there are five in one group and twenty in
16 the other group, it still makes it easier for
17 those groups, because of the geographic location.

18 MR. OLDENBURG: Okay.

19 CMSR. BAILEY: That was my thought.

20 MR. OLDENBURG: Yes.

21 CHAIRMAN HONIGBERG: Is there
22 further discussion?

23 *[No verbal response.]*

24 CHAIRMAN HONIGBERG: Seeing none,

1 all in favor say "aye"?

2 *[Multiple members indicating*
3 *"aye".]*

4 CHAIRMAN HONIGBERG: Any opposed?

5 *[No verbal response.]*

6 CHAIRMAN HONIGBERG: The "ayes"
7 have it.

8 MR. IACOPINO: So, just so I have
9 it straight, we're going to take the Non-Abutting
10 Property Owners Group from Clarksville to
11 Bethlehem and separate the folks in the three
12 northern towns from the balance of the group?

13 CHAIRMAN HONIGBERG: Abutting
14 towns -- Abutting Intervenors Group.

15 MR. IACOPINO: I'm sorry?

16 CHAIRMAN HONIGBERG: That motion
17 covered both Abutting and Non-Abutting.

18 MR. IACOPINO: So, we're going to
19 do that within each group?

20 CHAIRMAN HONIGBERG: Yes.

21 MR. IACOPINO: Okay. There are
22 still some requests amongst folks in there to be
23 individual. Should I take as though those motions
24 are denied as a result of that motion as well?

1 CHAIRMAN HONIGBERG: Let's take a
2 vote. With respect to the individual abutters and
3 non-abutters in the towns that make up -- made up
4 Municipal Group 1 as it was set forth in the
5 Order, if you are in favor of any of the motions
6 to make those individual parties, you'll be voting
7 "yes". If you're opposed, you'll be voting "no".

8 All in favor say "yes"?

9 *[No verbal response.]*

10 CHAIRMAN HONIGBERG: All opposed
11 say "no"?

12 *[Multiple members indicating "no".]*

13 CHAIRMAN HONIGBERG: The noes have
14 it.

15 *(Short pause.)*

16 CHAIRMAN HONIGBERG: All right. I
17 think, in an effort to make this go quicker, we've
18 acted on a group we should not have acted on. I'm
19 going to ask for a motion to reconsider the prior
20 vote, with the purpose, after that motion, to deal
21 with the abutting property owners in that North
22 Group separately. So can I have a motion to
23 reconsider the prior vote?

24 CMSR. BAILEY: I move to reconsider

1 the prior vote.

2 CHAIRMAN HONIGBERG: Is there a
3 second?

4 MR. WAY: Second.

5 CHAIRMAN HONIGBERG: All in favor
6 say "aye."

7 *[Multiple members indicating*
8 *"aye."]*

9 CHAIRMAN HONIGBERG: Opposed?

10 [No verbal response]

11 CHAIRMAN HONIGBERG: All right.

12 The abutting property owners in that Municipal
13 Group 1 we split in the Order by "above ground"
14 and "underground." So it's a different split for
15 abutting property owners. So if you wanted to
16 leave that as it was, we would change the prior
17 motion to only deal with non-abutting property
18 owners, as I think Attorney Iacopino was trying to
19 do and I stupidly changed it.

20 So, who made that motion? I don't
21 remember.

22 CMSR. BAILEY: I did.

23 CHAIRMAN HONIGBERG: Would you be
24 willing to amend your motion so that it only

1 applies to non-abutting property owners?

2 CMSR. BAILEY: Yes, I would.

3 CHAIRMAN HONIGBERG: I don't
4 remember who seconded it.

5 MR. WAY: I seconded it.

6 CHAIRMAN HONIGBERG: Would you be
7 willing to change the motion to just deal with
8 non-abutting property owners?

9 MR. WAY: I will.

10 CHAIRMAN HONIGBERG: All right.
11 With that, is there any further discussion?

12 [No verbal response]

13 CHAIRMAN HONIGBERG: Seeing none,
14 all in favor say "aye."

15 *[Multiple members indicating*
16 *"aye."]*

16 CHAIRMAN HONIGBERG: Any opposed?

17 [No verbal response]

18 MR. IACOPINO: That was my second
19 question, as to whether or not I should take that
20 as being a denial of each of those individual
21 requests to be an individual intervenor.

22 CHAIRMAN HONIGBERG: And we dealt
23 with that in a vote that was in between the prior
24 two actions, so all of those specific requests

1 were rejected.

2 MR. IACOPINO: Okay. Thank you.

3 Okay. The next one then would be
4 Mr. Cunningham's motion on behalf of Kevin Spencer
5 and Mark Lagasse, d/b/a Lagaspence Realty.

6 MR. ROTH: Excuse me, Mr. Chairman.
7 Before you go there, for those of us sort of
8 following at home, what was done with the abutters
9 group in the -- or the two abutters groups that
10 were previously divided by "above ground" and
11 "below ground"? Anything?

12 CHAIRMAN HONIGBERG: Nothing.

13 MR. ROTH: So all of the requests
14 of those individuals to be separated out of that
15 group, if there were any, were denied?

16 MR. IACOPINO: We haven't gotten to
17 them yet. The only ones who were denied were the
18 Non-Abutting Property Owners from Clarksville to
19 Bethlehem, on Page 50. But what we are doing with
20 them is separating them into two groups. We sort
21 of jumped over the ones on Page 49.

22 CHAIRMAN HONIGBERG: Mr. Roth, no
23 two lists are in the same order.

24 MR. ROTH: That's the conclusion,

1 yes.

2 CHAIRMAN HONIGBERG: But I think
3 Mr. Cunningham's clients are abutters in that
4 group, so we're starting with that group right
5 now.

6 MR. ROTH: All right.

7 CHAIRMAN HONIGBERG: Don't
8 apologize. You're no more or less confused than
9 anybody else.

10 MR. IACOPINO: Before we do that,
11 did anybody think that they wanted to deal with
12 this group, the overhead-portion abutting property
13 owners, Mr. Spencer and Mr. Lagasse, on a more
14 generic basis than we did with the last, or do we
15 just want to deal with each petition individually?

16 CHAIRMAN HONIGBERG: Well, refresh
17 our memories. Who are the abutting property
18 owners in that group who have filed?

19 MR. IACOPINO: We're at the bottom
20 of Page 49 in the order. So, Eric and Margaret
21 Jones; Elmer Lupton and Claire Lupton; Mary Boone
22 Wellington; Bruce and Sondra Brekke; Eric, Joshua
23 and Elaine Olson; Kevin Spencer; Rodrigue and
24 Tammy Beland; Susan Percy for the Percy Summer

1 Club; Lagasse and Spencer for Lagaspence; Robert
2 Heath; James and Judy Ramsdell; Charles and
3 Cynthia Hatfield; Donald and Betty Gooden; and Tim
4 and Brigitte White. That's the individuals in
5 that particular intervenor group. Within that
6 group we have one, two... nine petitions for
7 review.

8 CHAIRMAN HONIGBERG: All right.
9 Does anyone want to discuss it as a group, or do
10 you want it to take it individually?

11 MR. IACOPINO: Just to get the
12 conversation going here, the way the original
13 Order was set up, it was to take the folks in the
14 northern part of the state and then to separate
15 them based upon whether the line was proposed to
16 go underground or above ground in their particular
17 area.

18 CHAIRMAN HONIGBERG: I know we've
19 heard today from Mr. Cunningham, Ms. Percy, Mr.
20 Brekke. I'm not sure who else on that list we
21 heard from. I know Mr. Cunningham was of the view
22 we should just tell people to go off and be
23 intervenors and they'll sort themselves out. We
24 have not pursued that option. Does anybody think

1 we should?

2 [No verbal response]

3 CHAIRMAN HONIGBERG: I will tell
4 you that there has been informal discussion about
5 the idea of saying we're going to allow 30 groups;
6 you decide what they're going to be and just see
7 what happens.

8 MR. IACOPINO: Just as a reference
9 point, I believe the Olsons are represented by
10 Attorney Baker, when you think back to the
11 pleadings that you've reviewed.

12 CHAIRMAN HONIGBERG: Right.
13 Mr. Baker -- Attorney Baker has a number of
14 clients, and he's filed something with us
15 informing us that his papers conveyed all the
16 information he felt he needed to convey.

17 All right. Is anybody interested
18 in further discussion of the motions that were
19 filed by members of this group?

20 [No verbal response]

21 CHAIRMAN HONIGBERG: I get the
22 sense that people are not ready to do this.
23 Commissioner Bailey.

24 CMSR. BAILEY: I don't think I'm

1 ready to do this. Maybe we could postpone this
2 one to a break.

3 CHAIRMAN HONIGBERG: All right.
4 We'll pick this one up after the next break, which
5 won't be long from now, and also won't be long.
6 So we're going to put aside the abutting property
7 owners from that northern group for now.

8 What's the next thing we can do,
9 Mr. Iacopino?

10 MR. IACOPINO: We can go above that
11 to the requests of the abutting property owners in
12 that area of the underground portion of the line
13 on Page 49. There were three petitions for
14 review: One filed by Jon and Lori Levesque, one
15 filed by Brad and Daryl Thompson, one filed by
16 David Schrier. And this is a group that consists
17 in total of Charles and Donna Jordan, Sally
18 Zankowski, Jon and Lori Levesque, Roderick and
19 Donna McAllaster, Lynne Placey, Arlene Placey,
20 Brad and Daryl Thompson, David Schrier, and Nancy
21 Dodge.

22 CHAIRMAN HONIGBERG: All right.
23 Anyone have any thoughts on this group?
24 Commissioner Bailey.

1 CMSR. BAILEY: Well, from our notes
2 here, it looks like Mr. Thompson suggests that we
3 separate this group -- no, there's no -- is Mr.
4 Thompson in both the abutting and non-abutting
5 groups?

6 MR. IACOPINO: I think we have a
7 Brad Thompson and another Thompson.

8 CHAIRMAN HONIGBERG: Christopher
9 Thompson.

10 CMSR. BAILEY: Okay. So I'm
11 looking at the wrong --

12 MR. IACOPINO: Daryl Thompson.
13 Iryna there somewhere? Could you
14 come up here for a minute?

15 MR. THOMPSON: I can clarify if
16 you'd like.

17 CHAIRMAN HONIGBERG: Mr. Thompson,
18 why don't you come forward and clarify.

19 MR. THOMPSON: Bradley Thompson,
20 Stewartstown, New Hampshire. I represent two
21 different groups. The one that you've already
22 voted on is the non-abutters, which is from
23 Pittsburg all the way to Bethlehem. And you voted
24 to separate them.

1 Among -- we didn't make it very
2 clear when we put in our original application --
3 or intervention, but there were both abutters and
4 non-abutters in that group. And it really didn't
5 make too much difference, so we didn't have a
6 problem with it because all are here for the same
7 reason: Quality of life, real estate value, so on
8 and so forth.

9 The abutters group, I believe it's
10 eight people, or eight including some couples --
11 the Placeys, Rod McAllaster -- that group is there
12 for the one purpose of talking about the middle of
13 the road, the ownership of who owns under the
14 roads, the possibility of eminent domain. And
15 that group, I thought we were fine and we accepted
16 it the way it is. I didn't realize anybody put in
17 for intervention or review. So, to me, that one
18 should stay the way it is. And I would suggest
19 that the topic of conversation subject at the
20 hearing is concerning the ownership of the road.

21 CHAIRMAN HONIGBERG: Thank you, Mr.
22 Thompson.

23 CMSR. BAILEY: I have one question.

24 CHAIRMAN HONIGBERG: Yes,

1 Commissioner Bailey.

2 CMSR. BAILEY: I think Attorney
3 Iacopino said that we have a motion in the
4 abutting group from Brad and Daryl Thompson. Is
5 that you?

6 MR. THOMPSON: Daryl is my wife.

7 CMSR. BAILEY: Daryl is your wife?
8 Okay. And you made a motion in the abutting
9 group, or you just want to combine the abutters
10 with --

11 MR. THOMPSON: The only thing --
12 (Court Reporter interrupts.)

13 CMSR. BAILEY: Or did you make a
14 motion to combine the abutters and the
15 non-abutters, north and south of the Wagner
16 Forest?

17 MR. THOMPSON: No. No, I think the
18 only thing in that group was to rectify that we
19 weren't from Whitefield, that we were from
20 Stewartstown.

21 CMSR. BAILEY: Oh, okay. So then
22 we don't really have a motion from you in this
23 abutting group.

24 MR. THOMPSON: Everything's good,

1 as far I know.

2 CMSR. BAILEY: Thank you.

3 MR. IACOPINO: I think what's
4 happened is there's a motion that was filed by the
5 Belands, a number of people from different groups,
6 including Mr. Schrier, including some of the
7 Olsons, that are all represented, but they're from
8 different groups represented by Attorney Baker.
9 That's what's confusing us here.

10 CHAIRMAN HONIGBERG: And there's a
11 different Thompson.

12 MR. IACOPINO: Yeah, there's a
13 Christopher Thompson in that group.

14 CMSR. BAILEY: But the Belands and
15 the Olsons are in the group that we said, I think,
16 we were going to review over the break.

17 MR. IACOPINO: Yes. Right.

18 CMSR. BAILEY: So now we're in the
19 Abutting Property Owners, Clarksville to Dalton --

20 MR. IACOPINO: Maybe I can explain
21 it this way: Mr. and Mrs. Beland, David Schrier,
22 Mr. Moore, Dunlap, Shawn Patrick Brady,
23 Christopher Thompson, Erica Lane and Joshua Olson
24 are all in separate groups under the order. They

1 have all moved together to be made into their own
2 group, and that motion was filed by Attorney
3 Baker. So that's -- so we got folks from the
4 Northern Abutting Property Owners, the Underground
5 Portion, from the Overhead Portion, and from the
6 non-abutters that are a little bit south of there,
7 from Clarksville to Bethlehem, which we've already
8 split, asking to be grouped as a single group, and
9 they share the same lawyer.

10 CHAIRMAN HONIGBERG: I sense
11 lagging abilities. We're going to take a short
12 break and be back as quickly as we can.

13 ***(Whereupon a brief recess was taken***
14 ***at 4:53 p.m., and the hearing***
15 ***resumed at 5:04 p.m.)***

16 CHAIRMAN HONIGBERG: People have
17 had a chance to get some fresh air, make
18 themselves a little more alert. So let's see if
19 we can get through these interventions because we
20 do have a couple of items of business we actually
21 have to get through tonight.

22 Mr. Iacopino.

23 MR. IACOPINO: Well, the question
24 is, Mr. Chairman, if you wanted to take up the

1 grouping suggested by Attorney Baker consisting of
2 his clients and then move on to the other folks in
3 the groupings, one of Abutting Properties,
4 Clarksville to Dalton, Underground, and then the
5 Overhead-Portion Abutters. That's the way I would
6 probably recommend that you deal with it, only
7 because that's the order it goes in my list.

8 CHAIRMAN HONIGBERG: Well, I mean,
9 we put the groups together. We have largely kept
10 to those groups, even as we've made changes. We
11 may have split them somewhat, but we haven't
12 rearranged them so that we're putting abutters and
13 non-abutters together or crossing lines to combine
14 people from different geographic areas for the
15 most part. I think the Order structured it
16 appropriately. Certainly there have been
17 appropriate tweaks made to here. And my
18 inclination would be to leave the people who made
19 the request to be peeled out in because they have
20 the same lawyer. My thoughts would be to deny
21 those requests and leave them in the groups that
22 they're in. But I'm just one vote, so... I'd like
23 for somebody to respond or take a different
24 position or -- let's get this issue resolved.

1 Commissioner Bailey.

2 CMSR. BAILEY: I agree, Mr.
3 Chairman. I think that the groups that were
4 established in this area in the Order are logical,
5 and I don't think that we should change it at this
6 point.

7 CHAIRMAN HONIGBERG: Anyone have
8 any other thoughts they want to offer up in this
9 area?

10 MR. WAY: I agree as well.

11 CHAIRMAN HONIGBERG: All right. So
12 we'll need to -- can we dispose of them with one
13 action, Mr. Iacopino, or do you want to take them
14 one at a time?

15 MR. IACOPINO: I think what you
16 would do is to deal with Mr. Baker's motion. And
17 then once you've dealt with that motion, that
18 deals with the people who are from different
19 groups trying to be grouped together. And then we
20 would go into the individuals who have actually
21 asked to become individual intervenors in those
22 groups that are not part of Mr. Baker's motion.

23 CHAIRMAN HONIGBERG: All right.
24 Let's take Mr. Baker's motion. If you are in

1 favor of granting Mr. Baker's motion and taking
2 his clients and putting them in one group, you
3 would vote "yes." If you are opposed to that you
4 will vote "no."

5 All in favor say "Yes."

6 [No verbal response]

7 CHAIRMAN HONIGBERG: All opposed
8 say "no."

9 *[Multiple members indicating "no."]*

10 CHAIRMAN HONIGBERG: The noes have
11 it.

12 MR. IACOPINO: Okay. I would then
13 suggest that we go to the petition of Jon and Lori
14 Levesque for review. They are in the Abutting
15 Property Owners from Clarksville to Dalton on the
16 original order, on Page 49 in my notes.

17 CHAIRMAN HONIGBERG: They're in 33.

18 MR. IACOPINO: Thirty-three. Thank
19 you. One of the things that the Levesques ask is
20 that the group that they're in be split in half,
21 to include Pittsburg, Clarksville, Stewartstown as
22 one, and Dummer, Stark and Northumberland down to
23 Bethlehem, the other.

24 CHAIRMAN HONIGBERG: And it's

1 abutting properties along the underground portion
2 in those towns; correct?

3 MR. IACOPINO: I believe so, yes.

4 CHAIRMAN HONIGBERG: All right.

5 Any thoughts?

6 MS. WEATHERSBY: I'm confused. I
7 thought it was already split that way.

8 MR. IACOPINO: No. There is a
9 group on the underground from Clarksville to
10 Dalton, and then there is a group that are on the
11 overhead portion of the Project from Dummer down
12 to --

13 CHAIRMAN HONIGBERG: The
14 Clarksville to Dalton stretch, which is the long
15 stretch that we split for other purposes, was
16 already split, but a different way. It was split
17 above ground and underground. And this request
18 would further split it geographically again.

19 MR. IACOPINO: For the underground
20 folks.

21 CHAIRMAN HONIGBERG: That's the
22 Levesques' request.

23 Commissioner Bailey.

24 CMSR. BAILEY: I don't think that's

1 a good reason to split this group geographically
2 if it's -- I think that the underground folks, I
3 think -- and I'm not a lawyer -- but I think their
4 issue really belongs in a court. So, to further
5 split them so that we have two groups of
6 underground arguing the same thing, I personally
7 think that probably should go to a court. I don't
8 think that that helps the process.

9 CHAIRMAN HONIGBERG: Any other
10 thoughts?

11 [No verbal response]

12 CHAIRMAN HONIGBERG: All right. If
13 no one has any other thoughts, let's deal with the
14 Levesques' motion. If you are in favor of
15 splitting the underground abutting group
16 geographically as suggested by them, you will be
17 voting "yes." If you are opposed to that you'll
18 be voting "no."

19 All in favor say "Yes."

20 [No verbal response]

21 CHAIRMAN HONIGBERG: All opposed,
22 "no."

23 [*Multiple members indicating "no."*]

24 CHAIRMAN HONIGBERG: The noes have

1 it.

2 MR. IACOPINO: Next would be a
3 petition from Brad and Daryl Thompson. I'm not
4 sure if this is actually a petition for review.
5 This was a correction of addresses.

6 And then there's a petition of Mr.
7 Schrier.

8 CHAIRMAN HONIGBERG: He's part of
9 the Baker group?

10 MR. IACOPINO: Yes, he's part of
11 the Baker group. So you've already dealt with
12 this petition.

13 We would then move on to the
14 overhead portion of the Project from Dummer,
15 Stark, Northumberland, Whitefield and Dalton.
16 These are Abutting Intervenor on the Overhead
17 Portion of the Project. And first one there is
18 the Joneses.

19 CHAIRMAN HONIGBERG: Thirty-nine
20 I'm told.

21 MR. IACOPINO: The Joneses are
22 looking for individual intervention status, but
23 also complain about the size of the group being
24 impractical. They also had some concerns about

1 the terminology of "abutters", "hosts" and other
2 issues. So in the first instance, it's whether or
3 not you want to grant them individual intervention
4 status.

5 CHAIRMAN HONIGBERG: Any thoughts
6 on that?

7 Commissioner Bailey.

8 CMSR. BAILEY: Once again, I think
9 some of the arguments in this petition would be
10 better sorted out in a court. And so for the
11 issues that we have any control over, I don't see
12 why they should be separated out.

13 CHAIRMAN HONIGBERG: Anyone have
14 any other or different thoughts?

15 [No verbal response]

16 CHAIRMAN HONIGBERG: I think my own
17 view is that their substantive arguments are not
18 too different from what most others have argued
19 about having to be in a group in the first place.
20 I know they also complained about the terminology
21 of "abutter" as opposed to "host" or some other
22 status. But one way or another, they've been
23 granted intervenor status because it affects them
24 in some significant way, and they have the right

1 to participate in accordance with the Order. So
2 my inclination would be to deny their request.
3 Any other thoughts?

4 [No verbal response]

5 CHAIRMAN HONIGBERG: All right.
6 Seeing none, if you're in favor of the Jones
7 request to be made individual participants you'll
8 be voting "yes." If you're opposed to that you'll
9 be voting "no."

10 All in favor say "yes."

11 [No verbal response]

12 CHAIRMAN HONIGBERG: All opposed
13 say "no."

14 *[Multiple members indicating "no."]*

15 CHAIRMAN HONIGBERG: The noes have
16 it.

17 MR. IACOPINO: The next one would
18 be the petition of Bruce and Sondra Brekke that's
19 on Page 49 of the Order. It's 26 in my notes.
20 They're seeking individual intervention status in
21 their petition. Mr. Brekke did speak today.

22 CHAIRMAN HONIGBERG: Does anyone
23 have any other or different thoughts regarding the
24 Brekkes that they want to share?

1 [No verbal response]

2 CHAIRMAN HONIGBERG: Seeing none,
3 if you're in favor the Brekkes' motion you'll vote
4 "yes." If you're opposed you'll be voting "no."

5 All in favor say "yes."

6 [No verbal response]

7 CHAIRMAN HONIGBERG: All opposed
8 say "no."

9 *[Multiple members indicating "no."]*

10 CHAIRMAN HONIGBERG: The noes have
11 it.

12 MR. IACOPINO: Elaine Olson, Eric
13 Olson and Joshua Olson are all part of Attorney
14 Baker's motion.

15 So the next motion is Susan Percy
16 for the Percy Summer Club, Page 49 of the Order,
17 Page 27 in my notes -- I'm sorry -- Item No. 27 in
18 my notes.

19 CHAIRMAN HONIGBERG: Commissioner
20 Bailey.

21 CMSR. BAILEY: I think that the
22 Percy Summer Club could appoint a spokesperson
23 through the group of property owners in this
24 group, and I don't -- although I understand they

1 believe their interests are completely different
2 than everybody else's, I don't see them as
3 distinctly different, and I would keep them in the
4 group.

5 CHAIRMAN HONIGBERG: Does anyone
6 have any other thoughts on the Percy motion?

7 [No verbal response]

8 CHAIRMAN HONIGBERG: All right.
9 Seeing none, if you're in favor of the Percys'
10 motion to have that group removed from the group
11 that they've been placed in, you'll be voting
12 "yes." If you're opposed you'll be voting "no."

13 All in favor say "yes."

14 [No verbal response]

15 CHAIRMAN HONIGBERG: Opposed say
16 "no."

17 [*Multiple members indicating "no."*]

18 CHAIRMAN HONIGBERG: The noes have
19 it.

20 MR. IACOPINO: Okay. We'll then
21 move on to Mr. Cunningham's motion on behalf of
22 Mr. Lagasse and Mr. Spencer. Again, they request
23 that the Order consolidating them be vacated and
24 that they be granted individual intervenor status.

1 The motion talks about the lodge they're
2 constructing, the camp sites that they own. And
3 they also address the issue of the easements,
4 whether the easement is lawful.

5 CHAIRMAN HONIGBERG: Any thoughts
6 on Lagasse and Spencer? Does anyone see them as
7 different from the others we've just dealt with?

8 MS. WEATHERSBY: No.

9 CHAIRMAN HONIGBERG: All right. If
10 you're in favor of the motion filed by Spencer and
11 Lagasse you'll be voting "yes". If you're opposed
12 you'll be voting "no."

13 All in favor say "yes."

14 [No verbal response]

15 CHAIRMAN HONIGBERG: All opposed
16 say "no."

17 *[Multiple members indicating "no."]*

18 CHAIRMAN HONIGBERG: The noes have
19 it.

20 MR. IACOPINO: Okay.

21 AUDIENCE MEMBER: Excuse me. Am I
22 allowed to ask a question?

23 CHAIRMAN HONIGBERG: Sure. Why
24 not.

1 MS. BREKKE: Well I'm in the -- my
2 name is Sondra Brekke, and I'm in the group you
3 just went through. Given that you've not let
4 anybody come out of the group, which is fine, but
5 given the fact there's also 17 of us all over the
6 place geographically, would you at least consider
7 splitting us into northern section and the lower
8 section of the group? You've done that with all
9 the other groups. Thank you.

10 CHAIRMAN HONIGBERG: I do believe
11 that a number of the petitions that were filed by
12 people did suggest the geographic split in this
13 group as well. And we have dealt with it in all
14 other groups, we should deal with it here as well.

15 Is anyone in favor of splitting the
16 abutting group, Clarksville to Dalton, for the
17 overhead portion of the line?

18 MR. WAY: I would support that.
19 Clarksville to Dalton?

20 CHAIRMAN HONIGBERG: Actually, this
21 group has been split it looks like.

22 CMSR. BAILEY: By overhead and
23 under head -- under road.

24 MR. IACOPINO: Don't misunderstand

1 my notes --

2 CHAIRMAN HONIGBERG: Too late.

3 MR. IACOPINO: This is the group
4 we're talking about.

5 CHAIRMAN HONIGBERG: We're off the
6 record.

7 (Discussion off the record)

8 CHAIRMAN HONIGBERG: On the record.
9 All right. The towns which are overhead during
10 the stretch are: Dummer, Stark, Northumberland,
11 Whitefield and Dalton. Those would be abutting
12 property owners in those towns in the overhead
13 portion of the Project.

14 CMSR. BAILEY: Can anybody tell me
15 how geographically diverse that is? I mean, it's
16 different than, seems like, the southern half of
17 the group that we split before.

18 CHAIRMAN HONIGBERG: Mr. Brekke.

19 MR. BREKKE: Thank you. There are
20 five of us who reside in Whitefield, if that
21 helps.

22 MR. IACOPINO: Mr. Brekke, can you
23 just give us those names?

24 MR. BREKKE: Yes. It would be

1 easier to go from the bottom of the list,
2 actually, on Page 50. Tim and Brigitte White,
3 Donald and Betty Gooden, Charles and Cynthia
4 Hatfield, James and Judy Ramsdell, and my wife and
5 myself. And I'm sorry. Also, the second one,
6 Elmer Lupton and Claire Lupton are also residents
7 of Whitefield, abutting. I don't know about
8 Wellington. And Jones I believe is from
9 Northumberland.

10 MR. ROTH: Mike, we have a little
11 better, clearer map, if you want to look at that.

12 MR. IACOPINO: We would love it.
13 Thank you. Here we go. That's much better.

14 Just for the Committee, just so you
15 know, in terms of the map, Northumberland, Stark
16 and Dummer are separated by Lancaster from Dalton
17 and Whitefield, so that if you were going to do
18 north and south, that would be the geographic
19 breakdown that is available to you.

20 MR. WAY: I didn't catch that. Did
21 you say Northumberland would be your cutoff point?

22 MR. IACOPINO: No. Northumberland,
23 Stark and Dummer are all sort of right across
24 where the transmission line is proposed to sort of

1 head from the east to the west, and then it goes
2 down. Leaves Northumberland through Lancaster,
3 into Whitefield and a small portion of Dalton. So
4 if you were to break up this group geographically,
5 one option that's available to you would be to
6 take Dummer, Stark and Northumberland as one group
7 and Whitefield and Dalton as another.

8 MR. OLDENBURG: I would second
9 that.

10 MR. IACOPINO: I'm not making a
11 motion. That's not my role.

12 CHAIRMAN HONIGBERG: We're going to
13 take Mr. Oldenburg's statement as a motion.

14 Is there a second for Mr. Oldenburg
15 motion?

16 MR. WAY: I'll second that.

17 CHAIRMAN HONIGBERG: Mr. Way
18 seconds.

19 Is there any further discussion?

20 DIR. WRIGHT: Mr. Chairman, do we
21 know if any of these folks are actually in Dalton?

22 (Multiple parties speaking.)

23 CHAIRMAN HONIGBERG: All right.
24 Wait. Ms. Dore?

1 MS. DORE: James and Judy Ramsdell.

2 MR. IACOPINO: I'm pretty sure
3 there's somebody in each of the towns or we
4 wouldn't have broken them up that way.

5 DIR. WRIGHT: That was my
6 assumption.

7 CHAIRMAN HONIGBERG: All right. Is
8 there anything further discussion of Mr.
9 Oldenburg's motion?

10 [No verbal response]

11 CHAIRMAN HONIGBERG: Seeing none,
12 all in favor say "aye."

13 *[Multiple members indicating "aye"]*

14 CHAIRMAN HONIGBERG: Opposed?

15 [No verbal response]

16 CHAIRMAN HONIGBERG: The "ayes"
17 have it.

18 MR. IACOPINO: Okay. Mr. Chairman,
19 I just want to go back and see if we missed
20 anybody. In the -- never mind. Already answered
21 that for me.

22 So we split the Non-Abutting
23 Property Owners from Clarksville to Bethlehem on
24 Page 50. And to the extent those motions asked

1 for individual status, that's been denied.

2 CHAIRMAN HONIGBERG: That's
3 correct.

4 MR. IACOPINO: Okay. So there's
5 nobody in -- I guess we would move on to the
6 petition of Carl Lakes and Barbara Lakes to be
7 relieved from their grouping. They're on Page 51.
8 Their grouping is the Abutting Property Owners
9 from Bethlehem to Plymouth. There were two
10 parties that moved -- Mr. Ahern and Mr. and Mrs.
11 Lakes -- in that particular grouping. Actually,
12 Carl and Barbara Lakes are No. 34 in my notes, and
13 Mr. Ahern is No. 30 in my notes. And the
14 remaining members filed a petition not seeking to
15 change their grouping but to eliminate Mr. Ahern.
16 So there are three pleadings involving this. I
17 suppose we should start with Mr. and Mrs. Lakes
18 since they're first on the list, and they have
19 filed a petition for relief from the Order.

20 CHAIRMAN HONIGBERG: Although, my
21 memory of that request is they were actually
22 asserting that their group should not include
23 people who are represented by lawyers.

24 MR. IACOPINO: That's correct.

1 CHAIRMAN HONIGBERG: They were not
2 actually seeking to be removed from their group.

3 MR. IACOPINO: Correct. They say
4 that the group should all be individual towns as
5 well, which would require, obviously, a larger
6 number of groups.

7 CHAIRMAN HONIGBERG: I think, given
8 the discussions that we've had and the other
9 decisions we've made, it's unlikely that anyone
10 wants to advocate for the Lakes' position on that.
11 Am I wrong on that?

12 CMSR. BAILEY: You are not wrong.

13 CHAIRMAN HONIGBERG: All right. If
14 you are in favor of the Lakes' motion you'll be
15 voting "yes." If you're opposed you'll be voting
16 "no."

17 All favor say "yes."

18 [No verbal response]

19 CHAIRMAN HONIGBERG: All opposed
20 say "no."

21 *[Multiple members indicating "no."]*

22 CHAIRMAN HONIGBERG: The noes have
23 it.

24 MR. IACOPINO: Then we would move

1 up to Mr. Ahern.

2 CHAIRMAN HONIGBERG: Mr. Ahern
3 doesn't want to be part of the group and the group
4 doesn't want Mr. Ahern to be part of their group.

5 MR. IACOPINO: That's right.

6 CMSR. BAILEY: Mr. Chairman.

7 CHAIRMAN HONIGBERG: Commissioner
8 Bailey.

9 CMSR. BAILEY: This is another
10 petition that looks like his primary objection
11 belongs not before us but before a court. So, to
12 the extent that he has any interests that we have
13 any control over, I think he should stay in the
14 group.

15 CHAIRMAN HONIGBERG: Does anyone
16 have any other or different thoughts about that?

17 [No verbal response]

18 CHAIRMAN HONIGBERG: All right. If
19 you are in favor of Mr. Ahern's motion to be
20 removed from that group you'll be voting "yes."
21 If you're opposed you'll be voting "no."

22 All in favor say "yes."

23 [No verbal response]

24 CHAIRMAN HONIGBERG: All opposed

1 say "no."

2 *[Multiple members indicating "no."]*

3 CHAIRMAN HONIGBERG: Does that
4 effectively deal with the motion filed by the rest
5 of the group, Mr. Iacopino?

6 MR. IACOPINO: By Mr. Palmer. I
7 guess it does. Can't do two things at the same
8 time. But if you want to take a vote and make the
9 record clear --

10 CHAIRMAN HONIGBERG: All right. If
11 you are in favor of the motion filed by Mr. Palmer
12 on behalf of The Middle Abutters Group to remove
13 Mr. Ahern from the group, you'll be voting "yes".
14 If you're opposed you'll be voting "no."

15 All in favor say "Yes."

16 [No verbal response]

17 CHAIRMAN HONIGBERG: All opposed
18 say "no."

19 *[Multiple members indicating "no."]*

20 CHAIRMAN HONIGBERG: The noes have
21 it.

22 Does that effectively deal with the
23 motion filed by the rest of the group,
24 Mr. Iacopino?

1 MR. IACOPINO: By Mr. Palmer, I
2 guess it does. You can't do two things at the
3 same time, so -- but, if you want to take a vote
4 to make the record clear.

5 CHAIRMAN HONIGBERG: All right. If
6 you are in favor of the motion filed by Mr. Palmer
7 on behalf of the Middle Abutters Group to remove
8 Mr. Ahern from the group you will be voting "yes".
9 If you're opposed, you'll be voting "no".

10 All in favor say "yes"?

11 *[No verbal response.]*

12 CHAIRMAN HONIGBERG: All opposed
13 say "no"?

14 *[Multiple members indicating "no".]*

15 CHAIRMAN HONIGBERG: The noes have
16 it.

17 MR. IACOPINO: There are a number
18 of folks who we've split up their group already.
19 Oh, no, we already did that. I just want to make
20 sure that it's clear, so I'm clear that, with
21 respect to this non-abutting group that we split
22 from Clarksville to Bethlehem, to the extent there
23 were requests for individual intervention, that
24 was denied?

1 CHAIRMAN HONIGBERG: Yes.

2 MR. IACOPINO: I just didn't mark
3 that down in my notes here. So, --

4 CHAIRMAN HONIGBERG: But that was,
5 in fact, that all of those individual motions were
6 denied.

7 MR. IACOPINO: Well, I think that
8 we are done with those individual motions.

9 CHAIRMAN HONIGBERG: All right.
10 Everybody out there, did we miss one of the
11 challenges or requests for review on the
12 interventions? We're still going to talk about
13 internal governance a little bit. But did we miss
14 any of the motions themselves?

15 *[No verbal response.]*

16 CHAIRMAN HONIGBERG: All right.
17 Thank you.

18 MR. ROTH: Excuse me, Marty?

19 CHAIRMAN HONIGBERG: Yes.

20 MR. ROTH: Mr. Chairman, I think
21 the Ashland Water and Sewer is still out there.

22 CMSR. BAILEY: No, we voted on
23 that.

24 MR. IACOPINO: I believe we voted

1 on that. I have "denied" marked in my notes.

2 MR. ROTH: Okay.

3 CHAIRMAN HONIGBERG: I think
4 there's a number of people nodding their heads
5 that we did.

6 All right. So, let's talk a little
7 bit about governance of those groups and the
8 single speaker/single spokesperson provision,
9 which appears to have caused probably the most
10 angst of any aspect of the groupings order.

11 Mr. Iacopino, do you want to give
12 us some guidance and perspective on what our --
13 what the scope of our authority is to direct how
14 these groups interact and how they function going
15 forward?

16 Let's go off the record for a
17 minute.

18 *[Off the record.]*

19 MR. IACOPINO: I'm advised that our
20 order on Ashland dealt with the Conservation
21 Commission's motion, and not the Water and Sewer.
22 So, I would suggest we go back to Ashland Water
23 and Sewer, before you go on to internal
24 governance, just to be safe.

1 CHAIRMAN HONIGBERG: Mr. Roth, you
2 were almost exactly right.

3 MR. ROTH: That was actually Mr. --
4 it was Eli Emerson who caught that one.

5 CHAIRMAN HONIGBERG: All right.
6 Ashland Water & Sewer. Anybody want to take on
7 the position of Ashland Water & Sewer to be made a
8 separate participant?

9 *[No verbal response.]*

10 CHAIRMAN HONIGBERG: If you are in
11 favor of the Ashland Water & Sewer motion, you'll
12 be voting "yes". If you're opposed, you'll be
13 voting "no".

14 All in favor say "yes"?

15 *[No verbal response.]*

16 CHAIRMAN HONIGBERG: Opposed say
17 "no"?

18 *[Multiple members indicating "no".]*

19 CHAIRMAN HONIGBERG: The noes have
20 it. And, Mr. Iacopino, where were we?

21 MR. IACOPINO: You were asking me
22 something, but I got interrupted.

23 CHAIRMAN HONIGBERG: Appropriately
24 so.

1 MR. IACOPINO: Yes. And much
2 thanks, Iryna.

3 CHAIRMAN HONIGBERG: I was asking
4 you for your perspective on the scope of our
5 authority to dictate to the groups how they govern
6 themselves and also how they interact with the
7 Subcommittee going forward?

8 MR. IACOPINO: You certainly have
9 authority over how the various intervenors will
10 interact with the Committee. And a perfect
11 example of that is our rules, and our requirement
12 that, for instance, motions and pleadings be filed
13 electronically and be sent to a distribution list
14 or service list electronically. That's just one
15 example.

16 As for the internal governance of
17 any particular intervenor group on whatever
18 position they might want to take, that really is
19 up to them individually to determine how they're
20 going to make their own decisions. You can -- you
21 have authority and can govern how those decisions
22 may be provided to the Committee. For instance,
23 one of -- one way is what was contained in the
24 original Order requiring a single spokesperson.

1 Another way would be to acknowledge and recognize
2 steering committees, which is one of the
3 recommendations that was made by one of the
4 parties. There was another recommendation to have
5 two folks be identified as contacts or -- I'm
6 going to stop using the word "spokesperson" -- but
7 two folks within each group who can speak for the
8 group as a whole.

9 Additionally, and as everybody in
10 the room has been advised on a number of
11 occasions, to the extent that their interests --
12 they disagree or their interests are not
13 represented by the group on a particular issue,
14 they can certainly file a motion to address that
15 issue separately from their group.

16 So that, generally, I would say to
17 you that your authority is over how intervenors
18 and other parties communicate with the Committee.
19 But, as to how they govern themselves, that's up
20 to you. And, actually, Mr. Chairman, you gave a
21 good example earlier today when you said that we
22 can't make a town, say, a planning board in a
23 town, designate a representative, you know, to
24 speak on behalf of the planning board for that

1 town. It would be very -- I would make the
2 suggestion that that should be recommended to all
3 of the towns, but we can't force them to do that.
4 So, that that individual would then go to the
5 group and say "well, it's the" -- you know, "it's
6 the Concord Planning Board's position that we
7 should oppose this particular issue" or "join in
8 this particular issue".

9 But, with respect to the
10 representations to the Committee, you can
11 certainly say that, you know, things that need to
12 be presented to the Committee are going to be
13 presented in an organized fashion.

14 CHAIRMAN HONIGBERG: How do you --
15 do you have any perspective on how a group like
16 that is going to function when responding to
17 something someone else has filed, when there's, at
18 least in the rules, a ten-day time to respond?

19 MR. IACOPINO: I assume that they
20 will get on a telephone, speak with each other,
21 and make a decision as to whether they're going to
22 assent to or object to whatever a particular
23 motion or request for relief may be, and notify
24 the other party and/or file their written

1 response. And, I mean, how that -- how is that
2 accomplished within the group is up to the group.
3 They may have somebody who is their designated
4 writer who can prepare pleadings and objections.
5 They may have a committee within a group that
6 might do that. They may, for instance, this whole
7 "steering committee" thing that we heard about,
8 with respect to discovery, is something that they
9 could certainly -- can certainly impose upon
10 themselves.

11 CHAIRMAN HONIGBERG: How would
12 someone who disagrees with the direction their
13 group is taking notify us, notify the world that
14 they have a disagreement?

15 MR. IACOPINO: They would file a
16 motion or other request for relief, stating that
17 "I have a disagreement with the group. The group
18 is taking position A; I take position B. I seek
19 the permission of the Committee", which, in this
20 case, would be the Chairman, because it's a
21 procedural issue, "to file a separate pleading or
22 to make a separate discovery request", depends
23 upon what the nature of the issue of disagreement
24 is. But they would have -- they would ideally ask

1 the permission of the Chair to proceed in that
2 manner.

3 CHAIRMAN HONIGBERG: If there is a
4 short time window for responding, would you
5 recommend that the request for permission be
6 accompanied by the substantive response that
7 someone would want to make, a substantive filing
8 that someone would want to make?

9 MR. IACOPINO: Yes.

10 CHAIRMAN HONIGBERG: That's
11 actually a practice that is not too different from
12 what you see in some courts that don't allow, as a
13 right, a reply, but you file your leave to reply
14 at the same time you file your reply.

15 MR. IACOPINO: Yes. Our rules
16 don't actually address that, but that is certainly
17 a good practice. And I would -- I recommend it.

18 And the flip side of that also is,
19 if it is something that they need additional time,
20 because of the delay in making the request for
21 permission, then they should also file or add into
22 their request for relief an extension of time.

23 CHAIRMAN HONIGBERG: What about the
24 concern that a number have expressed about limits

1 on data requests? How would a larger group that
2 has a number of different topics that it wants to
3 ask about deal with a limit on data requests?

4 MR. IACOPINO: I would highly
5 recommend a number of things. First of all, that
6 they be efficient in the manner in which they go
7 about asking the questions. I also recommend that
8 all intervenors discuss with other like-minded
9 intervenors in other groups, and I don't mean to
10 separate the groups. But, for instance,
11 Intervenor Group A may speak to Intervenor Group B
12 and say "Jeez, I'm going to ask 50 questions on
13 aesthetics. Why don't you ask 50 questions on air
14 and water quality?" I would certainly recommend
15 that, if there are groups that have mutual
16 interests.

17 But, also, in terms of internally
18 within the group, I mean, they have to hash it
19 out, and understand that these rules are there for
20 a reason. And we can't have repetitive data
21 requests, because data requests go in both
22 directions. In the beginning, there will be data
23 requests of the Applicant. And, when that round
24 is done, there will be data requests of the other

1 parties from the Applicant. So, it is a -- it is
2 a two-way street. So, everybody needs to keep
3 that in mind. Nobody wants to be overburdened or
4 unduly burdened in responding -- in having to
5 respond to discovery requests.

6 CHAIRMAN HONIGBERG: Do other
7 members of the Subcommittee have questions for
8 Mr. Iacopino or thoughts about governance of
9 groups?

10 Commissioner Bailey.

11 CMSR. BAILEY: I think there's some
12 confusion about the "single spokesperson" rule.
13 And I was wondering if you could talk a little bit
14 about that. Does the "single spokesperson" rule
15 mean that whoever the group designates as their
16 spokesperson has to be the spokesperson for every
17 single issue that the group deals with? Or could
18 they appoint different spokespeople for different
19 issues? And -- or, during cross-examination,
20 could they say that, you know, could the
21 spokesperson say that "this person is going to
22 cross-examine on these issues and that person is
23 going to cross-examine on those issues", and the
24 spokesperson is just sort of the master of

1 ceremonies? Can you tell me a little bit about
2 that?

3 MR. IACOPINO: Sure. I can tell
4 you what the practice has been. Our rules don't
5 directly address this. And, I guess, I suppose
6 that the use of a "single spokesperson" is a
7 little bit of an over description of what the
8 practice has been. When we have groups as
9 intervenors or intervenors that are formed into
10 groups, it has been the practice of the Committee
11 to allow them to break up the work. And, even
12 though there may be somebody who is designated as
13 the group leader or somebody who will generally
14 speak for the group, we have always allowed the
15 work to be broken up, so that, for instance, if
16 one member of a particular intervenor group is --
17 you know, has a particular interest or has done
18 research or has been assigned the task of dealing
19 with a particular issue, that member of the group
20 may, for instance, do the cross-examination of
21 that subject matter expert. If the group intends
22 to bring its own witnesses, that person may
23 prepare the filings of their own expert in that
24 particular area. So, we have allowed things to be

1 done in that manner.

2 We've also allowed, for instance,
3 if individuals cannot make it to a particular
4 hearing, for somebody else to be designated as the
5 person who will speak for the group at that
6 hearing.

7 So, when we say "single
8 spokesperson", it doesn't mean that nobody can
9 do -- only that person can speak for the group.
10 It doesn't mean that at all. It's never meant
11 that in our practice. Of course, that's one of
12 the things that goes back to the Chairman's first
13 question, is that's one of the things that can be
14 regulated by the Committee on a case-by-case
15 basis, if it chooses to do so. But, in practice,
16 we have never required the single spokesperson to
17 take on all of the responsibility of pretty much,
18 you know, doing everything that a lawyer might be
19 expected to do in a regular case.

20 CMSR. BAILEY: One more follow-up?

21 CHAIRMAN HONIGBERG: Sure.

22 CMSR. BAILEY: Does everybody --
23 does every intervenor get all the pleadings via
24 email? Or, does just the spokesperson get the

1 pleading, and then that spokesperson had to
2 distribute it among its group?

3 MR. IACOPINO: I am going to look
4 to our Administrator. I believe that we have a
5 distribution list right now that has every
6 intervenor on it, not just representatives of
7 groups. And, if anybody in this room is an
8 intervenor, and their name is not on that
9 distribution list, you should make sure that you
10 speak with Ms. Monroe and get your name put on
11 there.

12 If you look at the distribution
13 list, it is not -- it is not in any way separated
14 by group. It's just a long list of names which we
15 make available -- a long list of email addresses
16 actually, which we make available to you to ease
17 the burden of getting your motions out to all of
18 the other parties.

19 But I think that the participants
20 in this proceeding will mind it to be a big help
21 that, if you're going to file a motion, that you
22 only have to contact whatever -- I don't know what
23 our number is after today, but before it was 24
24 people, to -- you only have to hear from 24

1 people, whether they object or assent, rather than
2 160. Sounds daunting in either event, but it is
3 considerably less. And I think that's one of the
4 benefits of being grouped as intervenors.

5 CMSR. BAILEY: Thank you.

6 CHAIRMAN HONIGBERG: Are there
7 other questions or other thoughts on governance?

8 MR. IACOPINO: Mr. Chairman, can I
9 mention one more thing about distribution lists?

10 CHAIRMAN HONIGBERG: Absolutely.

11 MR. IACOPINO: I'm sure that some
12 of you saw my email recently, we do appreciate --
13 remember, on the distribution list, because it's
14 supposed to be used for motions, we've actually
15 changed the practice that we used to use in the
16 past, that the Committee members are actually on
17 that distribution list, so that they get the
18 motion when you file it, instead of waiting for it
19 to be distributed after-the-fact. Because of
20 that, we ask that you not use that distribution
21 list to speak to each other or to -- a call to
22 arms or anything. And, remember, everybody in
23 this room, and every other intervenor is on the
24 list, so, you are actually talking to folks who

1 may have a different viewpoint than you. But,
2 more importantly, you're basically providing
3 information that gets to the Committee members
4 that shouldn't get to them, because it's not a
5 motion, you know, it's just an argument that
6 you're going to make in the -- when we get to the
7 adjudicative phase of the case.

8 So, I would request that the
9 parties please not use the distribution list for
10 communications. It should only be used to file
11 motions, objections or other pleadings.

12 CHAIRMAN HONIGBERG: Are there
13 other questions or comments regarding governance
14 and participation? I'm going to give everybody
15 out there a chance to provide comments as well,
16 once we're done sort of sorting it out ourselves.

17 [No verbal response.]

18 CHAIRMAN HONIGBERG: All right.
19 For those who spent the most time talking about
20 this earlier, Ms. Pacik, Mr. Whitley, I guess
21 Mr. Needleman to a lesser extent, some of the
22 others who are part of the groups, is there
23 anything -- anything you want to ask about, ask
24 for clarification on or raise at this time?

1 Ms. Pacik, I see you grabbing the
2 mike.

3 MS. PACIK: Thank you. One
4 question is, I understand that the groups can
5 divide up spokespeople for different expert
6 witnesses. But, for example, the issue I raised
7 before is, for example, the City of Concord, if
8 there's an issue at Turtle Pond or the Heights
9 that I feel I need to address, yet I don't want to
10 be cross-examining an expert on a substation
11 issue, which is unrelated to Concord, for example,
12 Deerfield, can the group split up specific issues
13 for each expert, so I have an opportunity to ask
14 my questions that would not be repetitive of
15 another municipality in my group?

16 CHAIRMAN HONIGBERG: Actually, one
17 of the things I was going to ask Mr. Iacopino, in
18 part of his discussion with Commissioner Bailey,
19 is another way to look at what we're looking for
20 is, rather than a single spokesperson, one at a
21 time?

22 MR. IACOPINO: That would be a good
23 description.

24 CHAIRMAN HONIGBERG: I think,

1 Ms. Pacik, if you're in that situation, what you'd
2 want to do is make it clear who the spokesperson
3 is for a particular issue. And, then, we would
4 expect you, your group, to hold to that. So that
5 you wouldn't ask a series of questions about that
6 topic, and then tag off to Mr. Whitley or some
7 other representative within that group to also ask
8 questions about that same issue.

9 MS. PACIK: Absolutely. And we
10 would be respectful of the rules. But it would
11 make me feel a lot more comfortable with the
12 process if I could limit the scope of my
13 cross-examination to issues pertaining to my
14 community.

15 CHAIRMAN HONIGBERG: I think it's
16 going to be issue-specific. There may be
17 situations where groups all have -- are talking
18 about really one issue, but there are different
19 aspects of it. When it comes to a particular
20 thing within Concord that is affected, that may
21 be -- you may be the only person who can speak to
22 that. I think we just need to communicate about
23 what the plan is, so that everybody can be
24 prepared.

1 MS. PACIK: Okay. And one other
2 comment is, if there was a potential to amend the
3 order, so it doesn't require the designation of a
4 spokesperson, but rather have it perhaps say "a
5 spokesperson or steering committee", so that, when
6 we're filing pleadings, it doesn't have to be
7 under one person's name.

8 CHAIRMAN HONIGBERG: An order is
9 going to issue as a result of this meeting and the
10 votes that we take today. That order I expect
11 will include some clarifying language on this
12 issue.

13 MS. PACIK: Thank you.

14 CHAIRMAN HONIGBERG: Mr. Whitley.

15 MR. WHITLEY: Thank you, Mr.
16 Chairman. Just very briefly, touching on Attorney
17 Pacik's question on modifying the order. I would
18 ask that, in addition to the reference to
19 "steering committee" or something along those
20 lines, that there also be language added that
21 memorializes what's been stated here about a party
22 being able to file something or question a
23 witness, if they feel that the group has not
24 advanced that particular interest, because it

1 sounds like that's what has been discussed.

2 CHAIRMAN HONIGBERG: Okay.

3 Mr. Needleman.

4 MR. NEEDLEMAN: Thank you. The
5 issue of a single party using multiple people to
6 question a witness is one of concern to us. It's
7 not a bridge we need to completely cross today,
8 but it's just an issue I want to raise. It's
9 sometimes easier said than done to say "it will be
10 carved up by issue". For example, the first
11 attorney could question about the witness's
12 background and methodology, and then others could
13 ask other questions and drift back into that first
14 topic. And it creates significant risks of
15 unfairness.

16 And, so, I don't want to delve in
17 deeper into that today, I just want to make sure
18 people understand that it's really something we're
19 going to need to focus on in a lot of depth when
20 it comes time to start questioning people.

21 CHAIRMAN HONIGBERG: I'm very
22 sensitive to that, Mr. Needleman, and I agree with
23 you, and I think Ms. Pacik and Mr. Whitley would
24 agree with you as well. I know there are a couple

1 of other people who want to speak on this.

2 Ms. Birchard, and then, Mr. Palmer,
3 you want to speak as well?

4 MR. PALMER: Yes, please.

5 CHAIRMAN HONIGBERG: Ms. Birchard,
6 why don't you go first.

7 MS. BIRCHARD: I just wanted to
8 jump in, because I had a little responsive point
9 there. I'm not sure if the issue is fairness or
10 the issue is efficiency. If the issue is
11 efficiency, then I'm not sure that the risk is
12 worth the loss in that case. Because you're
13 losing a lot by denying people the opportunity to
14 cross on issues where they have expertise, that's
15 a great loss.

16 CHAIRMAN HONIGBERG: Oh, I don't
17 think Mr. Needleman was suggesting that in any
18 way.

19 MS. BIRCHARD: Okay.

20 CHAIRMAN HONIGBERG: I really
21 don't.

22 MS. BIRCHARD: Okay. I just wanted
23 to point out that that is one of the priorities of
24 the environmental NGOs, and that we be able to

1 address issues that are within our areas of
2 expertise. There is some overlap, and there's
3 also some areas of divergence. And, so, that
4 would be a high priority for us.

5 I also think that there would be an
6 inefficiency, and having to file a motion saying
7 that you object to your own members, and then to
8 later file the substantive filing, I hope that we
9 can avoid that inefficiency. In other words, that
10 everyone should have the ability to file separate
11 pleadings, to the extent there is a need, with the
12 assumption that the default will always be to file
13 with your group whenever possible.

14 I also think that the Committee
15 should understand that there will be instances
16 when some members of a group will have an opinion
17 and others will simply not have an opinion. And,
18 so, in that case, for example, in our group, you
19 might have two signatories to a filing, and the
20 other parties simply don't sign that filing.

21 CHAIRMAN HONIGBERG: I think that
22 last point is clear, and I think people need to
23 understand that. If there's a member of the group
24 that doesn't have a position, either because they

1 don't have a position or they just failed to
2 respond, they need to identified what's going on.

3 I think we dealt with the notion
4 that, if you have a divergent interest from your
5 group, and you want to file something else, you
6 would be wise to file it with the notice that says
7 "we disagree, and here's what we want to say."
8 So, I think we've already identified that. We've
9 already told you to be efficient in that way in
10 the circumstances where it's appropriate.

11 MS. BIRCHARD: We will.

12 CHAIRMAN HONIGBERG: I think, to
13 extent we need to memorialize that, we will.

14 Mr. Palmer.

15 MR. PALMER: Yes. I just have a
16 question. My name is Walter Palmer. I'm with the
17 Abutters Group from Plymouth -- from Bethlehem to
18 Plymouth. And you just voted -- just voted to
19 keep Mr. Ahern in our group, even though he
20 testified that his issue is very different from
21 the issues of the rest of our group, and that he's
22 been conducting research for about four years on
23 his issue, and he feels that another spokesperson
24 in the group would not be able to handle it. As

1 the temporary spokesperson for the group, I also
2 agree that I feel I would be out of depth trying
3 to represent Mr. Ahern's issues.

4 So, as I understand what
5 Mr. Iacopino just said, when it comes time to
6 discuss Mr. Ahern's issues, I will be able to turn
7 the floor over to him and he will be allowed to
8 discuss his issues in the detail that he needs to.
9 Is that correct?

10 CHAIRMAN HONIGBERG: I am not going
11 to -- we're not going to, I think, issue a ruling
12 in advance that that's always going to be the
13 case. I think there may be some judgment we have
14 to apply about whether, in fact, Mr. Ahern's issue
15 is different from what you've articulated, what
16 the group wants to pursue.

17 MR. PALMER: Uh-huh.

18 CHAIRMAN HONIGBERG: But,
19 conceptually, I think what Mr. Iacopino outlined
20 is just what you said. That, if he has different
21 issues, and does not want to join your group's
22 issues, he will be doing it separately. But I
23 think the way Commissioner Bailey spoke of it when
24 we were discussing Mr. Ahern's situation, to the

1 extent that his interests align with the group's,
2 he should be speaking through the group.

3 MR. PALMER: Right. Okay. And my
4 second question, and I don't know if this is a
5 separate matter or not, that he may -- we may need
6 more than 50 questions, if he has, when it comes
7 time to propound questions to the Applicant, I
8 don't know that the 50 questions will be
9 sufficient, since he has one area in which he has
10 a lot of questions, and our group will have in
11 other areas.

12 MR. IACOPINO: Well, what I would
13 suggest, in the first instance, is that you speak
14 with the party who you're asking the questions to,
15 most likely the Applicant, --

16 MR. PALMER: Right.

17 MR. IACOPINO: -- and see if
18 they're willing to answer them, or you send them
19 the questions and see if they're willing to waive
20 their objection to more than 50. I recommend that
21 in every case the parties speak to each other
22 first, before it becomes an issue, because I think
23 you'll be surprised that oftentimes they'll agree.
24 That's the first thing.

1 The second thing is, it's -- always
2 ask permission, if you're going to -- if you can't
3 get assent, but you need more questions, file a
4 motion to exceed the limit, and request a waiver
5 of the rule of 50, and give us your reasons why,
6 and the Chairman will rule on that. You know, if
7 the -- and, I mean, if the reason you need to ask
8 more than 50 questions is something that the
9 Chairman doesn't find to be persuasive, well,
10 you'll be limited, and you'll have to make that
11 determination. But that's a case whether you're a
12 group or whether you're an individual. The limit
13 is the limit. And you will be -- if you need to
14 exceed that limit, you should ask first from the
15 party you're going to be sending the questions to
16 and see if they will agree, and, secondly, if that
17 doesn't work, then file the motion with the
18 Committee.

19 MR. PALMER: Thank you.

20 CHAIRMAN HONIGBERG: Ms. Menard.

21 MS. MENARD: Thank you. A question
22 about the timing of the various groups when they
23 ask questions. The Deerfield Intervenor Group
24 might have a fair number of questions because of

1 our conservation easements. And, so, we would
2 benefit from potentially seeing like the Society's
3 questions or the Counsel for the Public's
4 questions ahead of time, so that we're not asking
5 the same questions.

6 So, I'm not -- could you clarify
7 for me the process that these questions get
8 entered and whether they can be reviewed before
9 formally, or is it up to us to talk amongst all
10 intervenors prior to the submittal of questions?

11 CHAIRMAN HONIGBERG: There's a
12 number of issues lurking in what you've just
13 asked. One of which has to do with the schedule.
14 It is a topic that we need to discuss today for a
15 reason that will become apparent shortly. And
16 some of the proposed schedules that we've seen
17 have some staggering of questions by the parties.
18 I don't know that that's what's going to happen,
19 but it's possible.

20 But it certainly makes sense, as
21 Mr. Iacopino said earlier, to the extent that
22 groups can seek input from each other about what
23 they intend to pursue, you may be able to achieve
24 some efficiencies there. I mean, we can't tell

1 you how to do this.

2 MS. MENARD: Right.

3 CHAIRMAN HONIGBERG: But those are
4 the possibilities. Could you add anything,
5 Mr. Iacopino?

6 MR. IACOPINO: The only thing that
7 I would add is that that's a possibility, it will
8 be up to the Chair to determine what the actual
9 procedural schedule will be.

10 But I just want to point out that
11 there is nothing that stops any party in this room
12 from issuing data requests under our rules to the
13 Applicant today. You can start that process. You
14 don't have to wait for there to be a deadline for
15 you to do it. And I don't recommend ever waiting
16 till the deadline anyway. But that's something
17 that can be done. And I'm just -- this doesn't
18 answer your question, Ms. Menard, but I think it
19 supplements the whole issue, that you can begin
20 that process. You don't have to wait for that
21 scheduling order.

22 Now, I understand that you don't
23 want to be repetitive, and you might want to see
24 what other people do, what kind of questions they

1 ask. I would recommend that, you know, if there
2 are parties who you think are going to have the
3 same types of questions as you do, particularly
4 with conservation easements, you hit the nail on
5 the head. You should be giving a call over to Ms.
6 Manzelli and Mr. Reimers and saying "hey, you
7 know, do you want to get together, do you want to
8 have a cup of coffee and talk about this, or can I
9 talk to you on the phone, about what I'm thinking,
10 what do you think?" And maybe cooperate with each
11 other in that regard.

12 MS. MENARD: Thank you.

13 CHAIRMAN HONIGBERG: Mr. Roth.

14 MR. ROTH: I have a couple of
15 questions or issues. I heard, I think it was with
16 the municipalities, speaking of a steering
17 committee. The sense I got from what I heard, and
18 obviously it's late and I'm tired and maybe I'm
19 wrong about this, is that the steering committee
20 could be a substitute for a spokesperson. And I'm
21 a little bit troubled by that, because if as a
22 party I want to consult with another party, I
23 don't want to have to consult with a steering
24 committee. I want a spokesperson. And so I just

1 want to make sure that, as far as they work
2 between them, amongst themselves, having a
3 steering committee to sort out what they do seems
4 fine. But as far as interacting with the world, I
5 don't think it makes sense for us to have to
6 consult with a steering committee.

7 The other thing I was thinking
8 about is, I think -- and I've been telling people
9 this when they ask me about this whole part of
10 this -- it seems that there's the ability that any
11 given group could substitute their spokesperson or
12 delegate at various times, so that if you've got a
13 group of 10 intervenors from a particular
14 community and one of them can't make it to the
15 hearing, they can delegate somebody else to be
16 there for them, or if somebody is sick and they
17 need to have somebody else take that seat or
18 appear at a technical session, it seems to me that
19 delegation should be allowed and respected, so
20 that if the person who shows up is not the
21 official spokesperson, they don't get, you know,
22 the bum's rush in the room and unable to
23 participate.

24 And then, finally, it seems that

1 there's -- you can get sort of fatigued in a group
2 over -- either they're sick of the person who's
3 their spokesperson, or the person is sick of being
4 the spokesperson. It should be at least
5 acknowledged in whatever order that they can
6 retire a person or the person can retire and be
7 replaced or rotated, with notice to everybody
8 else, so that you don't have this sort of worn-out
9 person showing up because they have to. And I
10 guess those are just my suggestions.

11 CHAIRMAN HONIGBERG: On the last
12 one, I think the country abolished slavery roughly
13 150 years ago. We would never force anyone to
14 continue in a role that doesn't suit them. The
15 other issues --

16 MR. IACOPINO: I can address one
17 thing. I think, Peter, what you're talking about
18 is there's people who are going to speak for the
19 group. And obviously, for some of the groups
20 they're going to want to share the workload, so
21 that they'll have different people speaking for
22 the group with respect to different issues. I
23 think really what you're looking for is a point of
24 contact so that you know, okay, when I have to

1 canvas the groups for this motion I want to file,
2 who should I contact. And I think that's
3 something, if the Chair and the Committee wishes,
4 is something we can roll into the order about
5 that, you know, that there will be a point of
6 contact, which is different than somebody who is,
7 as the terminology was used in the existing order,
8 a "single spokesperson." So there will be a point
9 of contact identified. If that's -- and I'm
10 just -- the Chair hasn't heard that yet, so I'm
11 just laying this out for him as a possibility.

12 CHAIRMAN HONIGBERG: I'll say it
13 makes sense to me.

14 Mr. Needleman.

15 MR. NEEDLEMAN: Yeah, I wanted to
16 revisit something Mr. Iacopino said a moment ago
17 so people don't leave here today and we create
18 chaos.

19 The Committee's Rules at 202.12(a)
20 say that the Applicant, et cetera, has the right
21 to conduct discovery in an adjudicatory proceeding
22 pursuant to this rule and in accordance with the
23 procedural schedule. And so I'm a little
24 concerned that people may leave here today and

1 think they can start serving discovery requests on
2 us, and if we don't have a procedural schedule,
3 I'm not sure that that's correct right now. I
4 think it might create chaos in terms of the
5 position we have of our duty to respond.

6 MR. IACOPINO: Doesn't the rule
7 have a deadline for responses?

8 MR. NEEDLEMAN: It does, but the
9 procedural schedule almost always governs that
10 rule, and I think especially in this case where I
11 think we need a procedural schedule to govern
12 that.

13 CHAIRMAN HONIGBERG: We're not
14 going to resolve that right now. We may -- there
15 are things we may do before we leave here that
16 might help that.

17 Is there anyone else who wants to
18 be heard? Yes, Mr. Cunningham. I just want to
19 see who besides you has thoughts or comments.
20 Okay. Mr. Cunningham, you're first.

21 MR. CUNNINGHAM: When I spoke and
22 discussed the difficulties I think these groupings
23 will likely have with both the intervenors and the
24 Committee, I heard Mr. Needleman respond saying

1 that, as far as lawyers are concerned, the
2 Applicant would take no position that would
3 interfere with the lawyer's responsibility to
4 zealously represent his client. Did I hear that
5 wrong? How is that going to be resolved in the
6 context of the groups?

7 CHAIRMAN HONIGBERG: I'm not sure I
8 understand what you just said at the end.

9 MR. CUNNINGHAM: Well, in other
10 words, I have one client. I do not represent the
11 group. I'm not the designated spokesperson. My
12 clients have vital interests at stake. I have an
13 ethical duty, the ethical responsibility to
14 zealously and competently represent my client.
15 I'm afraid -- and I heard Mr. Needleman say that
16 they would take -- the Applicant would take no
17 position that would interfere with my ethical
18 responsibilities. So I'm having difficulty
19 reconciling my duty as a lawyer with the grouping
20 concept and these internal protocols.

21 CHAIRMAN HONIGBERG: Mr.
22 Cunningham, have you never worked on a matter
23 where there were multiple lawyers essentially
24 taking the same position?

1 MR. CUNNINGHAM: That's not the
2 issue here, Mr. Chair.

3 CHAIRMAN HONIGBERG: I'm sorry.
4 Then I'm still not understanding your question.
5 Working within a group of people who are largely
6 taking the same position is something that many
7 lawyers do on a regular basis. How is that
8 different here?

9 MR. CUNNINGHAM: If, for example,
10 there are, in fact, conflicts --

11 CHAIRMAN HONIGBERG: And if there
12 are, in fact, conflicts, I think we've discussed
13 how to alert the world to the existence of those
14 conflicts and then take action that you believe is
15 necessary on behalf of your client.

16 MR. CUNNINGHAM: Well, what I would
17 like to hear from Mr. Needleman is what he said
18 about the lawyers -- the Applicant's ability --
19 the Applicant's position that they would not do
20 anything that conflicted with a lawyer's
21 responsibility to zealously represent a client.

22 MR. NEEDLEMAN: I'm not sure
23 particularly what you're talking about, but I will
24 point you to our pleading that we filed last week

1 on intervention motions, where we specifically
2 took up the question of how a lawyer in your
3 position can represent their client. And the
4 rules specifically address that issue. And as I
5 sit here today, I don't see any conflict at all.
6 Certainly if at some point one arises, we're happy
7 to talk about it.

8 CHAIRMAN HONIGBERG: And I think
9 that's the last word on that, Mr. Cunningham. Do
10 you have anything else?

11 MR. CUNNINGHAM: No.

12 CHAIRMAN HONIGBERG: Ms. Pastoriza.

13 MS. PASTORIZA: Boards that meet
14 once a month, how are they supposed to handle the
15 10-day response time? When a group of boards,
16 maybe five or six, each meet one day a month or
17 twice a month, how do they deal with that? Do
18 they call an emergency meeting every time?

19 CHAIRMAN HONIGBERG: Part of the
20 discussion earlier regarding municipal bodies is
21 they have options. They can take action at a duly
22 noticed meeting to appoint someone to speak for
23 them if necessary. They can hire someone. They
24 can, as you said, call an emergency meeting. But

1 being interested in a matter sufficiently to
2 intervene and fully participate carries some
3 obligations. It's not necessarily the easiest
4 thing for individuals or groups, and it may be
5 particularly complicated for municipal boards.
6 But it's not -- we can't proceed with our
7 obligations, and this matter can't proceed if a
8 municipal entity can only do something once a
9 month. That's not workable for anyone. And so
10 it's going to be the responsibility of those
11 entities that want to participate to figure out a
12 way, by designating someone, hiring a volunteer to
13 speak with them and consult with them as
14 necessary, but to speak for them. Mr. Whitley
15 identified some structures, and I think there have
16 been a number of discussions about that. I think
17 there's a number of lawyers in the room who would
18 probably be happy to talk to you about how that
19 can work without necessarily giving you legal
20 advice.

21 Mr. Raff.

22 MR. RAFF: Al Raff, IBEW. So, just
23 a question. Given the fact that the rest of the
24 parties we were grouped with, the other

1 businesses, were not here -- and I imagine they
2 weren't here because they were initially grouped
3 and therefore were fine with where they were
4 grouped -- are they going to have a chance to
5 weigh in on this and, you know, have a chance to
6 ask for reconsideration? Because had it not been
7 suggested by Attorney Roth that they be grouped
8 with us, grouped together, they would not have
9 known they should have shown up because they were
10 fine where they were.

11 CHAIRMAN HONIGBERG: It is without
12 question the right of anyone who is adversely
13 affected, or believes they've been adversely
14 affected by an order that gets issued by this
15 body, to seek reconsideration of that, or
16 "rehearing" I think is the term in New Hampshire
17 law.

18 MR. RAFF: Thank you.

19 CHAIRMAN HONIGBERG: That was a
20 different topic, I'll note.

21 Anything else on this topic?
22 Because we really need to move on because there
23 are things we have to do.

24 The things we haven't touched on

1 that are out there are the Applicant's motion for
2 the waiver of certain rules. And rules waivers
3 need to be acted on by the full body. There's
4 various filings regarding the procedural schedule
5 which does not need to be acted on to set a
6 procedural schedule. But in order to set any
7 schedule that would take us beyond one year, the
8 full body would need to vote that it is in the
9 public interest to exceed the statutory one-year
10 requirement. Do I have that right, Mr. Iacopino?

11 MR. IACOPINO: Yes. Technically,
12 it's to suspend the time frames set forth in the
13 statute.

14 CHAIRMAN HONIGBERG: Mr. Whitley.

15 MR. WHITLEY: Thank you, Mr.
16 Chairman. I just don't recall, and I could be
17 wrong, that the Committee deliberated and took a
18 vote on the governance between the groups. And it
19 sounds like the Committee is moving on to
20 something else, so I just wanted to point that
21 out.

22 CHAIRMAN HONIGBERG: Mr. Iacopino,
23 is that discussion something that you need a vote
24 on in order to proceed with the drafting of an

1 order; and if so, what would such a vote be on?

2 MR. IACOPINO: Theoretically, it's
3 a procedural issue which is -- because it's not
4 really an intervention issue, it's a procedural
5 issue on how intervenors will interact with the
6 Committee; therefore, that's something that you as
7 chairman get to rule on under RSA 162-H:4. And
8 you could write an order and sign it addressing
9 those issues without a vote of the Committee. If
10 you wish --

11 CHAIRMAN HONIGBERG: Wouldn't it be
12 more efficient to have a vote of the Committee?

13 MR. IACOPINO: I was going to say,
14 if you wish to have a vote of the Committee, you
15 can do that as well under RSA 162-H:4.

16 CHAIRMAN HONIGBERG: I believe it
17 would be more efficient to have a vote, although I
18 don't, in all honesty, know what the question
19 would be that we would be voting on. Would it be
20 authority from the Subcommittee to include in the
21 order the results from this a discussion of
22 participation of groups consistent with the
23 discussions had on the record of this proceeding,
24 and then when -- because we get to review the

1 draft order, we can see if it's consistent and
2 what we would want to include?

3 MR. IACOPINO: Because we dealt
4 with a number of different aspects of the
5 interaction between intervenors and the Committee,
6 I would suggest that that is the correct motion,
7 if somebody wants to make it.

8 CMSR. BAILEY: So moved.

9 CHAIRMAN HONIGBERG: Second?

10 DIR. WRIGHT: Second.

11 CHAIRMAN HONIGBERG: Any further
12 discussion?

13 [No verbal response]

14 CHAIRMAN HONIGBERG: Seeing none,
15 all in favor say "aye."

16 *[Multiple members indicating*
17 *"aye."]*

18 CHAIRMAN HONIGBERG: Any opposed?

19 [No verbal response]

20 CHAIRMAN HONIGBERG: "Ayes" have
21 it.

22 Where were we? I think there's one
23 other item that we need to deal with today, and I
24 can't remember what it is because --

25 CMSR. BAILEY: Confidentiality.

1 CHAIRMAN HONIGBERG: Yes. There's
2 a pending motion for confidentiality. That, as I
3 understand it, Mr. Iacopino, does not need to be
4 dealt with by the Committee today. That could be
5 dealt with by the Chair in the first instance?

6 MR. IACOPINO: Yes.

7 CHAIRMAN HONIGBERG: All right. So
8 we're going to put that one third.

9 With respect to the -- let's deal
10 with the rules waiver first. Why don't you
11 summarize where we are and what the Committee's
12 options are.

13 MR. IACOPINO: There are
14 essentially -- I'm going to break, for a brief
15 explanation, break the request for rules waivers
16 in two category. There's a category that deals
17 generally with what I would refer to as "mapping
18 and identification," and then there's a category
19 that deals with "decommissioning."

20 Within the category of "mapping and
21 identification," the Applicant has requested a
22 waiver of a number of rules in Section 301.03(c).
23 And basically what they are seeking is a waiver --
24 well, first of all, with respect to the route that

1 has been identified as the "alternative route,"
2 they are seeking a waiver from providing the
3 identification and mapping requirements that are
4 in Site 301.03 for that alternative route.
5 Counsel for the Public had indicated no objection
6 to that, so long as the Applicant represented that
7 they would not in any case seek to certificate
8 that alternate route. I believe that that
9 representation has been made by the Applicant.

10 CHAIRMAN HONIGBERG: Even earlier
11 today, as I recall.

12 MR. IACOPINO: Yes, it was
13 referenced earlier today.

14 With respect to the identification
15 and mapping of the proposed route, the Applicant
16 has sought a waiver from Subsection 3, which
17 requires them in their application to provide
18 information "shown on a map, property lines,
19 residences, industrial buildings, other structures
20 and improvements within the site, on abutting
21 property with respect to the site, and within
22 100 feet of the site if such distance extends
23 beyond the boundary of any abutting property."
24 That's one waiver request.

1 They have also requested a waiver
2 from Section 4, which requires the identification
3 on a map of wet -- well, it doesn't say on a
4 map -- but "identification of wetlands and surface
5 waters... within the site, on abutting property
6 with respect to the site, and within 100 feet of
7 the site if such distance extends beyond the
8 boundary of any abutting property, except if and
9 to the extent that such identification is not
10 possible due to lack of access to the relevant
11 property and lack of other sources of the
12 information to be identified."

13 The third request with respect to
14 the mapping and identification on the proposed
15 route is they seek a waiver from the requirement
16 of Section 5 which requires them to identify
17 "natural, historic, cultural and other resources
18 at or within the site, on abutting property with
19 respect to the site, and within 100 feet of the
20 site if such distance extends beyond the boundary
21 of any abutting property." And again, it has same
22 the exception: "except if and to the extent such
23 identification is not possible due to lack of
24 access to the relevant property and lack of other

1 sources of the information to be identified." So
2 that's the first request -- or first half of the
3 request.

4 The second half is --

5 CMSR. BAILEY: Before you move
6 on --

7 MR. IACOPINO: Sure.

8 CMSR. BAILEY: -- can you clarify
9 for me or confirm for me that they're asking for
10 those waivers for both the proposed route and the
11 alternative route?

12 MR. IACOPINO: Yes, they have asked
13 for a waiver of mapping the alternative route
14 altogether.

15 CMSR. BAILEY: Right. But are they
16 also asking for a waiver of these three things
17 that you just talked about on the existing
18 route -- on the route that's before us?

19 MR. IACOPINO: Yes, on the proposed
20 route they are. They have provided 191 -- or 181
21 pages of mapping, as well as the DES applications
22 which contain information of this type.

23 What they're looking for
24 specifically with regard to these waivers is this

1 issue of how wide in the mapping they have to
2 show. They're looking for you to give them a
3 waiver so that they -- I believe it's maybe
4 different for each one. Basically it's a
5 quarter-mile of mapping that they've provided. I
6 understand they have information about how much
7 more mapping would be required if they were, in
8 fact, required to comply with these rules rather
9 than waiving them. They have provided the maps
10 which show what appears to be the quarter-mile
11 distance, and they're asking that they be waived,
12 to the extent that the maps -- that the rule
13 requires information beyond what's in there. Does
14 that answer your question?

15 CMSR. BAILEY: Well, in the first
16 request where they don't want to provide the
17 location shown on a map of property lines,
18 residences, industrial buildings and other
19 structures and improvements within the site, on
20 abutting property with respect to the site, and
21 within 100 feet of the site if such distance
22 extends beyond the boundary of any abutting
23 property, so it seems -- I'm just tired. But it
24 seems to me if they've covered a quarter of a

1 mile, what is it that they haven't covered?

2 MR. IACOPINO: Well, if you read
3 that, if you have a large abutting property, that
4 might go well beyond a quarter-mile -- and this
5 may be a better question for you to ask of the
6 Applicant as to why they need this, because it
7 seems to be the crux of the question. But my
8 understanding is that you can have these instances
9 where on one side of the line you might have
10 something that goes for three or four miles which
11 is either abutting property, and there may be
12 wetlands or things that would be required under
13 our rule to be mapped; yet, on the other side you
14 could have a skinny parcel, let's say 100 feet,
15 and then a very large parcel with very large
16 wetland in it, so that you would have an imbalance
17 in terms of what you are demonstrating. What the
18 Applicant, as I understand their request is, is
19 requesting, for a number of reasons which they've
20 explained in their motion, but it's to waive the
21 rule because of the extent that it requires they
22 go beyond the area that they consider to be
23 impacted by their proposed project. So that's
24 the -- I understand that to be part of their

1 argument. I don't know if you're going to allow
2 argument at this portion.

3 CHAIRMAN HONIGBERG: Let me ask
4 another clarifying question. You say they've
5 asked for a waiver of the requirement. To be
6 clear, they are saying that they have already
7 filed maps and done identifications that they
8 believe is accurate and substantive; is that
9 correct?

10 MR. IACOPINO: That's correct. I
11 think it's 191 maps that they have filed to date.
12 And they have them with the layers of these three
13 things under Sections 3, 4 and 5 in the rule
14 contained on those maps.

15 CHAIRMAN HONIGBERG: Certainly if
16 someone has something they feel they need to say
17 beyond what they put in their written submissions
18 on this issue, and I'm certain that the notice of
19 this meeting said that only those who filed a
20 response on these motions would have the
21 opportunity to speak, I will allow that. And if
22 the Applicant feels it needs to add anything, I'll
23 allow that as well. But you haven't touched on
24 the decommissioning aspect of their request. Do

1 you want to do that before we open it up to folks?

2 MR. IACOPINO: The decommissioning
3 rule is Site 301.08. It requires, along with the
4 application, an applicant must provide certain
5 information regarding decommissioning, including a
6 decommissioning plan prepared by an independent
7 and qualified person with knowledge and
8 experience; a description of the funding which
9 must be sufficient and secure to implement the
10 plan, which does not account for salvage values; a
11 provision for financial assurance in the form of
12 irrevocable standby letter of credit, performance
13 bond or other such type of bonds which are listed
14 in the rule; must have the requirement contained
15 in the decommissioning plan that all transformers
16 will be transported off site, and that all
17 underground infrastructure at depths less than
18 4 feet below grade shall be removed from the site
19 and all underground infrastructure at depths
20 greater than 4 feet below the finished grade shall
21 be abandoned in place.

22 And the Applicant has asked to
23 waive that rule, and they make a number of
24 arguments as to why that rule should be waived.

1 And they suggest that they have a suitable
2 alternative, which is one of the requirements that
3 they must meet in order to be granted a waiver.
4 And they address in the request for waiver that
5 the -- well, a number of things. First, they
6 don't need an independent expert because
7 Eversource has experts in this that have knowledge
8 and capacity to provide a plan; they don't want to
9 provide a plan at this point in time because,
10 under the Transmission Services Agreement, there
11 are provisions in there for the decommissioning of
12 the plant which occur further down the road. They
13 address, I believe, their own financial stability.
14 And there was one other reason that I can't
15 remember right now. Oh, that what they are
16 recommending with respect to the removal of
17 subsurface structures to 24 inches I believe was
18 what they were suggesting. I may be confusing two
19 different applications right now. But I think
20 that was one of the issues, is that they shouldn't
21 have to -- they have a suitable alternative for
22 going down 4 feet for subsurface structure
23 removal.

24 So that's my summary. I don't want

1 to argue for either party.

2 CHAIRMAN HONIGBERG: No, you're not
3 arguing.

4 Mr. Needleman, do you want to add
5 anything to what Mr. Iacopino just said?

6 MR. NEEDLEMAN: We don't. I don't
7 want to prolong this. All I want to say is, if
8 the Committee has any questions about this, Mr.
9 Getz is prepared to discuss the decommissioning
10 portions. And with respect to the mapping
11 portion, Mr. Bisbee can answer any questions you
12 have.

13 CHAIRMAN HONIGBERG: Thank you, Mr.
14 Needleman.

15 Mr. Pappas, you look like you
16 wanted to speak.

17 MR. PAPPAS: I do. Do you mind if
18 I stand so I can stretch my legs?

19 I'm not going to repeat everything
20 in our papers for the first issue, which is the
21 mapping, but my disagreement was with the summary.
22 I don't believe the Applicant argued that what
23 they provided is a sufficient alternative. I
24 think what they argued was that it would be

1 onerous for them to do what the rules require, and
2 our objection was that they haven't proven it
3 would be onerous. They haven't indicated how many
4 more structures they have to identify, how many
5 more wetlands and so forth. So I think they have
6 the burden to prove that it's onerous. We argued
7 in our objection that they hadn't met that burden
8 and, therefore, they should be required to comply
9 with the rules.

10 The issue of decommissioning I
11 think is more substantial, and that's because they
12 simply don't have a decommissioning plan. It's
13 required by statute. It applies to this project.
14 And what the Applicant has said is, "We'll rely on
15 the TSA for our decommissioning plan." They
16 provided prefiled testimony of one witness who
17 proposes to speak about it. His testimony
18 consists of one paragraph, and basically that
19 paragraph says, "Look at the TSA for
20 decommissioning." If you look at the TSA, it does
21 not contain a decommissioning plan. It doesn't
22 meet the various elements that your rules require
23 for a decommissioning plan. So, in essence, what
24 they're saying is, "We don't have a

1 decommissioning plan. We're committed to doing
2 one when the time comes, and our in-house folks
3 will do a proper job and do what you require."
4 And I don't think that's sufficient for the
5 interests of the State of New Hampshire or its
6 citizens. The statute requires a decommissioning
7 plan. Your rule requires a decommissioning plan.
8 And not only does it require specific items, but
9 it requires the funding. And I think funding is
10 an important part here, and we don't have any
11 assurances that funding will be met if and when
12 this project needs to be decommissioned, if in
13 fact it is approved and built. So,
14 decommissioning is a very significant point for
15 us. And today we don't know who that
16 well-qualified person would be 40 or 50 years from
17 now. Many of us will not be around 40 or 50 years
18 from now. I suspect that person perhaps may not
19 have been born yet, or perhaps hasn't graduated
20 from college, who would be responsible for doing
21 the decommissioning plan. The statute and your
22 rules require an independent party to do that. I
23 think that's important. I think decommissioning
24 is clearly an issue for the Legislature and for

1 you. It's an issue for the State. And we would
2 oppose waiving the decommissioning plan
3 requirement. We think it's vital for the interest
4 of New Hampshire. And what they have proposed in
5 the alternative simply doesn't even come close.
6 It doesn't purport to be a decommissioning plan.
7 It simply says, "In 40 or 50 years from now we'll
8 do one because the TSA says that six months before
9 decommissioning we're required to provide a
10 proposed plan to a management committee." That
11 management committee is supposed to try to reach
12 agreement between Northern Pass and Hydro Quebec
13 on what decommissioning would be. If those two
14 parties don't agree, it then goes to arbitration
15 to decide it. That's simply not an adequate
16 substitute for what you folks need to decide: Do
17 they have a decommissioning plan we can rely on?
18 It doesn't provide you with sufficient information
19 to make an informed decision. Frankly, you can't
20 make a decision because there's nothing for you to
21 decide.

22 So we would oppose the complete
23 waiver of the requirements to provide a
24 decommissioning plan and require the Applicant to,

1 in fact, comply with the statute and rules and
2 provide a decommissioning plan. Thank you.

3 CHAIRMAN HONIGBERG: Ms. Manzelli,
4 I know you filed -- oh, you have -- I'm sorry,
5 Commissioner Bailey has a question for Mr. Pappas.

6 MR. PAPPAS: Oh.

7 CMSR. BAILEY: Just quickly, can
8 you give me the statute that you are referring to?

9 CHAIRMAN HONIGBERG: Mr. Iacopino.

10 MR. IACOPINO: I'll read it for the
11 Committee. It's RSA 162-H, Section 7, V.

12 CHAIRMAN HONIGBERG: Read slowly.

13 MR. IACOPINO: "Each application
14 shall also, Subsection (d) [(g)?], describe in
15 reasonable detail the elements of and financial
16 assurances for a facility decommissioning plan."
17 I believe that's what you're referring to, is that
18 right, Mr. Pappas?

19 MR. PAPPAS: It is. It is. And,
20 if you look at your rules, your rules have very
21 specific items what needs to be included in that
22 decommissioning plan, one of which is it has to be
23 drafted by an independent party, not the
24 applicant.

1 CHAIRMAN HONIGBERG: Mr. Pappas, is
2 it your view that the -- what the Applicant has
3 filed does not meet the statutory requirement as
4 well or is it just that it doesn't comply with the
5 rules?

6 MR. PAPPAS: I would argue both,
7 because they have not filed a decommissioning
8 plan. What they have done is refer to the TSA,
9 which says "within six months of decommissioning".

10 CHAIRMAN HONIGBERG: Okay.
11 Ms. Manzelli, I know you filed a response as well
12 that agreed in some ways with Counsel for the
13 Public, but also went a little further.

14 MS. MANZELLI: Yes. Thank you.
15 Good afternoon, evening. Mr. Chair, members of
16 the Subcommittee, my name is Amy Manzelli, from
17 the law firm of BCM Environmental & Land Law,
18 representing the Society for the Protection of New
19 Hampshire Forests.

20 I'll make my comments brief. I
21 want to state for the record that we have joined
22 in and concur with the objection from the Counsel
23 for the Public, including their argument presented
24 today. And, I wanted to present one additional

1 point.

2 My perspective on this waiver
3 request is that it could put all of us in the
4 position where we're not able to accomplish the
5 primary purpose of RSA 162-H. What I see as the
6 primary purpose is to measure impacts of a
7 proposed project against identified benefits to
8 determine if the impacts are unreasonably adverse.
9 So, to effectuate that purpose, the law requires
10 the provision of very specific types of
11 information. Information with respect to water
12 resources, historic resources, decommissioning
13 plans, identification of improvements, excuse me.
14 In the absence of that information, we either --
15 all of us, we're left in a position where we have
16 to go out and get the information ourselves, which
17 is not how the statute is set up, or we have to do
18 this measuring and probing task without enough
19 information. Either one of those scenarios
20 violates the letter and the spirit of the law that
21 governs this proceeding.

22 I welcome any questions. Thank
23 you.

24 CHAIRMAN HONIGBERG: Thank you,

1 Ms. Manzelli.

2 Others who filed included CLF, AMC,
3 the Town of Bethlehem, Commissioner Samson, and
4 the City of Berlin. Did anyone else file on the
5 waivers? It post dated this thing.

6 Yes. Is there anything you want to
7 add to what you put in writing?

8 MR. DRAPER: Well, the most
9 important --

10 CHAIRMAN HONIGBERG: Just why don't
11 you identify yourself.

12 MR. DRAPER: Yes. I'm Barry
13 Draper, and I represent the Pemigewasset River
14 Local Advisory Council. And I -- so, I can't hear
15 myself -- is it bouncing off the walls?

16 CHAIRMAN HONIGBERG: You're good.

17 MR. DRAPER: Okay. Thank you. I
18 feel that one of the biggest problems is that
19 wetlands do not just remain in one little section.
20 And one of the problems is that we -- this map --
21 I'm discussing the waiver with the wetlands, and
22 mapping especially. And I feel like the mapping
23 of anything is, in the proposal, is too limited to
24 begin with. Not only because we're going to be

1 having severe weather changes because of climate
2 change, we don't know all of that, we need more
3 mapping instead of less. So, I feel like the
4 mapping needs to go beyond what they have already
5 said, and a waiver would be cutting back what
6 needs to be done. So, I'm against the waiver. We
7 are.

8 CHAIRMAN HONIGBERG: Thank you.
9 Were there others who filed?

10 Yes. Mr. Palmer, why don't you go
11 first.

12 MR. PALMER: This is -- my name is
13 Walter Palmer. I'm with the Abutters Group from
14 Bethlehem to Plymouth.

15 And I'd just like to say that the
16 Applicant's proposal to not file a decommissioning
17 plan basically is a proposal to leave out a major
18 component of the engineering design of this
19 project. Experience has shown that, if a
20 decommissioning plan is not made available before
21 the project is permitted, it greatly increases the
22 likelihood that the project -- that the
23 infrastructure developed by the project is going
24 to be abandoned in place whenever it becomes

1 commercially unviable to use it any longer.

2 There's a reason that the
3 decommissioning plan is required at the time of
4 permitting, and that is because it prevents or it
5 reduces the likelihood that the infrastructure
6 will be abandoned in place.

7 Furthermore, it's in the interest
8 of the Applicant to provide a decommissioning
9 plan, because that is another way of demonstrating
10 how they will mitigate and minimize the impacts on
11 the environment and on society of the
12 infrastructure that they're building, if they can
13 demonstrate that they're going to be removing it
14 at the end of its useful life.

15 So, those are the bases for our
16 petition that the Applicant be required to file a
17 decommissioning plan.

18 CHAIRMAN HONIGBERG: Ms. Menard.

19 MS. MENARD: Yes. The Deerfield
20 abutters did file an objection to the waiver for
21 historic, and I have no further information.

22 CHAIRMAN HONIGBERG: Ms. Saffo.

23 MS. SAFFO: Yes. Grafton County
24 also filed --

1 *[Court reporter interruption.]*

2 CHAIRMAN HONIGBERG: Ms. Saffo, you
3 need to be at a microphone. It may be a
4 microphone, but it may not be on.

5 MS. SAFFO: Hi. Grafton County
6 also filed a written objection, and we can rely on
7 the arguments already made. And we concur in the
8 Public Counsel's arguments, as well as the Society
9 for the Protection of New Hampshire Forests, and
10 we also concur with the statements made by
11 Mr. Palmer. Thank you.

12 CHAIRMAN HONIGBERG: All right.
13 Did anyone else file that I missed?

14 MR. PLOUFFE: Yes. Bill Plouffe,
15 Appalachian Mountain Club.

16 CHAIRMAN HONIGBERG: I didn't miss
17 you, I said "AMC".

18 MR. PLOUFFE: Oh.

19 CHAIRMAN HONIGBERG: Is there
20 anything you want to add?

21 MR. PLOUFFE: We'll rely on our
22 papers and the comments that have been made with
23 respect to the decommissioning and the waivers and
24 mapping. And just reiterate there's not much --

1 *[Court reporter interruption.]*

2 CHAIRMAN HONIGBERG: "There's not
3 much that needs to be reiterated".

4 MR. PLOUFFE: Okay. But, with
5 respect to the historic resources, to the extent
6 the Applicant is using the Section 106 process,
7 there's a reason for your not requiring a
8 delineation of those resources, we'd point out
9 that it's unlikely that the 106 process will be
10 completed before you have to make a decision.

11 CHAIRMAN HONIGBERG: Did anyone
12 file on this? Mr. Samson, I know you filed.

13 MR. SAMSON: If I may, Mr.
14 Chairman. I'd just like to cite one example in a
15 previous decision by the Site Evaluation Committee
16 involving the Coos Wind Park up in Coos County, in
17 Dixville, my district. The decommissioning fund
18 was set at \$875,000 to decommission 33 high
19 elevation wind towers. And it is our belief that,
20 even with an expert witness, that will not
21 decommission one tower.

22 So, I do concur with Public
23 Counsel, and I think this is an extremely
24 important decision.

1 CHAIRMAN HONIGBERG: Did anyone
2 else file? Ms. Lee, did you file anything on
3 this?

4 MS. LEE: I'm not sure I filed, but
5 I concur with some filing that -- can you hear me?
6 I'm not sure I filed officially, but I did refuse
7 to agree that they should get a waiver. And I can
8 speak to the decommissioning especially and the
9 mapping, because I live in a wetlands. I was
10 quite concerned about well water. And I had asked
11 the engineers to come out and look at the location
12 of my property. And I wouldn't want them to do
13 anything without a mapping. That's pretty final.
14 I'd like to know where the water would be affected
15 that's near my well.

16 As far as decommissioning, that's
17 very important to me, because I live in a very
18 sandy area. And I have experience what happens
19 when you do not require decommissioning. There's
20 a recent clearing, and they exposed a 10-foot long
21 creosote and other chemicals pole that's left on
22 my property. And I have to look at it now ever
23 since last fall.

24 The other thing I have real concern

1 about is there's leftover cables that Eversource
2 just marked with survey ribbon. And I can tell
3 you what happens when a clearing crew sends out
4 their Brontosaurus. They chop up trees, they chop
5 up what they think is a tree or something in the
6 ground, and they set the woods on fire. The
7 clearing crew came to my house in the middle of
8 August and said "we need water". So, I gave the
9 man a glass of water. Well, he was, actually, he
10 set a fire, and that's because of cables that were
11 in the ground. So, that's decommissioning when it
12 doesn't happen promptly.

13 The other issue that I'd like to
14 address is, if they don't have the money to
15 provide assurances of a decommissioning plan, I
16 don't believe them. I asked a comment during a
17 Q&A session of Mr. Quinlan. I said "what about
18 all the towns, small towns, such as Northfield,
19 who have been sued when they try to collect the
20 purported revenues that were due to our town?" We
21 can't afford to keep suing Eversource in the Land
22 and Bureau -- the Land and Tax Bureau to collect
23 what little money they promised as tax revenue.
24 So, that's another issue, is the underlying

1 assurance of financial standing that they really
2 do have or they don't have. They can afford our
3 little towns a map that tells us that they
4 designated not to disturb or endanger my well
5 water. And that's a really big issue in New
6 Hampshire right now.

7 And I'm very concerned about the
8 wetlands. And, beyond the wetlands, I'm also
9 concerned about a letter I got last week asking me
10 to give permission to give a historic/cultural dig
11 that's going to be happening within the next two
12 months. And I'm curious, why are they asking me
13 for this, when they haven't gotten permission to
14 start this project?

15 I mean, there's a lot of questions
16 about verity here.

17 CHAIRMAN HONIGBERG: Okay.

18 MS. LEE: And I'm very concerned
19 about and pretty upset about, which is why I keep
20 coming to these wonderful meetings.

21 CHAIRMAN HONIGBERG: Well, we're
22 focused on a couple of particular issues, and I
23 understand the position. Is there anything you
24 want to add?

1 MS. LEE: No. I just want the
2 record to say that I'm very concerned about them
3 not wanting to decommission. And I'm very
4 concerned about the fact that they wouldn't want
5 to map an abutter's property properly. And, in
6 particular, because when this project started in
7 2010, they said that I would be disturbed by
8 1.5 miles in Northfield. Now, it's been changed
9 subsequent to 1.6, six-tenths of a mile -- I mean,
10 a tenth of a mile. It shouldn't really matter to
11 anybody, but it matters to me. I would like to
12 know, where is that tenth of a mile? Where is it
13 going to go? Is it next to my well? Is it in my
14 driveway?

15 CHAIRMAN HONIGBERG: We're a little
16 beyond what we're talking about.

17 MS. LEE: Yes. But it's about
18 mapping and identifying. So, thank you.

19 CHAIRMAN HONIGBERG: Okay. Is
20 there anyone else who filed who wants to add
21 anything on this?

22 Yes, Mr. Whitley.

23 MR. WHITLEY: Thank you, Mr.
24 Chairman. Nothing to add, just that the number of

1 municipalities that have submitted, we're in
2 support of Counsel for the Public and their
3 comments here today and the objection to the
4 waiver request.

5 CHAIRMAN HONIGBERG: Mr. Maher.

6 MR. MAHER: Thank you. I just want
7 to make sure that the record accurately reflects,
8 the City of Berlin did file a statement of
9 positions, but that was a consolidated statement
10 that addressed the scheduling and the protective
11 order piece. So, the City of Berlin doesn't take
12 any issue -- doesn't take any position on this
13 issue.

14 CHAIRMAN HONIGBERG: Okay. Did I
15 miss anyone?

16 Ms. Pastoriza.

17 MS. PASTORIZA: The Easton
18 Conservation Commission, we filed an objection to
19 the waivers. Thirty years ago, when Eversource
20 upgraded their lines through Woodstock and Lincoln
21 and Easton, through White Mountain National
22 Forest, they dumped a whole bunch of
23 chlorophenol-soaked/creosote-soaked poles up
24 there. They only recently took them out of there

1 at the Easton Conservation Commission's behest and
2 White Mountain National Forest. So, I would not
3 trust them.

4 CHAIRMAN HONIGBERG: I actually
5 think we know that, that you would not trust them.

6 Anyone else?

7 *[No verbal response.]*

8 CHAIRMAN HONIGBERG: All right.
9 Mr. Needleman or anyone on your team want to
10 respond?

11 MR. NEEDLEMAN: Yes.

12 CHAIRMAN HONIGBERG: Mr. Bisbee.

13 MR. BISBEE: Thank you,
14 Mr. Chairman. Dana Bisbee, for all of the members
15 of the Committee. Good evening to you. I'd like
16 to address a couple of aspects of the waiver on
17 the mapping and identification aspects of our
18 request. Mr. Getz will address decommissioning, I
19 think, after me.

20 CHAIRMAN HONIGBERG: Uh-huh.

21 MR. BISBEE: So, first, in reply to
22 Ms. Manzelli's comments to you, let's remember
23 that we started this process with a rather large
24 application that addressed in great detail the

1 proposed route and the possible impacts from that
2 route. We supplemented that application by
3 providing additional information in February, and
4 that's what we're talking about here. We sought
5 waivers only on the supplemental filing, the
6 additional information to satisfy the Committee's
7 new rules.

8 And we're, on the mapping and
9 identification aspects of that, we are only
10 looking at the question of "how much information
11 do you really need relating to abutting
12 properties?"

13 Commissioner Bailey, in the very
14 beginning here, raised the question that the rule
15 surfaces, which required that information be
16 provided on the site, on abutting properties, and
17 within 100 feet, if such distance extends beyond
18 abutting properties. So, we've got this 100-foot
19 focus here in the rule requiring information on
20 abutting properties. We were careful about that.
21 We considered it, talked it through, decided that
22 we needed to go beyond the 100 feet for abutting
23 properties, but we thought there should be a limit
24 to that. And let me give you a couple of examples

1 as to limits that make sense.

2 Most of the concern relates to
3 wetlands and the historic resources. Starting
4 with historic resources, we have provided, and the
5 Application in its original filing included
6 extensive reports, it's Appendix 18 of the
7 Application, relating to historic resources. It
8 is -- it addresses an area of potential effect of
9 one mile on either side of the route. So, we
10 extended well beyond the 100 feet.

11 And the only issue we're asking for
12 in the waiver is to not be required to do more
13 than what the federal requirements are calling for
14 for addressing historic resources, which you have
15 captured in your rules elsewhere. It was not
16 included in the motion, but, in Site 301.06, the
17 rule that specifically addresses what is required
18 in an application for historic resources, the
19 applicant is to provide information identifying
20 historic resources within the area of potential
21 effect as defined by federal regulation. That's
22 what's been done, and to do more than that it is
23 not a focus that the Committee ever has looked at
24 before. And the only reason that this becomes an

1 issue now is because of this abutting property
2 rule in 301.03(c), despite the fact that the
3 historic resources issue was addressed
4 specifically in 301.06.

5 The other major area of interest is
6 wetlands. And Counsel for the Public rightly
7 indicated that one of the bases for granting a
8 waiver is whether the work to be done is onerous.
9 But that's not the only one. The standard is
10 whether it meets the public interest. The work
11 being onerous is one way to do that. There are
12 two other bases for that. One is whether it's
13 inapplicable in the circumstances, and the other
14 is whether there's an alternative method.

15 So, looking at the wetlands piece
16 of this, the original Application provided
17 substantial information about wetlands and surface
18 waters. When we submitted the additional
19 information to satisfy the new rule, we did the
20 same for abutting properties out to about a
21 quarter mile on either side of the right-of-way.
22 That's because that is the -- that was the area
23 covered in the original map set that we provided
24 you, as Mr. Iacopino said, that is about 190 pages

1 of map sheets for the route. We have provided
2 wetlands information out to the extent of those
3 map sheets.

4 The information on the right-of-way
5 proper is delineated in the normal way that
6 wetland scientists do their wetlands delineation.
7 You can't -- we don't have access outside of the
8 right-of-way in most instances. So, we asked our
9 consultants to do the best job they could using
10 available information to identify wetlands.
11 Within 100 feet, they had a better sense, because
12 they did have information for the edge of the
13 right-of-way, they could look over the edge onto
14 the abutting property, and made an estimate of
15 what wetlands were there.

16 Beyond the 100 feet, we went
17 further than that, using national database of
18 wetlands, trying to provide some type of
19 approximation of where wetlands might exist
20 outside of that 100 feet outside of the
21 right-of-way. It is old data. It is not reliable
22 data, that no wetland scientist relies upon it.
23 And, well, we've done it to try to satisfy the
24 rule. To extend that out even beyond the quarter

1 mile beyond the right-of-way on those abutting
2 properties that are that large, and there are many
3 of them, just didn't seem to provide the Committee
4 or any of the parties information that would be
5 valuable in the consideration of the case.

6 And just one last point, Mr.
7 Chairman. Mr. Iacopino mentioned that we have
8 looked at what it might take to provide the
9 information to you. If we provided maps on the
10 same scale that we did originally, to provide the
11 additional information, the estimate that we
12 received from the engineers is that it would take
13 about 940 map sheets, instead of 190.

14 CHAIRMAN HONIGBERG: Mr. Getz.

15 MR. GETZ: Thank you, Mr. Chairman.
16 I want to start by responding to Mr. Pappas and
17 his interpretation of the statute, and completely
18 disagree with his reading of the statute. It's
19 our position that the Section 9.3 of the
20 Transmission Service Agreement constitutes a
21 decommissioning plan that complies with the
22 statute, inasmuch as it describes in reasonable
23 detail the elements of and a financial assurances
24 for facility decommissioning.

1 And I think it's important here,
2 it's an issue of definition of terms. I think
3 Mr. Pappas may be presuming, and others presuming,
4 that "the plan" requires some specific engineering
5 of how you would actually go about the
6 decommissioning 40, 50, 60 years from now. And
7 the statute makes no mention of that, does not
8 require an "engineering" type of plan comparable
9 to what would be done for the construction of the
10 project. So, I disagree in terms of how the
11 statute should be interpreted.

12 With respect to the rules, the rule
13 itself, 308 -- 301.08(c)(2) has three disparate
14 elements. In the introduction it talks about an
15 "independent third party". Sections (a) and (b)
16 talk about "describing sufficient and secure
17 funding" and "provision of financial assurances".
18 And Part (c) and (d) are, you know, appear to be
19 substantive mandates about what would be in a
20 "engineering" type plan at some date.

21 So, with respect to the "sufficient
22 and secure funding", we believe that is provided
23 by the TSA, which is a FERC-approved rate, which
24 provides that five years before decommissioning

1 would occur that the customer, H -- Hydro-Quebec,
2 would be paying funds into this rate that would be
3 accumulated to account for the decommissioning, if
4 it were to occur. And the provision of "financial
5 assurances", under (c) -- or, under (b), in and of
6 itself is the TSA, that provides the financial
7 assurances.

8 Now, I want to talk about the
9 context as well in which you're looking at these
10 rules, because I think it's important in terms of
11 the analysis that you're required to do. And this
12 rule, 301.08(c)(2), really shouldn't be read in
13 isolation. Overall, Chapter 300 has two relevant
14 purposes for this analysis. Sections 301.03 to
15 301.09, they direct an applicant what to file.
16 These are procedural requirements; they're not
17 criteria. Sections 301.13 to 301.16 direct the
18 Subcommittee what to consider in the context of
19 making a finding. And, looking at the rules in
20 this way, there's a critical distinction between
21 the first group of rules, talking about what the
22 procedural requirements for the applicant are, and
23 the second set of rules that talk about the
24 substantive requirements to assist the Committee

1 in making its finding about whether, in this
2 instance, the Applicants have demonstrated that
3 there will be no adverse -- unreasonable adverse
4 effect on public health and safety. One subset of
5 which goes to, is there an adequate or sufficient
6 facility decommissioning plan?

7 So, when we're asking for a waiver,
8 it's a waiver of a procedural rule. And we
9 believe, in terms of the "waiver rule" itself, we
10 have proposed, by an alternative means, to satisfy
11 the purpose of the rule. And the purpose of the
12 rule we think is two-fold. That applicants are on
13 notice of what to file, and that the Committee is
14 assured that it has the type of information before
15 it in order to make a decision. And this is where
16 I would -- I think Ms. Manzelli's comments stop
17 short, and don't recognize that the burden of
18 proof is on the Applicant to demonstrate by a
19 preponderance of an evidence -- or, of the
20 preponderance of the evidence that it's met its
21 burden in this case, no unreasonable adverse
22 effect on public health and safety.

23 So, let's not get ahead of
24 ourselves and make judgments about whether the

1 plan is substantively sufficient. Let's focus on
2 "do you have enough information to move on to the
3 hearing?" And we believe what we have provided
4 satisfies the statute and, by an alternative
5 means, satisfies the rule.

6 CHAIRMAN HONIGBERG: Does any
7 member of the Subcommittee have questions for
8 Mr. Bisbee or Mr. Getz?

9 CMSR. BAILEY: You can start down
10 there. I've got a lot.

11 CHAIRMAN HONIGBERG: Okay.
12 Mr. Oldenburg.

13 MR. OLDENBURG: A question about
14 the mapping, and just a clarification. So, you've
15 mapped a quarter mile either side of the corridor,
16 and that's --

17 (Atty. Bisbee nodding in the
18 affirmative.)

19 MR. OLDENBURG: And I can see, like
20 the property lines, you can gather that probably
21 from town tax maps and stuff like that. And the
22 historical part, the cultural, the archeology, the
23 historic properties, the cemeteries, the historic
24 part, I'm sure that the -- since they're historic,

1 there's probably mapping that you can generally
2 map those locations within that quarter mile.

3 So, it's really the wetlands that
4 are really questionable. So, you've mapped the
5 wetlands exactly, by wetland scientists, but only
6 within your right-of-way --

7 [*Court reporter interruption.*]

8 MR. OLDENBURG: -- map the wetlands
9 within your right-of-way. But, outside that,
10 you're basically taking sort of a "best guess"
11 look, using mapping that, by your own admission,
12 it really isn't that accurate and old. And, so,
13 beyond the right-of-way, it's really -- that's
14 really the questionable part. But, in your
15 defense, you don't have the right to go on that
16 property to actually map that wetland. So, that's
17 sort of the conundrum, is how do you do -- how do
18 you map that wetland, if you don't have the right
19 to be on that property?

20 Is that sort of the -- is that sort
21 of an accurate depiction of what was done?

22 MR. BISBEE: Very close. But we
23 actually fully complied with all of the
24 requirements for abutting properties out to the

1 quarter of a mile on either side of the
2 right-of-way. We fully complied there. It is
3 only a question that we're seeking in the waiver,
4 for those properties that extend beyond the
5 quarter mile, for abutting properties, that are
6 not currently mapped in the -- in the plans that
7 we provided with our additional information to
8 satisfy the new rule.

9 So, we're fully compliant for
10 wetlands, we're fully compliant for historical and
11 archeology, and buildings and residences and
12 property lines. We're fully compliant within the
13 plans as we provided them to you, which is a full
14 half mile, a quarter mile on either side. So,
15 it's only a question of those properties that
16 extend beyond the --

17 MR. OLDENBURG: The huge ones that
18 are a half a mile --

19 MR. BISBEE: And beyond.

20 MR. OLDENBURG: All right.

21 CHAIRMAN HONIGBERG: Other
22 questions? Mr. Way.

23 MR. WAY: Yes. Thank you. And,
24 Attorney Getz, thank you. You know, I've got to

1 admit, I'm having some trouble with the
2 decommissioning plan. And, you know, as I read
3 301.08, and I agree, I can see what you're saying
4 about reading it in the whole. But, boy, it seems
5 tailor-made to what you're doing, certainly what
6 I'm reading. And maybe you can help me. But,
7 when I look at it, so, you're saying that this is
8 a TSA agreement, using your experts, but not
9 independent, I think that's one issue, that
10 certainly I think it speaks to the public's trust
11 as well. And this is something that will come at
12 a date certain, but not with the plan. It will
13 come five years before the decommissioning of the
14 activity. Am I correct in understanding?

15 MR. GETZ: That's correct.

16 MR. WAY: And, so, it won't be
17 submitted with the plan. Once again, that's
18 another thing that gives the public some trust in
19 how this is going to be managed.

20 I think also, too, in terms of
21 looking at the removal of some of the items that,
22 and we've heard some of the other evidence about
23 how you're going to actually take care of that, I
24 mean, that's part of the decommissioning plan.

1 And, so, I'm having a hard time
2 reconciling. It almost seems like "Don't worry,
3 trust us, we've got this covered." And, so, help
4 me get confidence in that?

5 MR. GETZ: There's a couple of
6 things. One with what I think you're speaking to,
7 in terms of the detailed engineering plans for how
8 you would actually decommission the project. I
9 think our view is that it's premature to try to
10 put that together at this point. And I don't
11 think either the statute or the rule requires
12 something of that detail at this point.

13 And one of the things we propose is
14 that, you know, as a condition, the Committee has
15 continuing jurisdiction over this project, and
16 could -- and, you know, obviously, there will be a
17 plan that will be put together 35 years from now,
18 when it's closer to decommissioning, and actually
19 that could take even longer, may not happen then,
20 it could happen longer, depending on the
21 Agreement. But that's the earliest it would
22 happen under the Agreement. But that's when it
23 becomes more relevant and timely to know what the
24 details are of the actual engineering and

1 construction. And, under the TSA, it says that
2 "decommissioning will be conducted in compliance
3 with all applicable law." So, to the extent that
4 you were to require as a condition of a
5 certificate that the Committee or that the
6 Applicant file, you know, at that time, the plan
7 with the Committee for approval, that would be --
8 that's actually contemplated under the TSA and
9 well within your authority. And it would, I
10 think, be more sensible at that time to dealing
11 with the engineering details of how
12 decommissioning would occur. Which is a different
13 thing from the financial issues of this, "is there
14 going to be enough money there at the time?" And
15 that's what we believe the requirements under the
16 TSA provides that assurance, that the customer
17 will pay basically a surcharge in rates so that
18 the funds will be sufficient to, well, to
19 accommodate the cost of what's actually even
20 included in applicable law, which would include
21 conditions that this Committee would impose on a
22 certificate.

23 MR. WAY: So I guess what you're
24 also saying is that 35 years is a long time. And

1 this is really applicable to it, but I guess in my
2 mind, a lot of the long-term projects that we
3 talked about, it's the same thing. It would be
4 the same issue, and particularly about those
5 areas. And I think you mentioned 301.08, that one
6 half seems to be very separate from the other
7 half. But at least in terms of removal of the
8 items, there seems to be certainly a place where
9 you can give confidence to how this material is
10 going to be managed. That isn't going to change
11 in 35 years.

12 MR. GETZ: Well, I think if you're
13 talking about transporting the transformers off
14 site, we've committed we would do that, and that's
15 mentioned in our filing.

16 Now, as for the other piece of that
17 and how to deal with underground infrastructure, I
18 guess we're not convinced at this point in time
19 whether that -- you know, is that the best way to
20 do it. And, you know, I think that's something of
21 more detail probably better addressed in a more
22 comprehensive plan that would, you know, go before
23 the Committee, you know, nearer in time to when
24 the decommissioning would actually occur.

1 CHAIRMAN HONIGBERG: Other
2 questions? Mr. Wright.

3 DIR. WRIGHT: Thank you, Mr.
4 Chairman.

5 I, too, am trying to wrap my head
6 around this decommissioning issue. I heard you
7 mention a couple times, the "FERC-approved rate
8 five years prior to decommissioning," that there
9 would be a surcharge to, I believe Hydro-Quebec is
10 what you said. Who's making that decision as to
11 when that five-year period begins?

12 MR. GETZ: So, under the
13 Transmission Service Agreement, Section 9.3 -- so
14 this is, in FERC terms, an "approved rate" that
15 governs the arrangement between Northern Pass as
16 the seller of transmission service and
17 Hydro-Quebec, you know, a subsidiary of
18 Hydro-Quebec, as the purchaser who pays for the
19 right to transfer the power. So, under the
20 Section 9.3, no later than six months before
21 commencement of the decommissioning payment
22 period, which is from years 35 to 40, there's a
23 plan -- and this Section 9.3.2 is called the
24 "Decommissioning Plan" -- that the management

1 committee gets to set forth in detail the
2 estimation of what the decommissioning cost would
3 be. And there's an arrangement between -- that
4 come to agreement between them. But all of that
5 underneath it has a requirement that the plan is
6 going to recognize -- it's going to decommission
7 entirely in accordance with applicable law. So
8 it's going to -- you know, looking back at what
9 New Hampshire has required of it. So that has to
10 be part of the costs that are -- you know, become
11 part of this plan, which then is the rate that
12 FERC approves to charge Hydro-Quebec, that then
13 builds up the fund, so that five and a half years
14 later when you start decommissioning there's such
15 money there to accomplish the decommissioning. So
16 that's the plan and that's the assurances.

17 CHAIRMAN HONIGBERG: Mr. Way.

18 MR. WAY: Did I hear you say -- did
19 I hear you say, in terms of the underground
20 structures, so that might be something that would
21 be taken up at a later date when the plan is
22 submitted?

23 MR. GETZ: Well, I think so. It's
24 one kind of peculiar piece of that rule of how to

1 deal with the -- when you're looking at the
2 underground infrastructure at depths less than
3 4 feet below grade. Now, presuming that this
4 could, you know --

5 MR. WAY: And I guess my question
6 would be, that's one thing you're looking for a
7 waiver from. So what confidence would there be
8 that at a later date that would rise to a priority
9 to maybe even look at those underground
10 structures?

11 MR. GETZ: Well, we're also
12 proposing that, you know, there's a condition for
13 us to file with you the actual engineering plan as
14 part of your ongoing authority and monitoring and
15 enforcement of the certificate, that that could be
16 done at that time to make it -- we don't think
17 it's necessarily a good idea to make this
18 commitment, this one kind of minor detail
19 commitment at this point when there may be better
20 ways of addressing that issue.

21 CHAIRMAN HONIGBERG: Commissioner
22 Bailey.

23 CMSR. BAILEY: Thank you.

24 Mr. Getz, if the statute doesn't

1 require a detailed engineering decommissioning
2 plan, what do you think the requirement that has
3 to do with a "plan being filed by an independent
4 consultant" means?

5 MR. GETZ: Well, that's, I guess,
6 the difference between the elements in what the
7 statute says and then what's required in the rule
8 with the independent third party. I mean, it's
9 entirely different things. Now, why did the
10 Committee require an independent third party? I'm
11 not sure.

12 CMSR. BAILEY: Wait a second. Are
13 you saying that the independent third party
14 requirement is not part of the statute?

15 MR. GETZ: That's correct. It's in
16 the rule.

17 CMSR. BAILEY: Can you read it
18 again, the statute?

19 MR. IACOPINO: Statute?

20 CMSR. BAILEY: Yeah.

21 MR. IACOPINO: Sure.

22 CMSR. BAILEY: Sorry. I thought I
23 had my statutes with me, but they're out of date.

24 162-H:7.

1 MR. IACOPINO: Shall "describe in
2 reasonable detail the elements of and financial
3 assurances for a facility decommissioning plan."

4 CMSR. BAILEY: Okay. So the rules
5 say that it has to be done by an independent third
6 party. And your position on that is that's one of
7 the -- well --

8 MR. GETZ: Well, that would be one
9 of the main things we would require or request a
10 waiver of. We think we're compliant with two of
11 the others, but then would comply with the third
12 and would also be asking to defer on the
13 underground structure piece.

14 Okay. So let me repeat back what I
15 thought I understood you to say when you were
16 making your argument about 301.03 through 09 are
17 the requirements of what has to be in the
18 Application, and 13 through 16 are the
19 requirements about what we need to consider in
20 making a finding. And what I thought you were
21 saying is, if we -- I guess if we waive the filing
22 requirements for you to file a detailed
23 engineering type of plan, or a plan done by a
24 third-party consultant -- go ahead.

1 MR. GETZ: We think those are two
2 different things.

3 CMSR. BAILEY: Okay.

4 MR. GETZ: I don't think there's a
5 requirement now for a detailed engineering plan.
6 At least it's not expressed. That's a different
7 thing from an independent decommissioning plan
8 prepared by an independent, qualified person.

9 CMSR. BAILEY: Okay. So,
10 hypothetically, if we granted the waiver to not
11 require it to be done by a third party and we were
12 left with the plan that you have in the TSA, are
13 you saying that we could make a finding that that
14 plan wasn't good enough for you to carry your
15 burden of proof that there would not be
16 unreasonable adverse impact and that this wouldn't
17 be in the public interest?

18 MR. GETZ: All of this still needs
19 to be adjudicated.

20 CMSR. BAILEY: Right.

21 MR. GETZ: This is what we propose
22 as one element of making our case on whether --
23 that the Project does not have an unreasonable
24 adverse effect on public health and safety. We

1 have to demonstrate that by a preponderance of the
2 evidence. So that will be before you to make your
3 decision. Other people will argue that it doesn't
4 satisfy the statute. But we believe it does, so
5 this is something that needs to be adjudicated.

6 CMSR. BAILEY: Satisfy the statute
7 requiring a plan to be on file, or satisfy the
8 statute that we find that it's in the public
9 interest?

10 MR. GETZ: We think it satisfies
11 the statute to be on file.

12 CMSR. BAILEY: Okay.

13 MR. GETZ: But then it would be
14 you'd have to make the determination whether we've
15 shown that there will be no unreasonable adverse
16 effect on public health and safety.

17 CMSR. BAILEY: Okay. Thank you.

18 And you said that the TSA says that
19 decommissioning will happen in year 40 and that
20 the collection from the Hydro-Quebec will be
21 between year 35 and 40?

22 MR. GETZ: Yes.

23 CMSR. BAILEY: Is there any
24 provision that can change that?

1 MR. GETZ: Yeah. Well, one example
2 is if the TSA were extended another 10 years, then
3 that would push out the date for when the
4 decommissioning surcharge would be collected.

5 CMSR. BAILEY: And would you know
6 that at year 35? Or at year 35, if nothing like
7 that happened, you would automatically start
8 collecting the decommissioning surcharge?

9 MR. GETZ: In the absence of the
10 extension, then the requirement would kick in
11 for -- the decommissioning payment period would
12 start, and the requirement between the parties to
13 start that process with the management committee
14 would begin.

15 CMSR. BAILEY: Okay. What happens
16 if in 20 years some new technology comes along
17 that makes it absolutely obsolete and everyone
18 hates it and they need to retire it early?

19 MR. GETZ: Well, if it's... well, I
20 guess in your hypothetical, if something happened
21 where the arrangement needed to be terminated
22 earlier, then the five-year commitment would kick
23 in earlier. So if you're into year 20 and it's
24 determined that, you know, the sales under the TSA

1 shouldn't proceed, that there's still an
2 obligation on Hydro-Quebec. But you'd have to
3 advance that collection period is my
4 understanding.

5 CMSR. BAILEY: So there's an
6 obligation that they would have to continue to pay
7 for the transportation of the energy even if they
8 weren't transporting the energy and collecting any
9 money from the energy markets to get the money
10 back. They still have to pay you, Northern Pass,
11 for that service?

12 MR. GETZ: Yes.

13 CMSR. BAILEY: Could this money be
14 collected during the first five years?

15 MR. GETZ: Not under the agreement.
16 There would have to be an amendment of some sort
17 between the parties.

18 CMSR. BAILEY: Okay. All right.
19 I'm going to switch gears to the other waiver
20 requests.

21 Mr. Bisbee, can you tell me if you
22 know how far away from the Project can the water
23 supply be impacted?

24 MR. BISBEE: It's going to depend

1 on the circumstances. If there's no direct effect
2 on wetlands beyond where the work is taking place,
3 if there were some anomaly that occurred during
4 the work that caused some runoff, then it could go
5 off site. But I can't give you a limit to that.

6 CMSR. BAILEY: What about effect on
7 people's wells?

8 MR. BISBEE: Would be the same
9 answer.

10 CMSR. BAILEY: Do you know how many
11 places along the route you find that abutting
12 properties extend beyond a quarter of a mile?

13 MR. BISBEE: I have a number for
14 how many extend beyond a mile, and that's 37. And
15 between half a mile -- I don't have it for a
16 quarter-mile. But beyond a half-mile and a mile
17 there's 382, again, according to the engineers.

18 CMSR. BAILEY: So if the
19 requirement were to map everything within a
20 half-mile on either side of the right-of-way, you
21 would have to add 382 more surveys?

22 MR. BISBEE: There would be 382
23 properties that would be involved, but the actual
24 plan sheets don't work out exactly that way. So,

1 to cover it in the same scale that we have done
2 it -- whether that's the right way to present it
3 is not clear. Much of this doesn't have to even
4 be on maps. We thought that was just the best way
5 to present it. We'd have to identify the
6 information. But it would take many more plan
7 sheets than just that number of properties.

8 CMSR. BAILEY: Do you know how many
9 instances there are of "skinny properties," where
10 you were required by the rule to map out 100 feet
11 beyond the abutting property?

12 MR. BISBEE: We didn't do that
13 estimate because the plan sheets already cover an
14 entire half-mile swath, so we didn't really need
15 to do that analysis.

16 CMSR. BAILEY: So your argument is,
17 if there's a property that's 100 feet away from
18 the Project, but not an abutter, you would only
19 have to map to 100 feet in that case.

20 MR. BISBEE: If the Project were
21 within 100 feet of the line, then we would only
22 have to go to 100 feet. That's what the rule
23 seems to require, which is anomalous.

24 And if I could also, Commissioner

1 Bailey, just add that the permitting agencies that
2 look at these issues don't require this
3 information. This is something that the SEC has
4 asked for in addition to what is already provided
5 in the pretty hefty applications that went to DES
6 and EPA and the Army Corps.

7 CMSR. BAILEY: All right. Thank
8 you.

9 CHAIRMAN HONIGBERG: Mr. Pappas,
10 what would you want to say at this point?

11 MR. PAPPAS: I got a few things to
12 add. And since the Applicant, it was their
13 motion, and they passed on going first --

14 CHAIRMAN HONIGBERG: Oh, we're
15 not -- what is it you want to address that hasn't
16 already been covered?

17 MR. PAPPAS: Well, a couple things
18 on decommissioning --

19 CHAIRMAN HONIGBERG: Okay.

20 MR. PAPPAS: -- and what the
21 Applicant said is the distinction between the
22 procedural rules and what the Subcommittee
23 considers at the adjudicative hearing. And I want
24 to point out that they need to file -- the purpose

1 of filing a decommissioning plan is so we can test
2 it at the adjudicative hearing. We can't wait
3 until the adjudicative hearing for them to
4 supplement their application and then test it at
5 that point. The reason that you're -- I think the
6 procedural rules require them to file a
7 decommissioning plan is so that we can test it,
8 among other things, at the adjudicative hearing,
9 and you folks can make a decision. If they
10 haven't filed one, you can't wait until the
11 adjudicative hearing to consider it. And that
12 distinction they raised the first time in their
13 argument, and it wasn't raised in the papers. So
14 I wanted an opportunity to address that with you.

15 The second item that I want to be
16 able to address is, I would encourage you, if
17 you're going to decide this waiver issue, to go
18 ahead and look at 9.3 in the TSA, because what it
19 is is a plan to do a plan, not a plan. Your
20 statutes say you have to have a decommissioning
21 plan, and your rule spells out what needs to be in
22 that. And 9.3 doesn't address the things in your
23 rules. So we don't have an ability to test those,
24 and you don't have an ability to test them to see

1 whether or not they're sufficient because there
2 simply isn't anything there to test. And I think
3 that is a point again that they raised for the
4 first time now.

5 Last item, and I'm going to switch
6 gears to the mapping. I'm a little confused
7 because I thought I heard them say they're "fully
8 compliant." If they're fully compliant, I'm not
9 sure why they need a waiver. So it's a little
10 confusing what they're fully compliant with. We
11 heard for the first time today, because we were
12 arguing how onerous it is and how many properties
13 there are in mapping, and we hadn't heard that
14 before. But we didn't hear, in terms of the
15 number of properties, how difficult it would be to
16 actually do what they were required to do. So I
17 think that's something you need to consider in
18 deciding that. Thank you.

19 CHAIRMAN HONIGBERG: Mr. Bisbee,
20 would you clarify, please, your statement about
21 being "fully compliant." I recall what you said.
22 I don't want to put words in your mouth, however.

23 MR. BISBEE: Thank you. The
24 additional set of maps that we provided to address

1 the new rules that required information on
2 abutting properties addresses all of the
3 information that the rules require out to the edge
4 of those plan sheets, which is a full half a mile
5 in total, quarter-mile on either side of the
6 right-of-way.

7 CHAIRMAN HONIGBERG: Mr. Pappas, do
8 you now understand the "fully compliant" statement
9 that Mr. Bisbee made earlier?

10 MR. PAPPAS: I think as much I'd
11 understand at this point in the night.

12 MR. IACOPINO: Can I ask a question
13 of Mr. Bisbee?

14 CHAIRMAN HONIGBERG: Certainly.

15 MR. IACOPINO: Thank you.

16 Mr. Bisbee, I guess one of the
17 questions that I have is the rules with respect to
18 the mapping that you're seeking a waiver. Two out
19 of the three of them have an exception. And when
20 I read the motion, I sort of got the impression
21 that you may be actually asking to waive the rule
22 for some properties that fall within the exception
23 itself. Is that the case, that exception where
24 you don't have access to the properties?

1 MR. BISBEE: I'm not totally
2 following your question. We could -- using the
3 wetlands example, we could provide the
4 guesstimate, really, using this old database to
5 provide wetlands information to you and to the
6 parties.

7 CHAIRMAN HONIGBERG: Mr. Bisbee, I
8 think what Mr. Iacopino was asking you is about
9 the provision in the rules that lifts the burden
10 from you "if and to the extent such identification
11 is not possible due to lack of access to the
12 relevant property and lack of other sources of the
13 information to be identified."

14 MR. BISBEE: Yes, if the other
15 resources could be identified. That's the best
16 that our consultants could find is this national
17 database of wetlands.

18 So that information is available
19 and we could provide it, but we question its
20 usefulness to anyone. So we seek a waiver of the
21 requirement to provide it beyond a quarter-mile
22 from the site. But we still have to use other
23 information. We can't gain access for that. So
24 we would not do wetlands delineation on site.

1 MR. IACOPINO: And what about for
2 historic resources?

3 MR. BISBEE: That we've already
4 done for a full mile. And that could only be done
5 through public access ways as well. But in that
6 case, we fully provided the information that
7 301.06 requires, specifically addressing
8 historical sites and what the Federal Government
9 is requiring under the National Historic
10 Preservation Act. Parties are seeking to modify
11 that area of potential effect. If that ever
12 happens, then we would have to comply with it.
13 But we'd still be meeting the requirement to
14 identify resources within the area of potential
15 effect, one mile on either side, as your rule at
16 Site 301.06 requires.

17 MR. IACOPINO: And one last
18 question with respect to structures and buildings
19 and the layers of your maps that show those
20 things. It's supposed to show whether they're
21 residential, industrial, commercial. Do you have
22 an estimate of how many additional structures you
23 would have to map and how you would determine what
24 they are?

1 MR. BISBEE: We have not done that.
2 We provided that fully, again, within the
3 quarter-mile area on either side of the
4 right-of-way. But we have not done an analysis of
5 how many more buildings would have to be
6 identified as between industrial, residential or
7 other structure.

8 MR. IACOPINO: Thank you.

9 CHAIRMAN HONIGBERG: Commissioner
10 Bailey.

11 CMSR. BAILEY: Mr. Bisbee, would
12 you be willing to map any intervenor's property
13 who requested that you fully map their property,
14 or would you be worried that they might use that
15 just to give you a hard time?

16 MR. BISBEE: My reaction is your
17 latter suggestion.

18 MS. WEATHERSBY: I have a question.
19 Mr. Bisbee, with regard to the wetlands, if on
20 your map it goes out to a quarter-mile of wetlands
21 identified that would appear to extend beyond the
22 edge of the map, are we provided anywhere else
23 with information concerning the size or quality of
24 that wetland?

1 MR. BISBEE: The Application or the
2 additional information we provided does not
3 provide any information beyond that edge of the
4 plan. But just let me reiterate. On the site
5 itself, we did a full wetlands delineation because
6 we had access. Hundred feet off of it, we did the
7 kind of estimate that you're kind of suggesting
8 here. We have a better sense because it goes off
9 of the right-of-way and we know if it's extending
10 onto the adjacent property. Beyond the 100 feet,
11 though, we can't do that, so we had to rely upon
12 this archaic database. So that's the best we
13 could do. It may be more misleading even if we
14 provided it.

15 CHAIRMAN HONIGBERG: Mr. Bisbee,
16 how onerous would it be? How long would it take
17 and how much would it cost, separate and apart
18 from whether it would provide, in your view,
19 inadequate or inaccurate information?

20 MR. BISBEE: The wetlands we could
21 provide to you from that national database quickly
22 and pretty readily without huge expense. I think
23 the mapping copies would be a small expense. But
24 the work to produce it from the database, because

1 that already exists, would not be a large effort.
2 The historic sites, we would need to look at the
3 existing list of sites that the Division of
4 Historical Resources has. They were helpful to us
5 on archeological sites. We even went up to a mile
6 on archeology, which is unlikely to be affected
7 anyplace where we're going to be on the site
8 anyway. But we could provide those sites. I
9 don't think they have that same information on
10 above-ground historic sites. So that's additional
11 work that our historians would have to be doing,
12 in addition to the work that they're completing
13 for the National Historic Preservation Act
14 process.

15 To go to every town where there are
16 buildings and other structures to identify whether
17 it's a house or -- and we don't have -- and it
18 doesn't identify wells, in any event. But to
19 identify houses, industrial buildings and other
20 structures, and to provide the property lines,
21 that's the largest effort it would take. We
22 didn't -- I don't have a number for you, in terms
23 of the numbers of weeks or cost. But it would be
24 a large effort to do that identifying. I do know

1 that once we have the information in hand, we're
2 told it would take a couple of weeks of full-time
3 mapping effort to put that information on the
4 maps.

5 MR. IACOPINO: Could you just
6 explain why, though, why that's such a big effort
7 to identify the nature of the structures?

8 MR. BISBEE: Yeah, because you
9 start with aerial photography, and you can't
10 necessarily tell. I mean, we could do -- we could
11 come close perhaps. But to be precise about it,
12 which we have done, we've gone to the town for
13 information on the tax maps and cards to get that
14 information.

15 CHAIRMAN HONIGBERG: Any further
16 questions from the Subcommittee?

17 MR. GETZ: Mr. Chairman.

18 CHAIRMAN HONIGBERG: Mr. Getz.

19 MR. GETZ: May I respond to Mr.
20 Pappas?

21 CHAIRMAN HONIGBERG: I would say
22 no, unless it's really good and you really feel
23 that if you don't say it we're going to get it
24 horribly wrong. You know, give me 30 seconds.

1 MR. GETZ: That's all I need.
2 We've complied with the statute. We've complied
3 with the rule by an alternative method. We urge
4 you to read 9.3. And these are issues that are
5 appropriate for adjudication. We think our plan
6 satisfies that.

7 CHAIRMAN HONIGBERG: Thank you, Mr.
8 Getz. I apologize for giving you a hard time. I
9 gave Mr. Pappas a hard time, so I felt I needed to
10 give you a hard time as well.

11 We have to talk timing for a minute
12 before we break. I think we're going to need to
13 deliberate on some of this stuff, so we're going
14 to still need to come back and see if we can
15 resolve this. But we do need to talk schedule for
16 a minute, and I need to provide some information
17 to everybody.

18 The work that we have been doing --
19 there was a woman here earlier who had to go home,
20 a woman who greeted you and helped you sign in,
21 who has spent much of the last few weeks looking
22 for a venue where we could do the hearing on the
23 merits in this proceeding with a crowd estimated,
24 you know, at whatever this crowd is likely to be,

1 to be finished in time to issue an order on the
2 merits by mid-December, which is our effective
3 deadline. And based on the work that we've done
4 so far, there is no such venue. We've looked at
5 empty stores in malls. We've talked to public
6 facilities. We've talked to state facilities.
7 And, you know, there are places out there that are
8 fairly well off the beaten path. We found a place
9 that is on the northern part of Lake
10 Winnepesaukee. And I think it's a beautiful site,
11 a beautiful venue, but I'm not sure that it's
12 really practical for this. So we're in a
13 situation where, even if everybody worked as hard
14 as they could and did everything on a rigid
15 schedule, we don't have the physical capacity to
16 finish by mid-December. What that means is,
17 regardless of what schedule we set, based on the
18 very persuasive pleadings by the Applicant, by the
19 Society, by Public Counsel and all the people who
20 agree with Public Counsel, and even more people
21 who agree with the Society, I think this is a
22 physical impossibility situation, that we can't do
23 this. And therefore, I think we're going to need
24 to suspend and act under the statutory provision

1 that authorizes the Committee to suspend the
2 timing requirements when it's in the public
3 interest. And I can't think of a better public
4 interest than physical impossibility. Now, there
5 may be other reasons, that in fact it may not be
6 possible to finish because of all the work that
7 needs to be done. But even if it were, I don't
8 think we have a venue.

9 So can you give me a cite in the
10 statute, Mr. Iacopino --

11 MR. IACOPINO: RSA 162-H:14.

12 CHAIRMAN HONIGBERG: Mr. Iacopino,
13 what do we need from the Committee to move forward
14 in this way?

15 MR. IACOPINO: I'll read the
16 statute and tell you what you need. The statute
17 says, "If the Site Evaluation Committee, at any
18 time while an application for a certificate is
19 before it, deems it to be in the public interest,
20 it may temporarily suspend its deliberations and
21 time frames established under RSA 162-H:7."

22 What you would need is
23 consideration of whether or not -- well, you need
24 a motion, obviously. In order to suspend, you

1 would need to make a determination by a majority
2 vote of the Subcommittee that it is in the public
3 interest to suspend the deliberations and time
4 frames.

5 CHAIRMAN HONIGBERG: Well, do you
6 need to do -- I mean, suspending deliberations
7 implies that we're just going to stop. That's not
8 what's intended here; right? I mean, I know
9 there's a lot of people who would like that. But
10 I think the expectation is that we're going to
11 continue to work and the parties are going to
12 continue to work. But what we want to suspend is
13 the deadlines.

14 MR. IACOPINO: Correct.

15 CHAIRMAN HONIGBERG: All right.

16 MR. IACOPINO: I think the
17 timeframes is a reference to Section 7, which has
18 the timeframes for the various requirements.

19 CHAIRMAN HONIGBERG: Right. But
20 we're not suspending work. We're suspending
21 deliberations, correct?

22 MR. IACOPINO: Depends what you
23 mean by "deliberations". You can continue to go
24 through a procedural schedule, if that's what you

1 mean. I don't want to confuse "deliberations"
2 with your deliberations that will occur at the end
3 of the adjudicative session.

4 CHAIRMAN HONIGBERG: Right.

5 Mr. Pappas, you want to add something?

6 MR. PAPPAS: I think there's a
7 distinction in the statute between "deliberations"
8 and "timeframe", because they use the word "and".
9 I think what you're asking for "can we suspend the
10 timeframe?", which is the 365 days, I think you
11 can and continue to work. All you've done is
12 suspended that portion.

13 CHAIRMAN HONIGBERG: I just want to
14 make it clear that, by taking this vote, we're not
15 going to be stopping work, we're going to be
16 suspending the deadlines, at this point, because
17 of physical impossibilities.

18 Now, beyond that, am I correct,
19 Mr. Iacopino, that the Presiding Officer can issue
20 an order for a procedural schedule, without the
21 full Committee needing to do that in the first
22 instance? And, of course, if anybody disagrees,
23 they can seek review. Is that correct?

24 MR. IACOPINO: Yes. Under Section

1 4, it's a procedural issue. And it's specifically
2 referenced under Section 4 of the statute, that
3 you can, as Chairman, set forth the procedural
4 schedules.

5 CHAIRMAN HONIGBERG: So, what I'd
6 be looking for is a simple motion from a member of
7 the Subcommittee to suspend the deadlines, and
8 then probably a directive to me, working with the
9 Administrator and with Counsel, to issue an order
10 setting a procedural schedule. Is that correct?

11 MR. IACOPINO: Yes.

12 CHAIRMAN HONIGBERG: Okay. Does
13 anyone else want to weigh in on this?

14 Mr. Needleman.

15 MR. NEEDLEMAN: May I?

16 CHAIRMAN HONIGBERG: You may.

17 MR. NEEDLEMAN: It's not perfectly
18 clear to me what the limitations are. Whether you
19 are saying you have venues that are available,
20 that are physically capable of holding the
21 hearings, but aren't available at the time, or
22 whether you have not found a place that is
23 physically capable?

24 But what I wanted to say is, the

1 Applicants are willing to work with the Committee
2 and do anything within their power to find a
3 venue, and to do everything they can to make it
4 available as soon as possible.

5 CHAIRMAN HONIGBERG: We have found
6 venues that are not available until -- I think we
7 found -- the best one we found had some
8 availability a couple of weeks in November, it's
9 an empty storefront at the Steeplegate Mall, in
10 Concord, that is -- holds a Halloween Store until
11 Halloween, and then a Christmas store. And, so,
12 there's a small window there, and then some
13 availability after the -- actually, quite a bit of
14 availability after the first of the year, assuming
15 they don't find a permanent tenant for that space.

16 There were other venues, and I
17 believe that we've been in contact with maybe Mr.
18 Getz about venues for all kinds of purposes,
19 including looking for venues for this, and we'll
20 continue to look. But there is -- we are not yet
21 successful.

22 MR. NEEDLEMAN: Could we have the
23 opportunity, before you suspend the proceeding, to
24 find a different location? For example, you're

1 saying that the store that you've identified may
2 not be available after January if it's rented.
3 I'm quite certain that the Project Team might be
4 willing to secure that space, if it were
5 necessary, to ensure that this moves forward.
6 What I'm saying is, we would really spare no
7 effort to assist you in order to find this
8 location and make this work.

9 CHAIRMAN HONIGBERG: I'm certainly
10 happy to have our people work with your people on
11 locating a venue. As I sit here, however, we
12 don't have one, and I don't think we have a
13 realistic prospect of getting one lined up. And,
14 so, I would like to get the Subcommittee to
15 suspend that, whatever the phrase is, the time --

16 MR. IACOPINO: Timeframes.

17 CHAIRMAN HONIGBERG: Thank you.
18 The timeframes, the one-year timeframe, and set a
19 procedural schedule, largely based on the papers
20 that have been submitted by you, by Mr. Roth, and
21 by Ms. Manzelli.

22 MR. NEEDLEMAN: May I ask one other
23 question?

24 CHAIRMAN HONIGBERG: You may.

1 MR. NEEDLEMAN: Is it your view
2 that it's absolutely necessary to take this action
3 now to suspend the schedule or could you wait to
4 do that and start us moving forward in a
5 proceeding with the hopes that we would be able to
6 achieve that?

7 CHAIRMAN HONIGBERG: My concern, in
8 all candor, is it's extremely difficult to get the
9 Subcommittee together. It is a scheduling issue
10 that we have to deal with. I understand what
11 you're saying. I'm not aware of another reason
12 for this Subcommittee to meet any time soon.
13 There's been part of me that thinks we should
14 maybe set a monthly meeting of this Subcommittee
15 for things that are going to come up. We haven't
16 yet taken a step like that.

17 I don't know. I'll let others way
18 in, to see if there's opinions that the folks on
19 the Subcommittee want to share?

20 Commissioner Bailey.

21 CMSR. BAILEY: I think, if we don't
22 opt to suspend the timeline today, then we have to
23 take up the motions on the schedule, which I can't
24 do much more without a break.

1 So, I guess, if we could find a way
2 to meet once a month, I support you in that
3 suggestion. I think that we're probably going to
4 need to do that. If there's nothing that we have
5 to decide on that date, then we can cancel it.
6 But I think that if, you know, if we wait a month
7 to decide, then you're going to have to wait a
8 month to get the schedule decided.

9 MR. NEEDLEMAN: We certainly don't
10 want to do that.

11 CMSR. BAILEY: So, there really
12 aren't a whole lot of good options.

13 MR. NEEDLEMAN: Can I ask one other
14 question? Would you be willing to revisit it, if
15 we can find a place that meets the time?

16 CHAIRMAN HONIGBERG: I believe that
17 any order of this nature could be reconsidered
18 under the rules when circumstances change. I
19 don't -- I think that's always the case. And I
20 know people don't like that. But, you know, the
21 fact that you -- that anyone out here has very
22 strong opinions about this and views any interim
23 order as being somehow favoring one side or the
24 other, we're trying to run a fair process here,

1 and I think -- I hope everybody understands that.

2 I think Commissioner Bailey has
3 made an excellent point, that we still have work
4 to do. We have people whose bodies need a break.
5 And, so, we're going to take a very short break
6 and come back and try and finish our business
7 tonight.

8 (Recess taken at 7:44 p.m. and the
9 hearing reconvened at 8:10 p.m.)

10 CHAIRMAN HONIGBERG: Mr. Needleman,
11 I know you have something else you want to say
12 regarding the schedule. I think, unless there
13 are -- there is a strong objection from members of
14 the Committee, we are not going to finish our
15 deliberations and discussions of the waiver or do
16 anything affirmative with the schedule tonight.
17 We are going to schedule our next meeting as
18 quickly as we can. I note we have supplemental
19 public comment hearings that need to be scheduled,
20 and we are looking at dates in the middle of May
21 for that. And it will probably be that we combine
22 the supplemental public comment hearings, which
23 are regarding the supplemental information filed
24 in February, with a meeting to resolve these

1 issues at that time.

2 Mr. Needleman, I understand you
3 wanted to say something else regarding scheduling
4 and venues.

5 MR. NEEDLEMAN: Yes. Thank you,
6 Mr. Chairman. Very briefly. I think the
7 Committee has in mind the issues that the project
8 confronts with respect to delay. And what I would
9 say is that any delay results in significant
10 costs. And, as a consequence, I think that the
11 project would be very aggressive in trying to
12 locate any sort of venue within the timeframes
13 that you need in order to accommodate. And I will
14 commit to making that effort immediately with our
15 team.

16 And what I would say, in light of
17 that is, if you are willing to, as the Chair can
18 do, to issue a schedule in anticipation of meeting
19 the statutory schedule. And, if we cannot find a
20 place, then you will know that, and you will know
21 it relatively soon, and you can take what action
22 is necessary in light of that, but at least give
23 us the opportunity to help you with that.

24 CHAIRMAN HONIGBERG: I understand

1 what you're saying, Mr. Needleman. I think that
2 our administrative people will continue to work
3 with the administrative folks that you have
4 regarding identifying venues, and I know your
5 people have been helpful in finding venues for
6 some of the earlier events, and we'll continue to
7 do that. I appreciate what -- that offer, and I
8 recognize the significance of what you're saying.

9 Mr. Maher.

10 MR. MAHER: Just a brief point of
11 clarification. So, it's my understanding that
12 there will not be a scheduling order that comes
13 out of tonight's meeting, that that will be
14 decided at a later meeting?

15 CHAIRMAN HONIGBERG: I think it's
16 possible that, as Mr. Needleman just suggested,
17 that the Presiding Officer has the ability to
18 issue a scheduling order. It would be subject to
19 review under the statute, and subject to change,
20 as necessary, going forward. So, such an order
21 may be issued. It would not be, just to
22 specifically use your framing, it would not be the
23 result of this meeting, but it would be following
24 this meeting.

1 MR. MAHER: And just one more point
2 very quickly. And the City of Berlin has already
3 memorialized this in a submission to the
4 Committee. I've heard reference -- I've heard
5 suggested the idea of staggering data requests.
6 So, Counsel for the Public would go first,
7 possibly, and then institutional intervenors would
8 go after that after some delay, just to avoid
9 repetition. I just want to make the Committee
10 aware of the City's position that it's in support
11 of such a staggering, just before the close of the
12 meeting, I just wanted to make that known.

13 CHAIRMAN HONIGBERG: Understood.

14 MR. MAHER: Thank you.

15 MR. RAFF: Mr. Chairman?

16 CHAIRMAN HONIGBERG: Where did that
17 come from?

18 MR. RAFF: Alan Raff, --

19 CHAIRMAN HONIGBERG: Yes, Mr. Raff.
20 Sorry.

21 MR. RAFF: -- from the IBEW. So,
22 if I understand what you're saying that, if we
23 move forward, we'd be moving forward, but we'd
24 be -- saying we did suspend the timeframe, we'd be

1 moving forward, but we'd be moving forward on a
2 different timeframe. I don't understand why the
3 inability to find a venue at this point in the
4 proceeding, eight months removed from then, makes
5 it a physical impossibility. Why wouldn't we
6 continue to move forward in the process, and then
7 reassess in 60 to 90 days, if we still, you know,
8 if the Applicant has not found, if you had not
9 found a place? If we're concerned about delays, I
10 feel like it seems strange that that is what is
11 causing us to suspend the timeframe, just the
12 venue.

13 CHAIRMAN HONIGBERG: From my
14 horrified exchange with Mr. Iacopino earlier
15 regarding the phrase "suspending deliberations", I
16 thought it was fairly clear that the intention was
17 to proceed.

18 MR. RAFF: Right. Yes. I
19 understand that.

20 CHAIRMAN HONIGBERG: And, so, no.
21 The expectation is everybody is going to get to
22 work. And, you know, even if we have to issue an
23 order in the next couple of days that says -- a
24 scheduling order that says, you know, "open season

1 on data requests", for Mr. Needleman's benefit,
2 then we can do that.

3 But, no. We're going to -- we
4 expect the parties to get started working on this
5 and working as quickly as they can.

6 MR. RAFF: Okay. Thank you.

7 CHAIRMAN HONIGBERG: It's just the
8 difficulty that we've experienced finding
9 someplace that can accommodate us for,
10 essentially, a two-month period, and it's a
11 challenge that we haven't yet met.

12 MR. RAFF: Thank you.

13 CHAIRMAN HONIGBERG: Does anyone
14 else feel the need, really serious need that they
15 have to say anything more this evening?

16 MR. ROTH: Good night.

17 CHAIRMAN HONIGBERG: Good decision.

18 All right.

19 I'll entertain a motion to adjourn.

20 CMSR. BAILEY: So moved.

21 DIR. WRIGHT: So moved. Sorry it
22 was delayed.

23 CHAIRMAN HONIGBERG: All in favor
24 say "aye"?

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*[Multiple members indicating
"aye".]*

CHAIRMAN HONIGBERG: We are
adjourned. Thank you.

**(Whereupon the hearing was
adjourned at 8:16 p.m. and
scheduled to resume at a later date
to be determined by the SEC
Subcommittee.)**