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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)  
  
Marvin P. Bellis, Esq.  
Elizabeth Maldonado, 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 Eggleston..)

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

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

1  
2 CHAIRMAN HONIGBERG: Good morning,  
3 ladies and gentlemen. Welcome to a hearing of  
4 New Hampshire Site Evaluation Committee. We  
5 have one docketed matter in front of us today.  
6 It is the Joint Application of Northern Pass  
7 Transmission, LLC, and Public Service Company  
8 of New Hampshire, which does business as  
9 Eversource Energy, for a Certificate of Site  
10 and Facility.

11 Before turning to our agenda, I'm  
12 going to have the members of the Subcommittee  
13 introduce themselves, starting from my left.

14 MR. OLDENBURG: Bill Oldenburg,  
15 representing the Department of Transportation.

16 MR. WAY: Christopher Way,  
17 representing the Department of Resources and  
18 Economic Development.

19 DIR. WRIGHT: Craig Wright,  
20 Department of Environmental Services.

21 CMSR. BAILEY: Kate Bailey from the  
22 Public Utilities Commission.

23 CHAIRMAN HONIGBERG: Martin Honigberg  
24 from the Public Utilities Commission.

1 MS. WEATHERSBY: Patricia Weathersby,  
2 public member.

3 MS. WHITAKER: And Rachel Whitaker, a  
4 public member.

5 CHAIRMAN HONIGBERG: And to my right  
6 is Mike Iacopino, the legal counsel to the Site  
7 Evaluation Committee.

8 MR. IACOPINO: Good morning.

9 CHAIRMAN HONIGBERG: Somewhere our  
10 Administrator, Pam Monroe, is circulating. Pam  
11 will be sitting I think at the seat at the end.

12 **D E L I B E R A T I O N S (continued)**

13 CHAIRMAN HONIGBERG: I'm now going to  
14 open the public hearing. On October 19th,  
15 2015, Northern Pass and Eversource submitted an  
16 Application to the Site Evaluation Committee  
17 for a Certificate of Site and Facility to  
18 construct a 192-mile transmission line. The  
19 line is proposed to have a capacity rating of  
20 up to 1,090 megawatts, and to run from New  
21 Hampshire, starting at the border in Pittsburg,  
22 down to Deerfield.

23 On November 2nd, the Chair of the  
24 Site Evaluation Committee appointed a

1 Subcommittee. Some members of the  
2 Subcommittee, under their statutory authority,  
3 appointed or designated members of their  
4 agencies to serve on this Subcommittee.

5 On December 7th of 2015, the  
6 Subcommittee reviewed the Application and  
7 determined that the Application contained  
8 sufficient information to satisfy the  
9 application requirements of each state agency  
10 having jurisdiction under state or federal law  
11 to regulate any aspect of the construction or  
12 operation of the proposed facility. The  
13 Subcommittee also made an independent  
14 determination that the Application contained  
15 sufficient information to carry out the  
16 purposes of RSA 162-H.

17 On December 16th of 2015, the full  
18 Site Evaluation Committee readopted its  
19 administrative rules, which are contained in  
20 the New Hampshire Code of Administrative Rules  
21 Annotated, at Site 100, 200, and 300. The  
22 readoption of the administrative rules was  
23 statutorily required. Later that month the  
24 Committee's Administrator asked the Applicant

1 to supplement the Application so that it would  
2 comply with the newly enacted regulations. The  
3 Applicant filed supplemental documentation on  
4 February 26 of 2016. Together with the  
5 supplemental documentation, the Applicant filed  
6 a Motion to Waive Certain Requirements of the  
7 newly adopted regulations. The Subcommittee  
8 also has received a number of motions asking  
9 the Subcommittee to suspend the time frames set  
10 forth under RSA 162-H.

11 Today's hearing is scheduled to  
12 continue deliberations on the Motions to Waive  
13 and to address the pending motions regarding  
14 the schedule. As all of you know, later today,  
15 I've forgotten exactly what time, I think six  
16 o'clock, there will be a Public Comment Hearing  
17 that was scheduled to allow comment on the  
18 additional information that the Applicant filed  
19 at the end of February. So, that -- the agenda  
20 for that is for this evening, and it is limited  
21 to the supplemental information, the additional  
22 information filed by the Company at the end of  
23 February.

24 Here we're dealing with motions, and

1 it is mostly for the members of the  
2 Subcommittee to have discussions. Although,  
3 when we start talking about the schedule, we'll  
4 certainly be interacting with those who have  
5 filed motions regarding the schedule and the  
6 suspension issue. As we deliberate on the  
7 waivers, we may engage or may not engage with  
8 those who have made filings regarding that,  
9 because we've already heard those motions when  
10 we were in Lincoln a few weeks ago.

11 With respect to Lincoln, I will note  
12 for the record that Rachel Whitaker, who is  
13 here today, was not in Lincoln. Ms. Whitaker,  
14 would you please confirm for us and for those  
15 who are here that you have had a chance and  
16 have reviewed the transcript from that  
17 proceeding regarding the waiver motions?

18 MS. WHITAKER: Yes, I have. Read and  
19 re-read.

20 CHAIRMAN HONIGBERG: Thank you. All  
21 right. The motions to waive are directed at  
22 rules that start with Site, S-i-t-e, and are  
23 301 -- various provisions of 301.03. They are  
24 in different categories.

1 I think what might be helpful would  
2 be perhaps for Mr. Iacopino to briefly  
3 summarize the three areas that are before us  
4 where there's waivers requested and remind us  
5 of the waiver standard that is contained in our  
6 rules.

7 MR. IACOPINO: Thank you, Mr.  
8 Chairman. I would just point out to the  
9 Subcommittee that the waivers that are  
10 requested are in generally three areas. The  
11 first area involves the so-called "alternative  
12 route" and filings that would normally be filed  
13 with respect to the alternative route. There  
14 have been objections to the Motion to Waive the  
15 requirements regarding the alternative route.  
16 The Applicant has stated on the record that it  
17 does not intend to seek certification of the  
18 alternative route.

19 The specific areas where the  
20 Applicant seeks waivers on the alternative  
21 route and with respect to the entire project,  
22 the actual project that they're seeking  
23 certification on, pertains largely to those  
24 sections of our rules that require

1 identification of certain items. The Applicant  
2 seeks a waiver of our rule that requires the  
3 Applicant to identify residential,  
4 industrial/commercial structures within certain  
5 bounds from the project. The rule I believe  
6 requires that those structures be identified  
7 in -- on all abutting property and 100 feet  
8 beyond any abutting property that's not  
9 100 feet. So, they have asked for waiver of  
10 that.

11 And what they have submitted is they  
12 have submitted maps with aerial photography.  
13 They are asking that we waive the rule. They  
14 are claiming that those maps provide at least  
15 as good, if not a better -- a better -- better  
16 information for the Committee than if the rule  
17 was followed strictly. There have been  
18 objections to that request.

19 The second item of identification in  
20 our rules that the Applicant is seeking is to  
21 waive the requirement that wetlands and surface  
22 waters be mapped within that same area. They  
23 have pointed out that they have provided  
24 mapping that goes beyond what is, in some

1 instances, what is required. They claim that  
2 there will be no impact beyond the mapping that  
3 they have shown. And they have pointed out  
4 that what they have done is, in those areas  
5 within the maps that you have, where they  
6 could -- did have access to the wetlands, they  
7 did full field delineation as required by the  
8 rules. And, in those areas where they did not  
9 have access, they used alternative means, such  
10 as aerial photography and database records  
11 regarding wetlands, and so that in those areas  
12 it's an estimate of the wetlands.

13 The third area that they seek waiver  
14 in is with respect to our rule requiring the  
15 filing of a decommissioning plan that  
16 identifies an independent third party as being  
17 the author of the plan, requires that there be  
18 financial assurances, and also requires the  
19 excavation of underground structures down to  
20 four feet at the time of decommissioning. The  
21 Applicant, in their motion, points to their  
22 Transmission Services Agreement with  
23 Hydro-Quebec, and argues to the Committee that  
24 that Transmission Services Agreement provides a



1 sufficient alternative to the rule requiring  
2 the filing of a decommissioning plan. The  
3 Applicant also argues that a facility like this  
4 will be in service for an extremely long period  
5 of time, and that it would be better to prepare  
6 the decommissioning plan closer in time to when  
7 it may be decommissioned, if ever, I suppose.

8 So, those are the areas that they  
9 seek waivers in. I think that I got them all.

10 CHAIRMAN HONIGBERG: Don't move the  
11 microphone farther.

12 MR. IACOPINO: Okay. I want to  
13 get -- I want to get to the standard. With  
14 respect to any of the waivers sought by any  
15 participant in our proceedings, your decision  
16 on whether or not to grant the waiver is  
17 governed by our rules, and it's Site 302.05,  
18 which basically states that "The committee or  
19 subcommittee shall waive the provisions of the  
20 rule, unless it's precluded by statute, if the  
21 waiver serves the public interest; and will not  
22 disrupt the orderly and efficient resolution of  
23 matters before the committee." In this  
24 particular rule we have, it has its own

1 definition of "public interest", and that  
2 definition says "In determining the public  
3 interest, the committee or subcommittee shall  
4 waive the rule if: Compliance with the rule  
5 would be onerous or inapplicable given the  
6 circumstances of the affected person;", in this  
7 case the Applicant, "or the purpose of the rule  
8 would be satisfied by an alternative method  
9 proposed" by the person. So, that's the  
10 consideration that you must give to the public  
11 interest in determining whether or not to waive  
12 any or all of the rules that the Applicant has  
13 sought.

14 That's about a -- that's a thumbnail  
15 sketch. If anybody has any other questions for  
16 me, I'm happy to answer them.

17 CHAIRMAN HONIGBERG: All right. Do  
18 members of the Subcommittee have questions for  
19 Mr. Iacopino regarding what he's just said and  
20 what it is we need to do with respect to the  
21 waiver requests?

22 *[No verbal response.]*

23 CHAIRMAN HONIGBERG: Who would like  
24 to start and on what topic?

1 Commissioner Bailey.

2 CMSR. BAILEY: Can I ask the  
3 Applicant a few questions?

4 CHAIRMAN HONIGBERG: Sure.

5 CMSR. BAILEY: I think we talked  
6 about this at the last meeting, and I can't  
7 find the answer in my notes. But how many  
8 properties would you have to do additional  
9 mapping on, if you had to do full mapping of  
10 all abutting properties, do you know?

11 MR. NEEDLEMAN: I can't recall off  
12 the top of my head. We'll look for that. I do  
13 know that we've got 900 mapping sheets in the  
14 Application.

15 CMSR. BAILEY: Okay. All right.  
16 With respect to wetlands and water -- surface  
17 water, does the Department of Environmental  
18 Services require you -- or, do they look at  
19 surface water and wetlands beyond a quarter of  
20 a mile from the edge of right-of-way to  
21 determine whether there's any impact on those  
22 waters?

23 MR. NEEDLEMAN: I don't believe  
24 directly. I think the way it's regulated is

1 that, with respect to activity that anyone is  
2 conducting on a site that may result in erosion  
3 or runoff off the site, the Department of  
4 Environmental Services regulates that Applicant  
5 through their various permits, like the Terrain  
6 Alteration Permit, to manage that runoff so  
7 that it doesn't leave the site.

8 So, I don't believe that they're  
9 looking any particular distance as you define  
10 it. I think they're charging the Applicant  
11 with implementing the permit on the site to  
12 prevent any type of runoff beyond what they  
13 would consider to be acceptable.

14 MR. WAY: A follow-up?

15 CMSR. BAILEY: Go ahead.

16 MR. WAY: In that same vein, the Army  
17 Corps of Engineers that would participate in  
18 the DES permit, do they have a distance that  
19 they might extend from the ROW?

20 MR. NEEDLEMAN: Not that I know of.

21 CHAIRMAN HONIGBERG: Commissioner  
22 Bailey.

23 CMSR. BAILEY: Want me to lead the  
24 discussion on this one?

1 CHAIRMAN HONIGBERG: Sure.

2 CMSR. BAILEY: So, I've been thinking  
3 about this, with respect to water and wetlands.  
4 And I can't come up with a reason in my mind  
5 why mapping water bodies beyond a quarter of a  
6 mile from the right-of-way would be applicable  
7 to our decision. I think that the DES  
8 regulates the impact on water very carefully.  
9 And, given what the Applicant just confirmed  
10 that I thought was the case, that what DES  
11 really tries to do is force the Applicant to  
12 keep the runoff within the project area. They  
13 have mapped out beyond that a quarter of a  
14 mile. I can't think of what we would use  
15 additional information with this, on this  
16 topic.

17 So, those are my thoughts.

18 CHAIRMAN HONIGBERG: Does anyone have  
19 any other or different thoughts regarding the  
20 wetlands, just focusing on the wetlands for a  
21 moment?

22 MR. OLDENBURG: Mr. Chairman?

23 CHAIRMAN HONIGBERG: Yes. Who was  
24 that? Mr. Oldenburg.

1 MR. OLDENBURG: So, I guess you've  
2 met the mapping requirements for DES, the Army  
3 Corps, and the permitting requirements on the  
4 project. So, I mean, do I understand that  
5 correctly?

6 MR. NEEDLEMAN: I believe that's  
7 correct, yes.

8 MR. OLDENBURG: So, is it, I don't  
9 know if this is safe to say, or is it, are the  
10 SEC rules more stringent in mapping than those,  
11 the requirements of DES and Army Corps?

12 MR. NEEDLEMAN: I would say, in this  
13 particular context, they require more than  
14 those other rules require.

15 MR. OLDENBURG: Okay. Thank you.

16 CHAIRMAN HONIGBERG: Other comments?

17 *[No verbal response.]*

18 CHAIRMAN HONIGBERG: Commissioner  
19 Bailey, do you want to make a motion regarding  
20 the waiver request regarding wetlands?

21 CMSR. BAILEY: Sure.

22 CHAIRMAN HONIGBERG: Mr. Iacopino, is  
23 the relevant section 301.03(c)(4) regarding  
24 wetlands?

1 MR. IACOPINO: That is correct.

2 CMSR. BAILEY: Thank you. I move  
3 that we grant the Applicants' request to waive  
4 additional mapping requirements consistent with  
5 Site Rule 301.03(c)(4). I believe that it's in  
6 the public interest, because I can't -- I don't  
7 believe that the additional information would  
8 be applicable to our determination.

9 CHAIRMAN HONIGBERG: Is there a  
10 second?

11 DIR. WRIGHT: I would second.

12 CHAIRMAN HONIGBERG: Mr. Wright  
13 seconds. Is there any further discussion of  
14 that motion?

15 MS. WEATHERSBY: I have a question --

16 CHAIRMAN HONIGBERG: Ms. Weathersby.

17 MS. WEATHERSBY: A comment or a  
18 question. I'm wondering whether or not this  
19 should apply to both the transmission corridor  
20 and to the substations and transition stations,  
21 whether any special concerns surrounding those  
22 properties with regard to wetlands. In my  
23 mind, there's an awful lot more going on on  
24 those sites, particularly in Deerfield.

1           And, so, I guess I would be in favor  
2           of amending the motion to having it pertain  
3           simply to the transmission corridor and  
4           requiring information for the stations.

5           CHAIRMAN HONIGBERG: Commissioner  
6           Bailey, are you interested in amending your  
7           motion consistent with s. Weathersby's  
8           question?

9           CMSR. BAILEY: Well, for the same  
10          reason that I made the motion on the  
11          transmission corridor, I don't understand how  
12          the impact would be greater. I understand that  
13          the impact on the size of the land would be  
14          greater. But, if they have mapped out a  
15          quarter mile beyond the boundary of the  
16          transmission stations and the substations, can  
17          the Applicant confirm that they have done that?

18          MR. NEEDLEMAN: I'm sorry. Could you  
19          repeat that. I was looking ahead to the next  
20          issue. I apologize. I'm getting ready to  
21          answer your next question.

22          CMSR. BAILEY: So, Ms. Weathersby  
23          suggested that we -- that I amend my motion to  
24          limit it to just the transmission right-of-way,



1 but that require full mapping of abutting  
2 properties on the transmission, to the  
3 transmission [transition?] stations and the  
4 substations.

5 And, my question to you is, have you  
6 mapped those areas out in the same way that  
7 you've mapped out the corridor, that is, at  
8 least a quarter of a mile out?

9 MR. NEEDLEMAN: I don't have the line  
10 sheets in front of me, but I believe we have.  
11 I think there are really three different kinds  
12 of locations that you're talking about. One  
13 would be the transition stations, where the  
14 line transitions from above ground to below  
15 ground. And I don't think the footprint in  
16 those areas is very large. And, so, I don't  
17 think there would be any reason why we would  
18 not have gone out that quarter mile.

19 The second area would be the  
20 substation in Deerfield. And I don't have the  
21 maps in front of me, we can check, but I do  
22 believe that we went out that distance around  
23 that substation.

24 And, then, the third would be the

1 converter terminal in Franklin. And I'm not  
2 sure what distance we went out around that one,  
3 but the area of disturbance on that property,  
4 which is a fairly large property, is more or  
5 less in the middle of the property with  
6 significant undisturbed buffers around the area  
7 of disturbance.

8 CMSR. BAILEY: All right. So, in my  
9 mind, if that's in the middle of the property,  
10 and there's already a large amount of property  
11 that they own or lease in Franklin, and then  
12 you have to map out the full -- every bit of  
13 every abutting property, I just -- I think  
14 that's a lot of information that we're not  
15 going to use. I can't see how we would use it.

16 CHAIRMAN HONIGBERG: So, the answer,  
17 Commissioner Bailey, is "no"? You're not  
18 interested in amending your motion?

19 CMSR. BAILEY: No, not at this time.

20 CHAIRMAN HONIGBERG: Is there any  
21 further discussion on Commissioner Bailey's  
22 motion?

23 *[No verbal response.]*

24 CHAIRMAN HONIGBERG: Seeing none, are

1 you ready for the vote? All in favor, say  
2 "aye"?

3 *[Multiple members indicating*  
4 *"aye".]*

5 CHAIRMAN HONIGBERG: Any opposed?

6 *[One member indicating*  
7 *"opposed".]*

8 CHAIRMAN HONIGBERG: All right. That  
9 motion carries.

10 Next issue. I'm going to take on the  
11 additional mapping associated with the  
12 "alternative route" that the Applicant was  
13 required to provide information about under the  
14 amended rules.

15 I don't see any reason to require  
16 additional information -- or, I think rather  
17 additional mapping regarding that route, given  
18 that its purpose is to allow the Committee to  
19 analyze the Applicant's thought process and the  
20 alternatives the Applicant considered before  
21 bringing forward the proposal that it is  
22 seeking certification of.

23 If circumstances change, and the  
24 Applicant does want to pursue the "alternate"

1 route, there's going to be a whole new  
2 proceeding. And there's going to be additional  
3 requirements associated with it at that time.  
4 But, to me, I don't believe there's any value  
5 to us in what we need to do to require  
6 additional mapping on that route.

7 That's my opinion. And I would be  
8 prepared to make a motion, although it's  
9 unusual, I think, for the Chair to make  
10 motions. So, I would -- I'm going to do that,  
11 because I'm going to take some prerogative to  
12 keep this thing moving.

13 Mr. Iacopino, which -- how do I  
14 phrase that motion?

15 MR. IACOPINO: You're seeking to  
16 grant the request to waive the requirements of  
17 Administrative Rule Site 301.03(c), Subsections  
18 (3) through (5), with respect to the so-called  
19 "alternative route".

20 CHAIRMAN HONIGBERG: All right. That  
21 is a motion. Is there a second?

22 MR. WAY: Second.

23 CHAIRMAN HONIGBERG: Moved and  
24 seconded. Is there further discussion?

1                   *[No verbal response.]*

2                   CHAIRMAN HONIGBERG:   Seeing none,  
3                   I'll call for a vote.

4                   All in favor, please say "aye"?

5                   *[Multiple members indicating*  
6                   *"aye".]*

7                   CHAIRMAN HONIGBERG:   Are there any  
8                   opposed?

9                   *[No verbal response.]*

10                  CHAIRMAN HONIGBERG:   All right.   That  
11                  motion carries.

12                  What do we have?   We have historic  
13                  resources and --

14                  MR. IACOPINO:   And buildings,  
15                  structures -- buildings and structures and  
16                  property lines.

17                  CHAIRMAN HONIGBERG:   I have a  
18                  question for the Applicant regarding those two.  
19                  But there's a question for you, Mr. Iacopino,  
20                  first.

21                  Am I correct that that is -- it is  
22                  those two where there's a provision within the  
23                  rules that says "if the Applicant does not have  
24                  access to the property, that is grounds for

1           them to not provide the mapping that's required  
2           under the rule"?

3                   MR. IACOPINO: That is correct.

4                   CHAIRMAN HONIGBERG: Then, I have a  
5           question for the Applicant. From our hearing  
6           in Lincoln, and from the papers that you filed,  
7           I do not understand you to be relying on that  
8           provision of the rule. Am I correct?

9                   MR. NEEDLEMAN: We're not directly  
10          relying on it, Mr. Chairman. Indirectly, in  
11          some circumstances, we are. For example, we  
12          could not gain access to any property where we  
13          didn't have permission to do any sort of  
14          archeological assessment. So, I think it's  
15          fair to say it's a component of our broader  
16          argument.

17                  CHAIRMAN HONIGBERG: Okay. Does  
18          anyone want to discuss historical/archeological  
19          resources, etcetera? Or make a motion?

20                   Commissioner Bailey.

21                  CMSR. BAILEY: My understanding about  
22          this one is that the federal government  
23          requires the Applicant to look at historical  
24          and archeological resources within the Area of

1 Potential Impact. And is that a mile for both  
2 of those.

3 MR. NEEDLEMAN: No. In this case,  
4 with respect to aboveground historic resources,  
5 the Area of Potential Effect is one mile from  
6 the corridor. With respect to archeological  
7 resources, the area for potential effect was  
8 limited to the corridor itself.

9 CMSR. BAILEY: Oh, right. Okay. So,  
10 the archeological sites, if there are any,  
11 would be underground, buried things?

12 MR. NEEDLEMAN: Right. And, I think,  
13 maybe with respect to the underground portions,  
14 it might be slightly broader, because we're not  
15 in that defined corridor for archeological, but  
16 still in the disturbed areas.

17 CMSR. BAILEY: But you have met the  
18 federal requirements?

19 MR. NEEDLEMAN: For purposes of the  
20 Section 106 process, we have met those  
21 requirements regarding the areas of potential  
22 effect, yes.

23 CMSR. BAILEY: Why did you qualify  
24 your answer with "for purposes of the Section

1 106 process"?

2 MR. NEEDLEMAN: Because this process  
3 at this point is largely, if not completely,  
4 being dictated by the federal process. And I  
5 know that the Division of Historic Resources  
6 does take the view that, while that process is  
7 the dominant process, there is still the  
8 separate -- there is still the separate  
9 analysis that this Committee needs to do.

10 I think, ultimately, they're all  
11 subsumed. But I wanted to respect the view of  
12 DHR on that issue.

13 CMSR. BAILEY: Oh. Okay. Thank you.  
14 All right.

15 MR. ROTH: Mr. Chairman, if I may, a  
16 point of order. I think we're delving into a  
17 little bit of argument on this point. And I  
18 think we may have some things to say about  
19 what's just been offered. For example, the  
20 federal regulations, as far as we know, do not  
21 have a set requirement for the distance in  
22 which the APE must look. That's been a  
23 decision that's reached by DHR, but it's not  
24 one that is set in federal law.



1 CMSR. BAILEY: Thank you.

2 CHAIRMAN HONIGBERG: Thank you,  
3 Mr. Roth.

4 CMSR. BAILEY: Yes. I believe that  
5 that's the Area of Potential Effect that the  
6 federal government has set for this project.  
7 Do you not disagree with that?

8 MR. ROTH: I believe that that's  
9 something that's been determined by DHR. I  
10 don't think it's been set by the federal  
11 government.

12 CMSR. BAILEY: Oh. Okay.

13 MR. ROTH: And my understanding is is  
14 it was something that was worked out amongst  
15 the consulting parties.

16 CMSR. BAILEY: And "DHR" being the  
17 Division of Historical Resources for the state?

18 MR. ROTH: That's correct.

19 CHAIRMAN HONIGBERG: Ms. Weathersby.

20 MS. WEATHERSBY: A question. Has DHR  
21 acknowledged or confirmed that the mapping that  
22 has been done, the one mile for historic  
23 resources and within the corridor for  
24 archeological resources is sufficient for them

1 to review this proposal?

2 MR. NEEDLEMAN: I can't recall  
3 whether they have specifically said that. But  
4 they are the entity that set those boundaries  
5 for us to then implement that analysis. So,  
6 presumably, they would have believed those  
7 boundaries were adequate.

8 MS. WEATHERSBY: Thank you.

9 CHAIRMAN HONIGBERG: Further  
10 comments? Would anyone like to make a motion?

11 CMSR. BAILEY: I'm just looking at --  
12 I'm looking for a reference.

13 MR. WAY: (c)(5).

14 CMSR. BAILEY: No, not the reference  
15 to the rule. I'm looking for a reference in  
16 the motion.

17 Okay. I'll make a motion. Based on  
18 my understanding that the Department of  
19 Historical Resources for the State of New  
20 Hampshire and the federal government are  
21 satisfied with the identification of historical  
22 resources and archeological sites associated  
23 with this project, I don't believe that further  
24 mapping will help us in our decision on this

1 project. And, so, I move that we grant the  
2 Applicant's request for further mapping --  
3 request for waiver of the requirements in Site  
4 301.03(c)(5).

5 CHAIRMAN HONIGBERG: Is there a  
6 second?

7 DIR. WRIGHT: Second.

8 CHAIRMAN HONIGBERG: Further  
9 discussion of the motion? Seeing none -- oh,  
10 yes, Mr. Way.

11 MR. WAY: So, I guess part of the  
12 thought process on that, that statement, is  
13 that Historical Resources is indeed on board  
14 with what is being proposed in their  
15 presentation to the federal government. That  
16 didn't seem too firm to me when I heard that.

17 CMSR. BAILEY: Well, I'm looking at  
18 the Applicant's motion, and they represent  
19 that. "This Area of Potential Impact, as  
20 designated by USDOE and the New Hampshire  
21 Division of Historical Resources, for  
22 aboveground historic properties, the  
23 Application already identifies all existing  
24 historic properties within a mile of the edge

1 of the right-of-way." So, that's a two-mile  
2 swath.

3 MR. WAY: All right.

4 CHAIRMAN HONIGBERG: Further  
5 discussion?

6 *[No verbal response.]*

7 CHAIRMAN HONIGBERG: Seeing none,  
8 we'll call for a vote.

9 All in favor, please "aye"?

10 *[Multiple members indicating*  
11 *"aye".]*

12 CHAIRMAN HONIGBERG: Any opposed?

13 *[No verbal response.]*

14 CHAIRMAN HONIGBERG: All right. The  
15 motion carries.

16 All right. We have two left. We  
17 have the property lines and buildings and we  
18 have the decommissioning plan. Anyone have any  
19 thoughts?

20 Ms. Weathersby.

21 MS. WEATHERSBY: With regard to  
22 property lines, I would be in favor to grant --  
23 in favor of granting the waiver provided that,  
24 similar to what we did recently with another

1 transmission project, that the abutting  
2 properties that extend beyond the area that are  
3 mapped that the tax map and assessor's card be  
4 provided for those properties. And also that,  
5 with regard to those properties that abut a  
6 substation or transition station, that a  
7 supplemental map for those properties be  
8 provided.

9 CHAIRMAN HONIGBERG: That sounds like  
10 a counteroffer to the Applicant.

11 MS. WEATHERSBY: Uh-huh. Grant in --

12 CHAIRMAN HONIGBERG: Yes. Can you  
13 elaborate?

14 MS. WEATHERSBY: So, it's a "grant in  
15 part and deny in part", I guess.

16 So, with regard to requiring the tax  
17 mapping card, I think it would be helpful to  
18 the Committee to see what is on those  
19 properties that abut the right-of-way, to the  
20 extent that the property had not been shown on  
21 the map, in case there are some buildings or  
22 structures that are of particular interest,  
23 such as schools, hospitals, *etcetera*, on that  
24 abutting property. I just think it would be

1 good information for the Committee to have.

2 And the alternative that I've  
3 suggested would not be onerous on the  
4 Applicant. It's an alternative method that I  
5 would propose that would help satisfy the  
6 requirement.

7 With regard to the stations, I think  
8 that those are different than -- different than  
9 the transmission line and should be treated  
10 differently, particularly, again, with regard  
11 to Deerfield Substation, and, to some extent,  
12 Franklin. And it would be helpful to me,  
13 certainly, that those properties that abut  
14 those stations, that maps include the location  
15 of buildings on those abutting properties.

16 CHAIRMAN HONIGBERG: So, your motion  
17 then would be "to grant on the condition that"?

18 MS. WEATHERSBY: Yes.

19 CHAIRMAN HONIGBERG: Okay. All  
20 right. Are there other comments, before I ask  
21 Ms. Weathersby to turn that into a more formal  
22 motion?

23 MR. NEEDLEMAN: Could I offer one --

24 CHAIRMAN HONIGBERG: Mr. Needleman.

1 MR. NEEDLEMAN: I got the information  
2 that Commissioner Bailey requested earlier.  
3 It's in the neighborhood of 900 parcels that  
4 would extend beyond the one-quarter mile.

5 CMSR. BAILEY: So, we would be  
6 getting 900 tax maps?

7 MR. NEEDLEMAN: Nine hundred (900)  
8 tax maps and tax cards, yes.

9 CMSR. BAILEY: That's a lot of paper  
10 and information. And, not that I -- I agree  
11 with Ms. Weathersby that we definitely want to  
12 identify important buildings. But I think that  
13 at the last meeting of this Subcommittee we  
14 talked about the idea of requiring them to have  
15 maps of any property where the property owner  
16 requested such.

17 And, so, it might be worth talking  
18 about that idea, since this case is so known  
19 publicly, that people who were concerned about  
20 buildings that abutted the property would  
21 probably ask to have those buildings  
22 identified, if they believe that there was  
23 going to be an impact on it.

24 So, just something to talk about.

1 CHAIRMAN HONIGBERG: Ms. Weathersby.

2 MS. WEATHERSBY: I think that would  
3 be reasonable, so long as those abutters knew  
4 of that opportunity. So, maybe a simple letter  
5 to the Applicant be sent out saying, you know,  
6 offering to provide that information for the  
7 property. Just so long as they're aware of  
8 that opportunity.

9 CHAIRMAN HONIGBERG: Mr. Wright.

10 DIR. WRIGHT: I was going to say, I  
11 think that would be very important, to make  
12 sure that we had a very clear procedure for how  
13 these people would get onto this list for that  
14 information to be provided to the Committee.

15 CHAIRMAN HONIGBERG: Mr. Needleman,  
16 do you understand the discussion that's going  
17 on up here?

18 MR. NEEDLEMAN: I do understand the  
19 discussion. I was just trying to think of how  
20 we could implement that, if the Committee asked  
21 us to do it, and that's not immediately clear  
22 to me.

23 Are we -- would we be asked to  
24 identify the 900 parcels, pull the tax map



1 information, and write to each of the owners of  
2 record and offer to extend the mapping if they  
3 asked us to? Is that what the Committee is  
4 envisioning?

5 CMSR. BAILEY: That's kind of, I  
6 think, what I'm thinking about or what we're  
7 thinking about. But do you have to pull the  
8 tax records to do that?

9 MR. NEEDLEMAN: I'm told that I think  
10 we do. We would have to identify those owners  
11 of record to be able to ensure that we made a  
12 valid attempt to reach them.

13 CMSR. BAILEY: Okay.

14 CHAIRMAN HONIGBERG: But aren't those  
15 people already identified? Haven't those  
16 people already received notice from you?

17 MR. NEEDLEMAN: Yes. I think they --  
18 they have received whatever notice would be  
19 required by the Committee generically or with  
20 any of the underlying permits, like, for  
21 example, if there were wetlands or on abutting  
22 properties.

23 I'm not sure they have received any  
24 other type of notice that I can think of off

1 the top of my head. But, you're right, as  
2 abutting properties, I think we would have that  
3 information.

4 CHAIRMAN HONIGBERG: Mr. Roth.

5 MR. ROTH: It seems to me it would be  
6 easier to just deny the waiver request in this  
7 instance.

8 MR. NEEDLEMAN: Well, that did sound  
9 like argument. So, if I may?

10 CHAIRMAN HONIGBERG: Well, I'm not  
11 sure how helpful it was, actually, to anybody.

12 MR. NEEDLEMAN: I understand.

13 CHAIRMAN HONIGBERG: But, if -- and I  
14 don't know, I don't know how -- it sounds like  
15 there is currently a motion that could be made  
16 along those lines, and it seems like  
17 information that you have access to, in terms  
18 of who you would need to notify.

19 Now, would people need to give you  
20 access to their property, in order for you to  
21 do the work that needs to be done?

22 MR. NEEDLEMAN: I don't know. I  
23 can't think of any reason off the top of my  
24 head at this point. I mean, certainly, in the

1 future, if the Committee were to grant the  
2 certificate and we were to go forward with the  
3 work, we would be having interactions with  
4 those towns and those abutters. But, between  
5 now and the proceeding, I can't think of a  
6 reason specifically why we would.

7 CHAIRMAN HONIGBERG: All right. Ms.  
8 Weathersby, are you interested in turning your  
9 thought into a motion?

10 MS. WEATHERSBY: I think what I'd  
11 like to do is delay a motion on this and move  
12 onto decommissioning, and maybe circle back,  
13 after folks have had a chance to think about  
14 it.

15 CHAIRMAN HONIGBERG: All right.  
16 That's fine. Commissioner Bailey and I need to  
17 take a one-minute break, because we have a PUC  
18 piece of business that she and I need to  
19 communicate to our office about. So, we're  
20 going to break for one minute.

21 *(Brief recess taken at 11:54 a.m*  
22 *and the hearing resumed at 11:55*  
23 *a.m.)*

24 CHAIRMAN HONIGBERG: Thank you for

1 your indulgence. We're back.

2 All right. Who, if anyone, wants to  
3 offer comments regarding decommissioning?

4 Mr. Way.

5 MR. WAY: I guess, and maybe,  
6 Mr. Needleman, you can answer this a little bit  
7 more. I still have some concerns about the  
8 decommissioning. As I understand it, the  
9 decommissioning plan that you're proposing  
10 would go -- would originate from the TSA,  
11 probably some 30 years in the distance, and  
12 then five years before that happens you then  
13 start the process.

14 But I'm also looking back at the  
15 rules that were put in place. And I'm trying  
16 to think how, for any energy facility, why that  
17 couldn't -- that argument almost couldn't be  
18 made.

19 I'm also thinking, to your waiver  
20 request, where you say that these things are  
21 "rarely or likely never to be decommissioned".  
22 And I just have to imagine changes in  
23 technology, whatever reason, that  
24 decommissioning will come up. And I think we

1 probably need an answer why that wouldn't fit  
2 right into the rules as they are now?

3 MR. NEEDLEMAN: I'm going to ask Mr.  
4 Getz to address the decommissioning.

5 MR. ROTH: Mr. Chairman, I'm sorry,  
6 but Mr. Way has just invited oral argument on  
7 the motion again. And I respectfully reserve  
8 time for Mr. Pappas to make --

9 CHAIRMAN HONIGBERG: You respectfully  
10 request the opportunity to respond, should Mr.  
11 Getz make additional argument, is that what  
12 you're saying, Mr. Roth?

13 MR. ROTH: Yes.

14 CHAIRMAN HONIGBERG: Understood.  
15 After we've heard from Mr. Getz, we will make a  
16 determination whether it's appropriate to allow  
17 further discussion from any of the others.

18 MR. ROTH: I just don't see how, you  
19 know, with all due respect to Mr. Way, I don't  
20 see how his question is factual in matter, but  
21 rather invites argument.

22 CHAIRMAN HONIGBERG: I understand  
23 exactly what you've requested, Mr. Roth. I get  
24 it and I get the reason.

1 Mr. Getz.

2 MR. GETZ: Thank you, Mr. Chairman.

3 Mr. Way, it seems like there's two questions  
4 you're asking. And the first, I think you have  
5 to define the term "plan", what that involves.  
6 And I think what's in the statute and what's in  
7 the rule is limited in the sense that it does  
8 not include engineering details, which I think  
9 seems to be an underlying presumption in some  
10 of the questions and the discussion about  
11 filing a plan.

12 So, I think in terms of what's  
13 required now, both under the statute and the  
14 rule, there is a plan on how to address  
15 decommissioning. And, through the TSA, there  
16 is a plan that, when you get close to actual  
17 decommissioning, there will be an engineering  
18 type plan drawn up that then has to be  
19 considered, approved, and then we'll implement.  
20 So, I think that it's critical to make that  
21 distinction. And I think it's, you know,  
22 basically what we said before, it's premature  
23 to do the engineering type of plan. But we  
24 think what we filed and what's within the TSA

1 constitutes the elements of a plan.

2 With respect to the technology issue,  
3 in terms of transmission lines, the experience  
4 in the industry and our experience is that  
5 maybe you swap out poles or reconductor over  
6 time. Maybe there will be a day when there  
7 will be a technological change that would --  
8 for wireless transfer of electricity, I'm not  
9 sure that's coming any time soon, that would,  
10 you know, obviate transmission lines. But, you  
11 know, I don't think that's the type of  
12 technological change that would affect this  
13 time of a project.

14 But, in either case, there is  
15 financial -- a plan that includes financial  
16 assurances, which, in effect, is the TSA. So  
17 that, to the extent decommissioning is  
18 required, then the federally approved rate  
19 under the Transmission Service Agreement is in  
20 place to assure funding.

21 CHAIRMAN HONIGBERG: Mr. Pappas,  
22 would you like to respond very briefly?

23 MR. PAPPAS: I would. Thank you, Mr.  
24 Chairman. Essentially what the TSA says is "in

1           30 or 40 or 50 years, we will do a  
2           decommissioning plan". What it doesn't say or  
3           doesn't do is meet the elements that a  
4           decommissioning plan needs to have currently.  
5           It doesn't identify an independent party who  
6           will do it. It says somebody associated with  
7           the Applicant will do it. That's an important  
8           distinction. It doesn't say the source of  
9           funding or what the costs will be. It doesn't  
10          give assurances that the funding will be there.  
11          It essentially says "in 30 or 40 or 50 years,  
12          or whenever we're going to decommission, we'll  
13          do a plan." That's not what the statute  
14          requires, it's not what your rules require.  
15          Your rules don't require complete, detailed  
16          engineering plans, I would agree with that.  
17          But your rules require some basic things to  
18          assure the State of New Hampshire and its  
19          citizens that, when decommissioning is going to  
20          occur, that it will occur. That the  
21          independent party will be there and they will  
22          do it. That the source of funding is  
23          identified, the source of funding is there, and  
24          so forth. So that the Applicant, or whomever



1 owns the line, just doesn't disappear, and the  
2 state is stuck with no decommissioning plan and  
3 no ability to decommission something that's  
4 going to run from Pittsburg to Deerfield.

5 CHAIRMAN HONIGBERG: And, therefore,  
6 Mr. Pappas, because they would stipulate they  
7 don't comply with the rule as it currently  
8 sits, that's why they asked for a waiver.

9 MR. PAPPAS: And I don't think they  
10 have established that -- they haven't said on  
11 the waiver "it's onerous", and they haven't  
12 said that -- what they have asked is that  
13 "their alternative meets the purpose of the  
14 statute". And I'm arguing their alternative  
15 does not meet the purpose of the statute. The  
16 purpose of the statute requires certain  
17 requirements, and those requirements are not  
18 within the TSA that they say look to.

19 And, because their alternative  
20 doesn't meet the requirements of the statute or  
21 the rule, it's not an alternative that meets --  
22 that satisfies the purpose of the statute,  
23 therefore it doesn't satisfy the public  
24 interest.

1 CHAIRMAN HONIGBERG: Thank you. All  
2 right. Are there other comments people want to  
3 make regarding the decommissioning plan issue?

4 *[No verbal response.]*

5 CHAIRMAN HONIGBERG: Would anyone  
6 like to make a motion of any sort regarding the  
7 Applicant's waiver request regarding the  
8 decommissioning plan?

9 MR. WAY: I actually -- I'm not  
10 convinced, and I do not think it's in the  
11 public's best interest to grant the waiver.  
12 And I would make a motion that the waiver be  
13 denied.

14 CHAIRMAN HONIGBERG: Is there a  
15 second?

16 MS. WEATHERSBY: I'll second.

17 CHAIRMAN HONIGBERG: All right.  
18 There's a motion and a second.

19 Is there any further discussion?

20 MS. WHITAKER: I do have one  
21 question, actually. It seems to me that one of  
22 the biggest pieces that's missing from this is  
23 that there's not a third party independent  
24 qualified person involved. And I'm just

1           curious if the Applicant can address, what does  
2           it take to get a third party independent  
3           qualified person involved? Is that you guys  
4           just hiring somebody to come up with the  
5           decommissioning plan?

6                   MR. GETZ: Well, there's, again, a  
7           couple of pieces to that. And that's the  
8           fundamental waiver we're asking for, is that we  
9           waive having a independent third party coming  
10          up now with the plan. But there is some  
11          question of "what does that really mean and  
12          why" -- I don't want to get into the -- the  
13          underlying issue of "why this, as opposed to  
14          everything else that's being done, it can't  
15          either be done in house or with an existing --  
16          or with an existing consultant?"

17                   But it would be -- we'd have to hire  
18          somebody. So, if that qualifies as an  
19          independent third party, that they would work  
20          for us, and they would put together the  
21          elements of a plan that meet the rule. So,  
22          that's the way we understand what that part of  
23          the rule means, but it would be engaging  
24          someone to put together a plan that meets the

1 elements of the rule.

2 MS. WHITAKER: Okay.

3 CHAIRMAN HONIGBERG: Commissioner  
4 Bailey.

5 CMSR. BAILEY: Just for discussion  
6 purposes of members of the committee, do you  
7 think that it would meet the -- would it meet  
8 the statutory requirement, and maybe this is a  
9 question for counsel, I'm not sure, if their  
10 plan had said "we will develop a plan sometime  
11 in the future, and, you know, maybe ten years  
12 after it's built, maybe after it's built, maybe  
13 40 years after it's built, whatever, but a  
14 third party consultant will do it", I'm more  
15 concerned about the financial aspect of it,  
16 frankly.

17 Because I think it does make sense  
18 that it's hard to engineer something for  
19 decommissioning that's not built. And, so, if  
20 we have the requirement in place that they have  
21 to engineer such a plan, and maybe by a date  
22 certain, or that a third party has to, and I  
23 think that's important, do you think -- do the  
24 other members of the Committee think that that

1 would meet the requirements? Or are we looking  
2 for them to develop a plan right now by a third  
3 party that would provide all the details of  
4 decommissioning?

5 CHAIRMAN HONIGBERG: Attorney  
6 Iacopino would like to add something.

7 MR. IACOPINO: I would just point out  
8 to the Committee that RSA 162-H:7, V(g), this  
9 is in the statute now, it requires an  
10 application to "describe in reasonable detail  
11 the elements of and financial assurances for a  
12 facility decommissioning plan". That  
13 requirement cannot be waived. That is in the  
14 statute.

15 Our rule, which is Site 301.08(c)(2),  
16 goes beyond that and provides additional  
17 information -- requires -- actually defines  
18 some of the information that is required, and  
19 that information includes that "the plan be  
20 prepared by an independent, qualified person  
21 with demonstrated knowledge and experience",  
22 that it contain "a description of sufficient  
23 and secure funding to implement the plan", and  
24 that "the provision of financial assurance be

1 in the form of an irrevocable standby letter of  
2 credit" or other type of financial vehicles,  
3 that "all transformers will be transported off  
4 the site" as part of the plan, and that "all  
5 underground infrastructure less than 4 feet  
6 below grade will be removed". And I've  
7 summarized those requirements of our rule.

8 You can waive the provisions of the  
9 rule, but you cannot waive the provisions of  
10 the statute.

11 So, to answer the first question that  
12 Ms. Bailey raised, is it's up to the Committee  
13 to determine that what's been provided to you  
14 under the statute provides you with reasonable  
15 detail. Then, you can consider whether or not  
16 the rule -- the requirements of the rule itself  
17 should be waived, using the same waiver  
18 standard that I referenced earlier in our  
19 discussion.

20 CHAIRMAN HONIGBERG: And I actually  
21 was going to go to that statute and provide a  
22 partial answer to Commissioner Bailey's  
23 question. That, in my view, the proposal met  
24 the minimum requirements of the statute,

1           barely, but it did provide the elements of what  
2           a decommissioning plan needs to have; a source  
3           of funds, and a way that things would proceed.

4                     I think everybody agrees, including  
5           the Applicant, that what they have done does  
6           not meet the rule, and that's why they need a  
7           waiver.

8                     I, like Mr. Way, am not convinced  
9           that a waiver is in the public interest,  
10          certainly not a waiver of all of the  
11          provisions. And, so, I'm not inclined to  
12          vote -- or, I'm inclined to vote in favor of  
13          Mr. Way's motion to deny the waiver request.

14                    But I do think it's important for us  
15          to keep in mind that there is something in the  
16          Application that was intended to meet the  
17          statutory requirement. And, in my view, it  
18          does, but barely.

19                    Further discussion? Comments?

20                             [No verbal response.]

21                    CHAIRMAN HONIGBERG: Are you ready  
22          for the vote?

23                    Yes, Ms. Weathersby.

24                    MS. WEATHERSBY: I just wanted to

1 comment and let me explain my vote. To me,  
2 this project is different than others in that  
3 it's not a reliability project, but it's being  
4 built for commercial reasons. And, in my mind,  
5 that increases the likelihood that it will be  
6 decommissioned, unlike a reliability line.  
7 And, therefore, the need for funding, in  
8 particular, is very important. And the fact  
9 that the Applicant will determine, in 35 years  
10 or so from now, how much a foreign nation will  
11 contribute is fraught with problems.

12 CHAIRMAN HONIGBERG: Any further  
13 discussion?

14 *[No verbal response.]*

15 CHAIRMAN HONIGBERG: All right. I'm  
16 going to call for a vote. But I'm going to  
17 just remind people that a "yes" or an "aye"  
18 vote is on Mr. Way's motion to deny the  
19 requested waiver. So, if you are in favor of  
20 denying the waiver, you will vote "yes". If  
21 you are opposed to denying, in other words, if  
22 you would grant the waiver, you will vote "no",  
23 okay?

24 So, all in favor of Mr. Way's motion,



1 please say "aye"?

2 CHAIRMAN HONIGBERG: Any opposed?

3 *[No verbal response.]*

4 CHAIRMAN HONIGBERG: All right. The  
5 ayes have it and that request is denied.

6 All right, Ms. Weathersby, we're  
7 back. We circled back.

8 MS. WEATHERSBY: I haven't had time.

9 CHAIRMAN HONIGBERG: That didn't take  
10 long, but here we are.

11 MS. WEATHERSBY: So, I guess we're  
12 back talking about showing the location on the  
13 map of structures and improvements on abutting  
14 properties that extend beyond what has already  
15 been mapped. And I understand that the project  
16 maps extend to approximately one-quarter mile  
17 of the project corridor. And my proposal, if I  
18 remember, was that supplemental maps showing  
19 the structures be required for abutting  
20 properties around sub and transmission  
21 **[transition?]** stations. I don't think, I just  
22 want to clarify, I guess, that regarding  
23 properties along the transmission corridor,  
24 that it's only those -- it's not every abutting

1 property for which I seek more information,  
2 it's only those where there are structures on  
3 those abutting properties beyond the quarter  
4 mile that is already mapped. I don't know if  
5 that reduces the 900 figure or not.

6 So, and I think it -- I still think  
7 it would be helpful to me, and hopefully other  
8 Committee members, to have some idea of what is  
9 on those abutting properties beyond the quarter  
10 mile.

11 So, I guess that's my proposal. And  
12 I can turn it into a motion, I guess, or just  
13 throw it out for discussion, that --

14 CHAIRMAN HONIGBERG: I want to make  
15 sure I understand. You would grant the  
16 requested waiver on the condition that instead  
17 the Applicant provide what?

18 MS. WEATHERSBY: Well, I guess we  
19 could discuss, either provide the tax map and  
20 card for those properties, or I'd be -- I'm  
21 open to Commissioner Bailey's suggestion that  
22 those property owners be given the opportunity  
23 to have their properties included in the  
24 supplemental information, either by map or

1 perhaps those are the only ones they pulled  
2 with the tax map and card.

3 I'm trying to find a way to get the  
4 information that is less onerous on the  
5 Applicant, but still provides the Committee  
6 with information that will be helpful to it.

7 So, if anyone has a suggestion to  
8 another way, I think that would be welcome as  
9 well.

10 MR. NEEDLEMAN: Could I volunteer  
11 something to help you?

12 CHAIRMAN HONIGBERG: Sure. Why not.

13 MR. NEEDLEMAN: I think that, given  
14 the choices that you're debating, it would  
15 certainly be more efficient to simply provide  
16 the map and the tax cards for properties that  
17 abut the corridor and also extend a quarter  
18 mile beyond the existing mapping, rather than  
19 have to engage in a back-and-forth with all of  
20 those owners to determine what their preference  
21 would be.

22 CHAIRMAN HONIGBERG: Okay.

23 MS. WHITAKER: Can I ask a question?

24 CHAIRMAN HONIGBERG: Sure.

1 MS. WHITAKER: So, a quarter mile  
2 beyond the quarter mile that's already been  
3 mapped?

4 MR. NEEDLEMAN: No. What I'm talking  
5 about is properties that abut the corridor that  
6 also extend beyond the quarter mile mapping.  
7 So, those are very large properties.

8 MS. WHITAKER: Uh-huh.

9 MR. NEEDLEMAN: And what I'm saying  
10 is, we would just provide the tax map and cards  
11 for those properties.

12 MS. WHITAKER: Do you have a number  
13 of properties that that would include or an  
14 overall percentage?

15 MR. NEEDLEMAN: I don't have a  
16 percentage. I think it's probably about half  
17 of the number I gave you before, so, in the 400  
18 to 500 neighborhood.

19 MS. WHITAKER: Okay.

20 CMSR. BAILEY: What's the difference  
21 between "900" and "400 to 500"?

22 MR. NEEDLEMAN: Because there are two  
23 categories of properties that extend beyond the  
24 one-quarter mile map. One category is the one

1 I just described, it's large properties that  
2 touch the corridor and extend beyond a quarter  
3 mile. The second category would be a property  
4 where the abutting property might be an eighth  
5 of a mile wide, and then the property beyond  
6 that would be a large property that would  
7 extend off the map, as opposed to that large  
8 property touching the corridor. And, so, what  
9 I'm talking about is the abutting properties  
10 that extend off the map.

11 CHAIRMAN HONIGBERG: All right. Ms.  
12 Weathersby, are you prepared to turn your  
13 thoughts into a motion at this point?

14 MS. WEATHERSBY: I can try. So, I  
15 move that we grant the waiver requested by the  
16 Applicant from Rule 301.03(c)(3), provided --  
17 with regard to the transmission corridor only  
18 and not to substations or transition stations,  
19 provided, in the alternative, the Applicant  
20 provide tax maps -- tax map and card for all  
21 abutting properties that extend beyond  
22 one-quarter mile of the project corridor.

23 CHAIRMAN HONIGBERG: Is there a  
24 second?

1 CMSR. BAILEY: Second. But I have a  
2 question.

3 CHAIRMAN HONIGBERG: Sure.

4 CMSR. BAILEY: I think you -- I'm not  
5 sure the Franklin Station is -- well, is that a  
6 substation technically?

7 MR. NEEDLEMAN: No. It's a converter  
8 terminal.

9 *(Multiple parties speaking at*  
10 *the same time.)*

11 CMSR. BAILEY: A converter station.  
12 So, do you want to include the Franklin  
13 converter station, in addition to the  
14 transition station and substations?

15 MS. WEATHERSBY: Yes. All stations.

16 CHAIRMAN HONIGBERG: So that you are  
17 amending your motion to include the Franklin  
18 station?

19 MS. WEATHERSBY: Correct.

20 CHAIRMAN HONIGBERG: And the seconder  
21 is the one who suggested that, presumably will  
22 second that as well?

23 CMSR. BAILEY: Yes, I will.

24 CHAIRMAN HONIGBERG: Is there further

1 discussion of that motion?

2 MR. IACOPINO: Can I ask a procedural  
3 question? Are we really including or excluding  
4 the converter station and the substation? In  
5 other words, did you want the condition to  
6 apply to them or not apply to them?

7 MS. WEATHERSBY: No. They're  
8 excluded from the waiver. So, the information  
9 would need to be provided with regard to  
10 station properties.

11 CHAIRMAN HONIGBERG: Did everyone  
12 understand that?

13 *[Multiple members nodding in the*  
14 *affirmative.]*

15 CHAIRMAN HONIGBERG: Okay. Is there  
16 any further discussion?

17 *[No verbal response.]*

18 CHAIRMAN HONIGBERG: Seeing none, all  
19 in favor please 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. The  
2 "ayes" have it.

3                   Mr. Iacopino, have we processed all  
4 of the pending waiver requests?

5                   MR. IACOPINO: I believe we have.

6                   CMSR. BAILEY: Mr. Chairman?

7                   CHAIRMAN HONIGBERG: Commissioner  
8 Bailey.

9                   CMSR. BAILEY: Just so the record is  
10 clear, on the motion that I made about  
11 historical and cultural resources, there's a  
12 third provision in that rule about natural  
13 resources, which is wildlife and that kind of  
14 thing. And I didn't specifically cover that in  
15 my motion, but we granted a waiver of the  
16 entire rule.

17                   Does Attorney Iacopino find any  
18 problem with that or are members of the  
19 Committee comfortable with that? We didn't  
20 talk about that, and I apologize.

21                   CHAIRMAN HONIGBERG: Attorney  
22 Iacopino.

23                   MR. IACOPINO: I interpreted it as a  
24 waiver of the entire requirement in the rule.



1 But, if the Committee is otherwise inclined,  
2 now would be the time to deal with it.

3 CHAIRMAN HONIGBERG: Commissioner  
4 Bailey, I then take it that you would say, to  
5 the extent not already granted, you would move  
6 to grant the waiver requested under -- which  
7 provision is it?

8 MR. IACOPINO: 301.03(c)(5).

9 CHAIRMAN HONIGBERG: Under that  
10 provision, regarding --

11 CMSR. BAILEY: Natural resources.

12 CHAIRMAN HONIGBERG: -- natural  
13 resources, correct?

14 CMSR. BAILEY: Yes.

15 CHAIRMAN HONIGBERG: All right. Is  
16 there a second for that motion? There should  
17 be.

18 DIR. WRIGHT: Second.

19 CHAIRMAN HONIGBERG: Any further  
20 discussion?

21 *[No verbal response.]*

22 CHAIRMAN HONIGBERG: Seeing none, all  
23 in favor please say "aye"?

24 *[Multiple members indicating*

1 "aye".]

2 CHAIRMAN HONIGBERG: Are there any  
3 opposed?

4 [No verbal response.]

5 CHAIRMAN HONIGBERG: All right. The  
6 ayes have it. So, to the extent that we may  
7 have missed something, we just picked it up.  
8 Correct, Mr. Iacopino?

9 MR. IACOPINO: That is correct.

10 CHAIRMAN HONIGBERG: All right.

11 MR. NEEDLEMAN: Peter is asking if we  
12 requested a waiver of that portion of the rule,  
13 and I need to go back and to look at precisely  
14 what we asked, whether we asked for a waiver of  
15 the historic and archeological portions or  
16 whether we asked for a waiver of the rule as a  
17 whole.

18 CHAIRMAN HONIGBERG: Well, then,  
19 maybe a way to deal with this would be to  
20 reconsider the grants that we've -- the waivers  
21 that we've -- no. Reconsider the grants of the  
22 waivers that we've done and do a new grant  
23 granting what you requested without specifying  
24 that, with respect to the relevant section.

1 The unfortunate level of specificity may have  
2 done us in here.

3 CMSR. BAILEY: I found it.

4 MR. WAY: Yes. On Page 3.

5 CHAIRMAN HONIGBERG: Who would like  
6 to clarify this? Commissioner Bailey, you  
7 found it first, I think.

8 CMSR. BAILEY: It's in Footnote 1 of  
9 the Applicant's motion. It says "Natural  
10 resources (plant and wildlife) were studied in  
11 large areas beyond the right-of-way given the  
12 nature of the resource and assessed fully in  
13 the original Application and accompanying  
14 technical reports."

15 So, they were not asking for a waiver  
16 of natural resources. I apologize. I just  
17 wanted to cover it, and I forgot why I thought  
18 it wasn't, why we didn't need any more  
19 information about natural resources.

20 CHAIRMAN HONIGBERG: I move that we  
21 reconsider the motion, the most recent motion  
22 that we adopted, which was the clarifying  
23 sweep-up motion that Commissioner Bailey made.  
24 I haven't voted in favor of that, I have the

1 right to move to reconsider.

2 Is there a second?

3 DIR. WRIGHT: Second.

4 MR. WAY: Second.

5 CHAIRMAN HONIGBERG: The purpose is  
6 to either have Commissioner Bailey withdraw the  
7 motion, after we -- assuming we grant  
8 reconsideration, or for us to vote it down. I  
9 think either one works. So, if you will vote  
10 in favor of this, we can then take the next  
11 step of either withdrawing that motion or  
12 voting it down.

13 Is there any further discussion of  
14 the motion to reconsider?

15 CHAIRMAN HONIGBERG: Seeing none.  
16 All in favor, please say "aye"?

17 *[Multiple members indicating*  
18 *"aye".]*

19 CHAIRMAN HONIGBERG: Are there any  
20 opposed?

21 *[No verbal response.]*

22 CHAIRMAN HONIGBERG: All right. That  
23 motion is now back up for discussion.

24 Commissioner Bailey, would you like to withdraw

1 the motion?

2 CMSR. BAILEY: Yes. I would like to  
3 withdraw the motion with respect to natural  
4 resources.

5 CHAIRMAN HONIGBERG: Who was the  
6 second? I think it might have been Mr. Wright.

7 DIR. WRIGHT: I think it was.

8 CHAIRMAN HONIGBERG: Will you  
9 withdraw the second?

10 DIR. WRIGHT: I will.

11 CHAIRMAN HONIGBERG: All right. That  
12 motion has now been withdrawn.

13 MS. MANZELLI: Mr. Chairman, may I  
14 make a clarification?

15 *[Court reporter interruption.]*

16 CHAIRMAN HONIGBERG: All right. Now,  
17 yes, Ms. Manzelli.

18 MS. MANZELLI: Thank you. I wanted  
19 to clarify, my understanding of the waiver  
20 request is that it includes a waiver of mapping  
21 water resources. So, it did not include a  
22 waiver for "natural resources", but it did  
23 include a waiver for "water resources", with  
24 respect to the alternative location and with

1 respect to the main route.

2 I'm sure the Applicants can clarify.  
3 But I just wanted to make sure that the motions  
4 clearly articulated what is being waived or not  
5 waived with respect to water resources.

6 MR. NEEDLEMAN: I think Ms. Manzelli  
7 is talking about two different issues. The  
8 water resources waiver is covered in Section  
9 301.03(c)(4). The reconsideration discussion  
10 that just occurred was with respect to (c)(5).

11 CHAIRMAN HONIGBERG: All right. So,  
12 we're clear, Ms. Manzelli?

13 MS. MANZELLI: I'm not. But I will  
14 wait for the order.

15 CHAIRMAN HONIGBERG: Well, during the  
16 break, perhaps you can discuss it with the  
17 others who are affected, and either maybe we  
18 have to do some more business on this after  
19 lunch or you'll get it clarified.

20 We're going to need to break in the  
21 next ten minutes. But we can get started on  
22 something else, Mr. Iacopino. What would you  
23 suggest?

24 MR. IACOPINO: I believe that the

1 next item of business that would be up for  
2 consideration would be the motions by Counsel  
3 for the Public and by the Forest Society to  
4 suspend the time frames required by the  
5 statute. Both of those parties have alleged  
6 that it's in the public interest to do that.  
7 The Applicant has objected to that. Each of  
8 those three parties has suggested schedules,  
9 which the Committee has.

10 So, a discussion regarding that issue  
11 would be the next major thing to discuss.

12 CHAIRMAN HONIGBERG: All right.  
13 Well, I think the plan will be to give the  
14 parties who have made the motions the  
15 opportunity to speak to them before we  
16 deliberate. I don't want to do that in five  
17 minutes.

18 But I think it might be helpful if  
19 you would give us the legal lay of the land,  
20 and, to the extent that you can briefly, some  
21 of the history of how this -- these deadlines  
22 have been dealt with in prior proceedings,  
23 understanding that the one-year deadline that  
24 is in the current statute is new, and also

1 keeping in mind that it's probably been 40  
2 years since the SEC or any predecessor entity  
3 has considered anything of this magnitude.

4 So, if you could briefly give us the  
5 statutory and rule-based background for us,  
6 that will help.

7 MR. IACOPINO: Yes. The statutory  
8 background for what the motions request is  
9 contained in RSA 162-H:14, which states that  
10 "If the site evaluation committee, at any time  
11 while an application for a certificate is  
12 before it, deems it to be in the public  
13 interest, it may temporarily suspend its  
14 deliberations and time frames [frame?]  
15 established under RSA 162-H:7." That is the  
16 statute. It has been used in a number of cases  
17 in the past.

18 Notably, the term "in the public  
19 interest" is not defined within the statute.  
20 We do not have a definition of it in our rules.  
21 In other words, this particular section of the  
22 statute is not interpreted by our rules, nor is  
23 there a definition of the "public interest" for  
24 this particular portion of the statute.



1           In the past, the Committee has  
2           suspended deliberations under a number of  
3           different types of circumstances. In one, in  
4           the Lempster Wind Project -- I'm sorry. In the  
5           Lempster Wind Project, for instance, there was  
6           a late entry by an intervenor from the Town of  
7           Goshen, who had concerns regarding the  
8           transmission lines that were going to be  
9           upgraded through their town as a result of the  
10          construction of the proposed wind farm. In  
11          that particular wind case, the Committee found  
12          that, in order to address those issues, it was  
13          in the public interest to extend the time  
14          frames and suspend the -- suspend its  
15          proceedings.

16                 Similar -- and, actually, I think in  
17          virtually every wind case that we had, except  
18          for one, the time frames had been suspended  
19          because the Committee had found that it would  
20          be in the public interest. In a couple of  
21          those, it was because we were at a point where  
22          we were either on the verge of or in the middle  
23          of deliberations, and the time frame was coming  
24          up, and the Committee found that, in order to

1 provide the public with a fully reasoned  
2 decision, and to fully deliberate, it was  
3 necessary to extend the time frames.

4 Understand, of course, that all of  
5 these decisions were made at a time when the  
6 time frame was nine months for these particular  
7 projects. There is now a one-year requirement.

8 We have also extended the time frame  
9 when it was the Applicant, when the Applicant  
10 caused -- well, at least -- I shouldn't say  
11 that, let me back up. We extended a time frame  
12 when it turned out that there was additional  
13 historical resource information that was  
14 necessary in a particular case, and we required  
15 the Applicant to provide us with that, with  
16 that information, and it was determined to be  
17 in the public interest so that the Committee  
18 could have all of the information that was  
19 needed for it to undertake its obligations  
20 under the statute and properly deliberate.

21 So, the statute that permits the  
22 temporary suspension of the time frames has  
23 been used on a number of occasions in the past.  
24 But, again, I can't tell you that there's any

1 hard or firm definition of "in the public  
2 interest". That is up to the Committee to  
3 decide on a case-by-case basis at this point.

4 CHAIRMAN HONIGBERG: The last thing I  
5 think I'll put on the record before we break,  
6 is that, when we were together in Loon, we did  
7 not have -- we had not identified a facility  
8 where hearings on the merits could take place.  
9 Since that time, thanks to the hard work of a  
10 number of people, we have identified a location  
11 in Concord that is appropriate and is available  
12 for multiple months starting later this year.  
13 And it will be a -- will have a large  
14 hearing -- a room for a large hearing, plus  
15 rooms for the parties and for the Subcommittee  
16 to meet privately, and store materials, if  
17 necessary.

18 I don't think we need to do anything  
19 else before we break for lunch, but we do need  
20 to break at this time given schedules that I'm  
21 not in control of.

22 So, with that, we will break. It's  
23 12:30 now. We will come back as close to 1:30  
24 as we can.

1                                    (Lunch recess taken at 12:30  
2                                    p.m. and the hearing resumed at  
3                                    1:38 p.m.)

4                                   CHAIRMAN HONIGBERG: All right.  
5                                   We're going to get started. We're going to  
6                                   hear first from the two parties or intervenors  
7                                   who have moved to suspend deliberations and the  
8                                   time frames under RSA 162-H:14.

9                                   Why don't we hear first from Counsel  
10                                  for the Public.

11                                  MR. ROTH: Tom Pappas will be  
12                                  presenting the argument on my behalf.

13                                  CHAIRMAN HONIGBERG: Mr. Pappas.

14                                  MR. PAPPAS: Good afternoon, members  
15                                  of the Committee. I will supplement what we  
16                                  have said in our motion, and I will try not to  
17                                  repeat what we have said in our motion. But I  
18                                  do want to address a number of things that were  
19                                  said in opposition.

20                                  The first issue is, can the  
21                                  Subcommittee suspend currently, right now, the  
22                                  one-year time frames? The Applicants'  
23                                  objection presents a view of the legislative  
24                                  history of the 2014 amendments to RSA 162-H.

1 And I would submit that those are irrelevant.  
2 That there's no need to look at the legislative  
3 history to decide whether or not you can  
4 suspend the time frame right now. RSA 162-H:14  
5 allows you to suspend the time frame. It is  
6 clear, it is unambiguous. And there's no need  
7 to look at any legislative history beyond the  
8 statute itself. It's black letter law in New  
9 Hampshire that, when a statute is clear and  
10 unambiguous, you must apply its terms, you must  
11 consider the plain and ordinary meaning of the  
12 statutory terms and you consider the statute as  
13 a whole. If you find that the statute is  
14 unambiguous, there is no need, in fact, you're  
15 not even allowed to look at the legislative  
16 history, you simply apply the statute.

17 Now, RSA 162-H:7 provides for a  
18 365-day review period. It's RSA 162-H:14 that  
19 is at issue, and there's nothing ambiguous  
20 about it. It says that "at any time while an  
21 application for a certificate is before it",  
22 "it" being the Committee, you can suspend the  
23 time frame.

24 Now, I think it's important in

1 deciding how you interpret that statutory  
2 provision to look at what existed before and  
3 what was changed in 2014. It's not legislative  
4 history, it is looking at the statute and the  
5 change in the statute. Can I approach?

6 *[Atty. Pappas distributing*  
7 *documents.]*

8 MR. PAPPAS: What I have passed out  
9 is, on the first page, the statute as it  
10 existed prior to the 2014 amendments. And,  
11 then, the second page, which is the statute  
12 effective today that you need to interpret.  
13 Prior to 2014, the statute said that "If the  
14 site evaluation committee at any time during  
15 its deliberations relative to an application  
16 for a certificate deems it to be in the public  
17 interest, it may temporarily suspend its  
18 deliberations and time frame established under  
19 162-H:7", which is currently the 365 days.  
20 Before 2014, it was during your deliberations  
21 that you had the ability to suspend the time  
22 frame. And the different cases that Attorney  
23 Iacopino referred to, I believe, were mostly,  
24 if not all, decided under that statute before

1 2014, when you had the authority during your  
2 deliberations to suspend the time frame.

3 In 2014, the statute was amended.

4 And, the second page is the current version of  
5 the statute that says "If the Site Evaluation  
6 Committee at any time while an application for  
7 a certificate is before it, deems it to be in  
8 the public interest, it may temporarily suspend  
9 its deliberations and time frame established  
10 under RSA 162-H:7." That is a significant  
11 change. It changed from authorizing you  
12 "during your deliberations" to suspend the time  
13 frame, to authorizing you to suspend the time  
14 frame "at any time an application is pending  
15 before you". This Application is pending  
16 before you, and you have statutory authority to  
17 suspend the time frames at any time, including  
18 today or any time in the future.

19 That is a clear and unambiguous  
20 authorization for this Committee to suspend the  
21 time frame now and institute a longer than 365  
22 day time frame. There's nothing ambiguous  
23 about "at any time", and I would argue that any  
24 legislative history is irrelevant, and you need

1 not, nor, in fact, should not consider  
2 legislative history if you indeed find the  
3 words "at any time while an application is  
4 before you" to be clear and unambiguous.

5           There's one other thing that you  
6 should note about the current statute. It  
7 provides that the Committee "may temporarily  
8 suspend its deliberations and time frame under  
9 RSA 162-H:7." Which means you can either  
10 suspend your deliberations, if it comes to the  
11 point where you need to suspend your  
12 deliberations for additional time, or you can  
13 simply suspend the time frame, the 365-day time  
14 frame. The legislative language allows you to  
15 do either, and allows you to do either at any  
16 time. And I would argue that you need not look  
17 any further than that statute in order to  
18 suspend the time frame now.

19           Now, like all quasi-judicial bodies,  
20 the Subcommittee has some discretion as to  
21 what's a reasonable amount of time to suspend  
22 the time frame, based on the facts and  
23 circumstances you find before you. The  
24 Legislature did not dictate to you how long the



1 Committee should suspend the time frame, if you  
2 deem that to be necessary. It left it up to  
3 your discretion to do it at any time during --  
4 when a matter is before you.

5 And I would argue that, under the  
6 facts and circumstances of this case, as we  
7 argue in our motion, and I won't repeat it,  
8 that they present the facts and circumstances  
9 that would allow for you to suspend the time  
10 frame.

11 Very briefly, if you consider the  
12 legislative history of the 2014 amendment,  
13 which was Senate Bill 245, as argued in some of  
14 the objections, I would contend that the  
15 legislative history of the 365-day period is  
16 not the issue. Because the issue in front of  
17 you is you have the authority to suspend the  
18 time frame, and that is the legislative history  
19 of 162-H:14. And that legislative history does  
20 not provide you much guidance in terms of how  
21 long you should suspend or when you should  
22 suspend.

23 Now, the Applicants argue that the  
24 phrase "temporarily suspend" somehow was

1 intended by the Legislator to limit the meaning  
2 of the suspension statute. That's an argument  
3 that they raise in their objection. That it  
4 somehow limits the circumstances under which  
5 you can suspend. They argue that the phrase  
6 "temporarily suspend" was meant to somehow  
7 permit suspending only when you needed  
8 additional information. That's their argument  
9 -- or, one of their arguments in the objection.

10 They then argue that the Subcommittee  
11 does not need additional information now, and,  
12 therefore, there's no basis to suspend the time  
13 frame currently. There is nothing in the  
14 statute itself to suggest such an  
15 interpretation. There is no limiting language  
16 in the statute somehow limiting "temporarily  
17 suspend" to mean you need additional  
18 information. It's not found in any of the  
19 language of the statute, and it's not supported  
20 by the legislative history of the suspension  
21 statute.

22 What they cite to is a 1990 Study  
23 Committee report to support the view that you  
24 can only suspend when you need additional

1 information. That 1990 Study Committee report  
2 is not legislative history and it can't be used  
3 to interpret the statute. And, in fact, that  
4 1990 report doesn't even support their  
5 argument.

6 Can I approach?

7 CHAIRMAN HONIGBERG: Why don't you  
8 have Mr. Roth approach, and you can keep  
9 talking.

10 MR. PAPPAS: Thank you. What  
11 Mr. Roth is about to pass out is a portion of  
12 that 1990 report that they cite to in support  
13 of the argument that the words "temporarily  
14 suspend" means "you only suspend when you need  
15 additional information."

16 *[Atty. Roth distributing*  
17 *documents.]*

18 MR. PAPPAS: This was a report in  
19 August of 1990. And what they cite to is  
20 Page 8. And, so, the last page of this  
21 document is Page 8. And what Page 8 is is a  
22 summary of testimony by Attorney Holtman, who  
23 at the time was an Assistant Attorney General  
24 and serving as Counsel for the Public in SEC

1 proceedings. And they cite to the paragraph  
2 that I've highlighted in yellow on Page 8 as  
3 the sole authority for the argument that  
4 "temporarily suspending" -- I mean,  
5 "temporarily suspending means "not unless you  
6 have additional information". And in here you  
7 see a summary where it says "if it is  
8 determined that additional information is  
9 needed".

10 *[Atty. Roth distributing*  
11 *documents.]*

12 MR. PAPPAS: What Mr. Roth just  
13 passed out is Attorney Holtman's actual  
14 testimony in 1991 to the Legislature dealing  
15 with, at that time, House Bill 736. House Bill  
16 736 was the House bill that put the suspension  
17 provision into RSA 162-H. It was the genesis  
18 of the suspension provision.

19 And what you have is Mr. Holtman's  
20 actual testimony in support of that bill. And  
21 I've highlighted some sections that you can  
22 read, but what I really want to draw your  
23 attention to are two things.

24 If you look at the first page, and

1 I've highlighted the second paragraph, Attorney  
2 Holtman wanted to address specifically the  
3 notion of reducing the time period from then it  
4 was 14 months to 9 months. And he said that it  
5 would be adequate for most applications, but he  
6 said "it is certainly and will prove inadequate  
7 for consideration of more complex and  
8 significant projects, those for which the  
9 chapter is most intended." He then goes on to  
10 talk about transmission projects, and talks  
11 about the need for experts and discovery and so  
12 forth.

13 And, on the second page, what he says  
14 is "[his] concern is largely addressed by this  
15 new provision, which allows the Committee to  
16 suspend its deliberations when the public  
17 interest warrants." He goes onto say "I raise  
18 this whole subject simply to urge the  
19 Committee, should it act favorably on this  
20 legislation, understand this provision to be  
21 one that will be invoked prudently but not  
22 infrequently, available in each case to balance  
23 expeditiousness with the need to gather  
24 relevant information and consider each proposed

1 project in a full and reasoned manner."

2 Now, he goes on later on, and you can  
3 read this, where he frames his support of  
4 shortening from 14 months to 9 months the time  
5 frame, because the Committee has the ability to  
6 suspend its deliberations if it needs more  
7 time, and, in fact, talks about the complex  
8 cases where you will need more time. This is  
9 such a complex case where this Committee needs  
10 more time.

11 As Attorney Holtman testified, and  
12 which is in the legislative history of the  
13 suspension provision, the provision was not  
14 intended only when the Committee needed more  
15 information. It was intended for complex and  
16 significant projects. And I would suggest that  
17 Northern Pass is the most significant and  
18 complex project in over a generation.

19 The Applicants then argue that "to  
20 suspend the time frame now would be to ignore  
21 the statutory 365 days time frame." There's no  
22 question that the Legislature had 365-day time  
23 frame for most projects. But they also  
24 specifically provided a suspension provision.

1           The Applicants argue that, because  
2           the Legislature determined that 365 days would  
3           be adequate, that it is one key feature in the  
4           "extensive debate" in the Legislature over  
5           going to a 365-day time frame. In fact, they  
6           argue that the extended time period from 9  
7           months to 12 months was after careful study and  
8           guidance from many stakeholders, and they  
9           conclude that the Legislature extended the time  
10          frame from 9 months to 12 months "in no small  
11          part because of Northern Pass".

12           Well, the legislative history of 245  
13          simply does not support those claims. The  
14          legislative history of 245, which was the 2014  
15          amendments, was set up by a prior senate bill  
16          and set up a study committee. And the study  
17          committee was organized by New Hampshire Office  
18          of Energy Planning and coordinated the work of  
19          the study committee. They hired consultants.  
20          There was a coordinating committee that served  
21          as advisers. In fact, Attorney Roth and  
22          Attorney Getz both served on the coordinating  
23          committee.

24           The coordinating committee identified

1 issues for the consultants. The 9-month review  
2 period was not one of the issues they  
3 identified for the consultants. The  
4 consultants when on to establish focus groups  
5 to study the identified issues, which were 15.  
6 The 9-month review period was not one of the  
7 issues studied by the consultants or the focus  
8 groups. In fact, the review period was not  
9 even included in a very extensive report in  
10 December of 2013 that the consultants produced.

11 The only thing the Applicants cite in  
12 their papers to support the notion that the  
13 time frame, which went from 9 months to 12  
14 months, in no small part because Northern Pass  
15 was a preliminary review that the consultants  
16 did for the Committee before their official  
17 report. The preliminary review was simply  
18 background information, and all they did is, on  
19 two pages of a preliminary review, simply list  
20 what the six New England states and New York  
21 did in terms of time frame. That was it. If  
22 you look at the legislative history, and that's  
23 not -- and, arguably, that's not even  
24 legislative history, because there's no



1 evidence the Legislature even received the  
2 preliminary background review, because it  
3 wasn't part of the official report, let alone  
4 whether or not the Legislature even considered  
5 it in going from 9 months to 12 months.  
6 There's simply no evidence in the legislative  
7 history that, by going from 9 months to 12  
8 months, the Legislature did so with Northern  
9 Pass in mind. It's simply not in the  
10 legislative history. In fact, if you look at  
11 the testimony, nobody even testified to the  
12 fact that we're going from 9 months to 12  
13 months because of Northern Pass. Northern Pass  
14 was just barely mentioned in the legislative  
15 history, and all is mentioned in passing, and  
16 nobody mentioned it in context of going from 9  
17 months to 12 months.

18 So, the argument that the Legislature  
19 set 12 months with Northern Pass in mind, and  
20 that you need to somehow use the 12 months and  
21 not suspend, is just not supported or found,  
22 frankly, in the legislative history of the 2014  
23 amendments. It's simply not there.

24 So, what your left with is, is it in

1 the public interest to suspend the 365-day time  
2 frame and adopt a larger schedule? Iacopino --  
3 Attorney Iacopino told you earlier that that's  
4 not defined. And what I would suggest you do,  
5 as we say in our papers, is look at that first  
6 section of Section 162 where there's a  
7 discussion of factors that the Legislature  
8 thought important. And I would suggest that,  
9 if you look at those factors, you will find  
10 that it's certainly in the public interest to  
11 suspend the 365 day, do it now, and set a  
12 schedule that support it.

13 We review those in our motion. I  
14 review the factors in the motion, so, I'm not  
15 going to take your time now to repeat them all.  
16 I would suggest that you look at our motion.  
17 We cite the section of the statute that the  
18 Legislature put in factors for you to consider  
19 what is in the public interest, and we make  
20 arguments about that.

21 Let me just then say a few more  
22 things.

23 CHAIRMAN HONIGBERG: How brief --

24 MR. PAPPAS: Five minutes.

1                   CHAIRMAN HONIGBERG:  -- are these  
2                   last few things?

3                   MR. PAPPAS:  A couple minutes, and  
4                   I'll be done.

5                   The Applicants also argue that  
6                   "suspending the time frame always comes near  
7                   the end of the process".  We would disagree  
8                   with that characterization, but I don't think  
9                   you have to look at any more than the 2014  
10                  amendments.  Because, before 2014, it allowed  
11                  you to suspend during your deliberations.  
12                  That's at the end of the process.  You don't  
13                  have that anymore.  You have the ability to  
14                  suspend at any time.  And, so, I would argue  
15                  that just because, in some cases in the past,  
16                  suspension came at the end of the process, that  
17                  does not control here.  What I would argue is  
18                  that you should look at your past experience  
19                  with other cases and see what needs to be done  
20                  in those, what is necessary in those other  
21                  cases to consider an application, and use your  
22                  experience to guide you here.

23                  In our papers, we cited Antrim Wind  
24                  as an example of the difference between a

1 typical project and this project. And, by  
2 arguing that you can't use your past experience  
3 to determine now that you should suspend, I  
4 think ignores the Committee's ability to rely  
5 on its past practice.

6 What you need to do is establish a  
7 workable schedule now, not an unworkable  
8 schedule that could lead to a series of motions  
9 for extensions or uncertainty in the schedule.

10 I would submit that there are a  
11 couple of things that you need to consider, and  
12 I'll be very brief. First, certain things have  
13 to be done for you to develop a record. The  
14 experts need time to do their work. Most  
15 experts that are just about to retain will  
16 probably need five to six months to complete  
17 their work. I would suspect that the  
18 Applicants' experts took much, much longer to  
19 complete their work. But it seems to me  
20 experts retained now would need sufficient time  
21 to complete their work.

22 You also need sufficient time for  
23 technical sessions. And you've got clearly  
24 probably more than 15 or 20 witnesses that

1 would probably be subject to technical  
2 sessions. You can't get those done in a couple  
3 days. You're going to need a significant  
4 amount of time for technical sessions, for both  
5 the Applicants' witnesses, as well as all the  
6 intervenor witnesses. You're going to need  
7 sufficient time to prepare and conduct the  
8 hearings. I would suggest you're going to need  
9 time for post-hearing briefs that will assist  
10 you, and you need time for deliberations.

11 Those five things are going to drive this  
12 schedule. And I don't think you can do all  
13 five of those things adequately or well in the  
14 next seven months. I think it's unrealistic to  
15 think that you can do so. We argued the very  
16 points in our papers. But, globally, I don't  
17 think you can get all that done in five months.

18 So, we would urge you to think now  
19 about what is a workable schedule, what was  
20 described earlier as a "very heavy lift", and  
21 that you come up with a schedule that everybody  
22 can get accomplished what it needs to get  
23 accomplished, you get the record that you need  
24 to make an informed decision, and everybody has

1           some certainty of that schedule, rather than  
2           try to do it later on or piecemeal, because I  
3           think it will add uncertainty, and it will not,  
4           in the end, make for a more efficient process.

5                         And, finally, I would say, your  
6           ruling this morning will require additional  
7           information to be provided, that will require  
8           some additional discovery. And building that  
9           in now, rather than trying to build it in  
10          later, will make for a more efficient process.  
11          Thank you.

12                        CHAIRMAN HONIGBERG: All right. Who  
13          has questions for Attorney Pappas? I have one,  
14          if no one else does.

15                                 *[No verbal response.]*

16                        CHAIRMAN HONIGBERG: If you look at  
17          your schedule, Attorney Pappas, --

18                        MR. PAPPAS: Uh-huh.

19                        CHAIRMAN HONIGBERG: -- and I'm not  
20          even sure I have it in front of me right now,  
21          it related to the need for deliberations and  
22          preparation of an order, your time frame seems  
23          unrealistically short. You have us, I think,  
24          finishing the hearing on the merits in early

1 June, three weeks for post-hearing briefs, and,  
2 if I read it correctly, three days for  
3 deliberations. That doesn't even seem close to  
4 enough time.

5 MR. PAPPAS: No. No. I think, Mr.  
6 Chairman, I didn't put a time period -- a time  
7 limit on your deliberations. What I said is  
8 you start on June 26th.

9 CHAIRMAN HONIGBERG: Oh. Oh, we  
10 misunderstood. We thought that's when we were  
11 done.

12 MR. PAPPAS: No, no, no, no.

13 CHAIRMAN HONIGBERG: Because most  
14 people would have the last date on a schedule  
15 like this the date we're supposed to be done.

16 MR. PAPPAS: I understand. I didn't  
17 want to presuppose how long you would need to  
18 deliberate. And, certainly not knowing what  
19 all the discovery and the testimony would be, I  
20 wasn't going to venture a guess on that. So, I  
21 just put a start date, and leave it to the  
22 Committee's discretion. And, I assume, as it  
23 comes time for deliberation, if you need more  
24 time, you'd take it.

1                   CHAIRMAN HONIGBERG: I heard  
2 something of an answer, I just wanted to give  
3 you an opportunity to address a question that  
4 is in my mind, and is common, I think, to  
5 attorneys who litigate. Why not do as much as  
6 you can as quickly as you can, and then see  
7 where you are before looking to extend  
8 deadlines?

9                   MR. PAPPAS: Well, because this  
10 process is just a little bit different, because  
11 you don't have, normally -- your discovery  
12 includes these technical sessions. So, you  
13 have to have your experts with you to do  
14 technical sessions against the Applicant, and  
15 then your excerpts need to have done their  
16 report and produce written testimony, prefiled  
17 testimony, for them to do their technical  
18 sessions. That's a little different than  
19 normal litigation. Normal litigation, you can  
20 just run off and do discovery, and you don't  
21 have these technical sessions or prefiled  
22 testimonies. So, those two events change the  
23 normal course of pretrial litigation or  
24 discovery. And that's why I think it's a



1 little bit different than you normally do.

2 And, if you don't, you know, if you  
3 don't have sufficient time for the experts to  
4 do their work, then the technical sessions  
5 aren't going to be as meaningful as they  
6 otherwise would be. And, then, you're going to  
7 have a problem later on, because you're going  
8 to get people doing discovery during the  
9 adjudicative hearing, and you don't want that,  
10 because that's only going to extend that and  
11 frustrate everybody.

12 I would argue that, really, the early  
13 work should be extended more than the late  
14 work, because the early work sets up, in this  
15 format, the later work. And, if you have  
16 sufficient time for the experts to complete,  
17 they have sufficient time to make meaningful  
18 technical sessions, and everybody gets complete  
19 prefiled testimony, then everybody can hurry up  
20 after that. But, if you shortchange that, then  
21 you've really messed the adjudicative hearing.

22 CHAIRMAN HONIGBERG: All right. Are  
23 the other questions for Attorney Pappas?

24 Attorney Iacopino.

1           MR. IACOPINO: Mr. Pappas, you've had  
2 or everybody has had the prefiled testimony of  
3 the Applicant since the day that the  
4 Application was filed. Why isn't that  
5 sufficient time for you to be preparing for  
6 what you need to prepare? To hire your experts  
7 and get your own prefiled testimony prepared?

8           MR. PAPPAS: Well, we -- first of  
9 all, a good deal of that testimony is technical  
10 and requires expert assistance. They have 25  
11 witnesses covering 26 subjects. I count 18 or  
12 19 of them to be expert necessary or  
13 expert-assisted topics. So, we can do some  
14 groundwork, but you really need your expert  
15 assistance to help you with those items. The  
16 economic stuff, the economic modelings, that I  
17 don't know a lawyer in the state who has ever  
18 used one of those economic models that could  
19 really understand it. Some of the other  
20 technical issues, you need experts to help you.

21           We have been working diligently, we  
22 filed our motions by the deadline. And we  
23 worked hard to try to get assent to the experts  
24 or at least the relief requested for the

1 experts. And, so, we have done that work on  
2 the schedule. But, until we have experts who  
3 we can engage and review the material, we're  
4 not in a position to do the technical discovery  
5 necessary.

6 We've submitted our non-expert  
7 assistance data requests under the time frame,  
8 and we've discussed it with the Applicant, and  
9 we've had continuing discussions in terms of  
10 any objections. And, like normal litigation,  
11 we do that. But, since this is a technical  
12 nature, you can't expect us to have done that  
13 work because the need for an expert.

14 In normal litigation, you get your  
15 expert right away. We need to go through a  
16 process. For each expert, we interviewed  
17 several experts. We didn't want to just pick  
18 one and go. We canvassed a lot of folks, we  
19 screened a lot of folks, a lot of conflicts as  
20 you might imagine, because a lot of these type  
21 of experts do work for a utility. And, then,  
22 we interviewed each person, in person, that we  
23 chose, and reviewed several other people that  
24 we didn't choose. And, then, once we decided

1 on someone who was appropriate, we pushed them  
2 scope to narrow it as much as possible, we  
3 pushed them on price as much as possible, and  
4 pushed back on all of them to get to a point  
5 where we thought it was efficient. That took a  
6 fair amount of time. But we need them on board  
7 to then do the technical stuff. We couldn't do  
8 it up until now. We get them on board, we're  
9 prepared to move forward and expeditiously, but  
10 we couldn't do it before then, because it's a  
11 very technical matter.

12 MR. IACOPINO: I'm just going to pose  
13 to you the question that I'm sure the Applicant  
14 is going to argue is, you've had five months in  
15 order to do that. Why did you wait for last  
16 minute to file your motion?

17 MR. PAPPAS: Well, we met it on the  
18 deadline. We started looking -- first of all,  
19 I'll back up. So, you accepted this  
20 Application in December. We started looking at  
21 experts in early January, within a couple of  
22 weeks. It took us a while to screen some, then  
23 we started interviewing, and some of these  
24 folks we flew in from outside of New England,

1 because we had to cast a far net. It took us a  
2 while to narrow that down. In the meantime,  
3 we're doing several other things, such as  
4 attend public hearings and other things. But  
5 we were diligently working on that. And I  
6 would suggest that finding all the experts we  
7 found in the different areas, and having them  
8 gone through that process in the months it took  
9 was an efficient process.

10           Could we have got through it a little  
11 bit quicker? Sure. Was it fairly quick? Yes.  
12 Yes, I think it was fairly quick. And I don't  
13 think that slowed the process down. I don't  
14 think anything that Counsel for the Public has  
15 done has slowed the process down. I think  
16 we're moving as expeditious as we can. We're  
17 prepared to move forward as expeditious as we  
18 can. We've been doing this since we were  
19 engaged, and we're prepared to stay with it.  
20 Our schedule contains no gaps. We don't have  
21 any gaps in that schedule. And I would suggest  
22 the sequencing, when you think about a  
23 schedule, is very important. One event plays  
24 off the other event. And, if you look at our

1 sequencing, our sequencing follows one after  
2 the other after the other, we don't have any  
3 gaps in the sequencing that we suggested. We  
4 require, for instance, responding to discovery  
5 requests in 30 days, which is typical in  
6 litigation.

7 CHAIRMAN HONIGBERG: Do you remember  
8 the question, Mr. Pappas?

9 MR. PAPPAS: Yes. "Why did it take  
10 five months?"

11 CHAIRMAN HONIGBERG: Yes. Are there  
12 other questions for Mr. Pappas?

13 MR. IACOPINO: Can I follow-up?

14 MR. PAPPAS: Yes.

15 MR. IACOPINO: You mentioned in your  
16 earlier argument that it's "going to take five  
17 to six months to prepare prefiled testimony".  
18 Is that your understanding, if the motion that  
19 you've filed to hire the eight consultants is  
20 granted, that it will be five to six months?

21 MR. PAPPAS: For some of our experts,  
22 yes, because we've asked each of them how long  
23 it would take. Now, can we push some of them?  
24 Sure. But can you really push every one of

1           them to three months? No. The aesthetics  
2           folks, 192 miles, you know, they're going to  
3           take some time to go out and do some fieldwork.  
4           The same thing with the cultural/historic  
5           stuff, same thing with some of the  
6           environmental stuff, it just takes a little bit  
7           of time. And we have asked each one of them  
8           "give us a realistic time and then, really, how  
9           much time do you need?" And five or six months  
10          was the longest time, a couple of them will be  
11          a little shorter. But that's generally the  
12          time they're going to need to do their work,  
13          get it into a report, and get it into prefiled  
14          testimony so we can give it to the Applicants.  
15          I think that's a realistic time frame for all  
16          that to get done.

17                   CHAIRMAN HONIGBERG: Are there other  
18          questions for Attorney Pappas?

19                           *[No verbal response.]*

20                   CHAIRMAN HONIGBERG: All right.

21                   MR. PAPPAS: Thank you.

22                   CHAIRMAN HONIGBERG: Thank you. I  
23          will note for the record that an order granting  
24          your motion regarding experts will issue in the

1 next couple of days. Orders on the pending  
2 confidentiality motion, an order on that will  
3 come out in the next few days, and the order  
4 confirming the decisions from the hearing in  
5 Lincoln a few weeks ago is also sometime in the  
6 next few days.

7 Ms. Manzelli.

8 MS. MANZELLI: Thank you. My name is  
9 Amy Manzelli, from the law firm of BCM  
10 Environmental and Land Law, here representing  
11 the Forest Society.

12 So, first of all, for the record, we  
13 agree with and we incorporate into our position  
14 on this matter all of the arguments set forth  
15 by the Counsel for the Public, as we stated in  
16 our motion, and the arguments that he set  
17 forward today.

18 That argument, however, was pretty  
19 legalistic. I want to come at this more from a  
20 practicality-based argument. So, practically  
21 speaking, I'm going to speak for myself here, I  
22 would like to read the Application. I think we  
23 all deserve the temporal ability to read the  
24 Application. And I don't remember the exact



1 math, but I think it's in Counsel for the  
2 Public's motion or in a pleading somewhere, you  
3 know, if you read I think it's something like  
4 60 pages a day for a year, for a year, without  
5 fail, you take a break on Sunday, you've got to  
6 read 120 on Monday, that's how long it would  
7 take to read the Application. So, I think  
8 that's a practical way of looking at this and  
9 of quantifying the magnitude of this project,  
10 in terms of the time that it's going to take us  
11 to get through.

12 Now, if I can just address some of  
13 the previous questions. Why do we need so much  
14 more time from now? Well, because we're almost  
15 half way through the year, from December of  
16 2015 to December of 2016, we're almost halfway  
17 there. And where are we? We're just now  
18 making decisions collectively, of course,  
19 you're making the decisions, that more  
20 information needs to be provided. We need a  
21 decommissioning -- the requirements of the  
22 decommissioning need to be met.

23 Additionally, as you may be aware,  
24 the Department of Environmental Services is

1 seeking more information, and I'll talk about  
2 that a little later.

3 So, we're already almost halfway  
4 through, and we don't have all of the  
5 information that we need to be developing a  
6 comprehensive and coherent strategy with  
7 respect to our positions in the case.

8 Now, I believe that the Forest  
9 Society, like the Counsel for the Public, and  
10 like many others here, have been working very  
11 diligently in our efforts. I want to state for  
12 the record, the Forest Society had hired its  
13 aesthetic expert and had its aesthetic expert  
14 in the field, doing fieldwork, before the  
15 Application was even completed. I mean, we are  
16 working as hard as we can. But there is so  
17 much. It's just not workable to say that it's  
18 all going to get done by December.

19 I want to emphasize a point in our  
20 motion. Which is our motion is a -- its  
21 plural, it's a "request to extend the time  
22 frames", plural. And what I mean by that, is  
23 not only the 365-day time frame, but also the  
24 time frame by which other state agencies, with

1       whom you're coordinating as part of this  
2       process, for example, the Department of  
3       Environmental Services, need to make their  
4       final decision on the decision-making that is  
5       within their jurisdiction. I think it makes  
6       little sense to not adjust that time frame, but  
7       to adjust the year-long time frame. So, I  
8       wanted to emphasize that point.

9                Because of the practicalities of this  
10       Application, as I mentioned here and in the  
11       motion, and Counsel for the Public and others  
12       have mentioned, I think it makes sense to plan  
13       for a schedule that calls for your deliberation  
14       and decision in November of 2017. That's the  
15       schedule that we've proposed. That's the  
16       schedule that a large amount of parties in this  
17       docket have joined in requesting or they have  
18       assented to that request.

19               And I just want to make a brief  
20       illustration of how long complicated cases like  
21       this can take. Now, this isn't an SEC case.  
22       This is the PUC docket regarding the  
23       divestiture of PSNH generation assets. It's  
24       PUC Docket 14-238. So, there's a law that

1 requires that docket to be a "expedited  
2 proceeding". Okay? They don't have a  
3 year-long deadline or anything like that, it's  
4 just required to be an "expedited proceeding".  
5 So, that docket opened in September of 2014.  
6 They had their trial in February of 2016. And,  
7 as I understand it, there is no final order.  
8 So, 20 months for a complicated proceeding that  
9 was supposed to be "expedited".

10 CHAIRMAN HONIGBERG: Ms. Manzelli,  
11 was there a motion to stay filed in that  
12 docket?

13 MS. MANZELLI: I don't know. What I  
14 know --

15 CHAIRMAN HONIGBERG: And was that  
16 motion granted? Would you disagree with me if  
17 I told you that a motion to stay was filed in  
18 that docket in December of 2014, and that that  
19 stay remained in place until the Summer of  
20 2015?

21 MS. MANZELLI: I don't have enough  
22 information to disagree or agree.

23 CHAIRMAN HONIGBERG: And would you  
24 disagree with me if I suggested that there was

1           legislation that amended the statute under  
2           which the PUC was acting in that matter?

3                   MS. MANZELLI: I don't have enough  
4           information to agree or disagree.

5                   CHAIRMAN HONIGBERG: Would you  
6           disagree with me if I suggested that perhaps  
7           that might not have been your best analogy?

8                   MS. MANZELLI: I am clear on your  
9           opinion of my analogy. But it's an  
10          illustration of how cases can be complicated  
11          and take a long time. And I do believe that  
12          that's accurate.

13                  CHAIRMAN HONIGBERG: I believe that  
14          there are many other cases you could have  
15          pointed to that didn't have interim motions to  
16          stay granted or legislation changing the scope  
17          of the proceeding that might have illustrated  
18          your point much more effectively.

19                  MS. MANZELLI: Understood. So, I  
20          said I would get back to the DES letter. I was  
21          able to skim this morning a letter from the  
22          Department of Environmental Services commenting  
23          I think it was a "status progress report" is  
24          how they styled it. And that letter calls for

1 39 different pieces of new information related  
2 to wetlands, six different pieces of  
3 information related to -- from the Watershed  
4 Management Bureau, and eight from Alteration of  
5 Terrain.

6 Now, many of us working on the data  
7 requests right now are trying to figure out how  
8 to count questions. And, so, many of these  
9 questions here have lots of sub questions. The  
10 bottom line is, it's a substantial amount of  
11 additional information that the Department of  
12 Environmental Services is requesting the  
13 Applicants to provide.

14 I understand and agree with the legal  
15 analysis earlier that the requirement of new  
16 information is not the only basis upon which to  
17 extend the time frames, but it is one of the  
18 bases, and it applies here. We have the  
19 decommissioning information, we have the  
20 information from the Department of  
21 Environmental Services. We may or may not have  
22 information regarding the economic report,  
23 depending on the disposition of that motion.  
24 And that new information helps justify, that

1 and the practicality of dealing with this large  
2 application, help justify the public interest  
3 that, in the Forest Society's position,  
4 mandates extending the time frames.

5 I thank you for your time and  
6 attention. I'd welcome any more questions.

7 CHAIRMAN HONIGBERG: Who has  
8 questions for Attorney Manzelli?

9 Commissioner Bailey.

10 CMSR. BAILEY: Did DES -- I haven't  
11 seen the report from DES, it hasn't come up to  
12 us, but did they ask for an extension of time  
13 from the 240 days?

14 MS. MANZELLI: It's 20 to 30 pages,  
15 and I have barely skimmed it. I don't recall  
16 seeing that in there, but I couldn't say for  
17 sure.

18 CMSR. BAILEY: Okay. So, why are you  
19 asking us to extend the agency time frames, if  
20 the agencies -- I don't believe the agencies  
21 have asked us for that?

22 MS. MANZELLI: Because the statute --  
23 the way that the statute is written, it sets a  
24 certain cadence. You know, when Attorney

1 Pappas was talking about the sequence, one  
2 thing follows another thing follows another  
3 thing. It doesn't make sense, given that the  
4 Department has asked for so much more  
5 information, which the Parties should have a  
6 right to receive and review and provide further  
7 comment to the agency before the agency's  
8 deadline to make a decision comes up. It  
9 just -- it takes things out of step. The  
10 pattern set by the statute should be maintained  
11 if the time is extended.

12 CMSR. BAILEY: And do you think we  
13 have the legal authority to do that?

14 MS. MANZELLI: Yes. Absolutely.

15 CMSR. BAILEY: Tell me how.

16 MS. MANZELLI: That's what the  
17 statute -- that says you can extend the time  
18 frames. The time frames set for DES to make  
19 its final decision is in that same section of  
20 the statute where your 365-day deadline is set.

21 CMSR. BAILEY: And you don't think  
22 that that statute is just referring to the  
23 deadlines that are imposed on the Committee?

24 MS. MANZELLI: No, I do not.



1 CMSR. BAILEY: Okay. Thank you.

2 CHAIRMAN HONIGBERG: Who else has  
3 questions for Attorney Manzelli?

4 MR. IACOPINO: I have a question.

5 MR. ROTH: Mr. Chairman?

6 CHAIRMAN HONIGBERG: Yes, Mr. Roth.

7 MR. ROTH: If I can add something in  
8 response to Commissioner Bailey's question  
9 about request for more time. We do have a  
10 letter from the Fish & Game Department dated  
11 May 13th where they did request additional  
12 time.

13 CHAIRMAN HONIGBERG: Ms. Manzelli,  
14 the statute that is the suspension of time  
15 provision, 162-H:14, and you've actually  
16 highlighted, I think, whether the word "frame"  
17 is singular or plural. And, in the statute, it  
18 is singular, "the time frame established under  
19 RSA 162-H:7".

20 MS. MANZELLI: Uh-huh.

21 CHAIRMAN HONIGBERG: I'm interested,  
22 is that just a vestige of the old statute, that  
23 they haven't caught up, that that amendment  
24 didn't catch up with the fact that there are

1 multiple times specified in RSA 162-H:7? That  
2 seems to be what you're saying.

3 MS. MANZELLI: That is what I'm  
4 saying. So, it refers to one statute, H:7.  
5 And, when you look at that statute, there's  
6 more than one deadline set there. So, I  
7 interpret that to mean that any deadline set in  
8 that statute may be extended.

9 CHAIRMAN HONIGBERG: All right. Are  
10 there other questions from the Subcommittee for  
11 Attorney Manzelli?

12 MR. IACOPINO: I have one.

13 CHAIRMAN HONIGBERG: Attorney  
14 Iacopino.

15 MR. IACOPINO: Ms. Manzelli, if you  
16 look at what was filed by the DES, they did  
17 request additional information, and under the  
18 statute they're permitted to do that. But they  
19 also were able in the time that has gone on so  
20 far, they also set out a number of draft  
21 conditions, --

22 MS. MANZELLI: Uh-huh.

23 MR. IACOPINO: -- which indicates  
24 that they have been able to do some of their

1 work. Why doesn't -- why isn't this letter as  
2 much an indication that the proceeding could go  
3 forward within the time frame as it is that we  
4 need extra time?

5 MS. MANZELLI: I think you could flip  
6 that around and say the fact that they're  
7 looking for so much substantial amount of  
8 information --

9 MR. IACOPINO: But that's not my  
10 question.

11 MS. MANZELLI: I think they -- I did  
12 notice that they're emphasizing "draft"  
13 conditions, I think they put that in italics,  
14 in fact, that the conditions are merely drafts.  
15 I don't think they think they have enough  
16 information to make a "final decision". And  
17 their deadline is coming up. I think they said  
18 in the letter they would be making the final  
19 decision in the middle of August. So, they  
20 need to receive all of this information and  
21 process all of this information. And who knows  
22 whether they will be requesting more time at  
23 that time. But, in terms of sequencing, I  
24 think it makes sense to extend everything

1 wholesale.

2 MR. IACOPINO: But they did pretty  
3 firmly say they'll have their final permits and  
4 decisions in August, right?

5 MS. MANZELLI: They did say that.

6 MR. IACOPINO: The other question I  
7 have for you is you said that your aesthetic  
8 expert has been in the field since before the  
9 Application was filed. How much work is it  
10 going to take before your aesthetic expert is  
11 done?

12 MS. MANZELLI: That's a great  
13 question. One that I would like to know the  
14 answer to myself. We have a draft version of  
15 an outline for his report. That's where we're  
16 at right now. We're looking for a substantial  
17 amount of additional information. They're --  
18 at this point, we're waiting for information.

19 MR. IACOPINO: Has your aesthetic  
20 expert finished that fieldwork?

21 MS. MANZELLI: No.

22 MR. IACOPINO: Thank you.

23 CHAIRMAN HONIGBERG: Are there other  
24 questions for Attorney Manzelli?

1                                    [No verbal response.]

2                                   CHAIRMAN HONIGBERG: All right.

3                                   There are others I know who filed --

4                                   MS. MANZELLI: Thank you.

5                                   CHAIRMAN HONIGBERG: -- documents  
6                                   supporting -- ma'am, who are you and what is it  
7                                   you would like to say?

8                                   MS. JENSEN: I'm the Co-Chair of the  
9                                   Bethlehem Conservation Commission. And I just  
10                                  wanted to point out something in the report  
11                                  that DES submitted.

12                                  CHAIRMAN HONIGBERG: Why don't you  
13                                  make sure you're at a microphone and identify  
14                                  yourself.

15                                  MS. JENSEN: Cheryl Jensen, Co-Chair  
16                                  Bethlehem Conservation Commission. I would  
17                                  just like to provide some information that was  
18                                  in the DES report that was just posted this  
19                                  morning about requiring more information, if I  
20                                  may?

21                                  CHAIRMAN HONIGBERG: Well, it's a  
22                                  matter of public record. Most of us haven't  
23                                  seen it yet. What is it you would briefly like  
24                                  to point out is in the document?

1 MS. JENSEN: Okay. Thank you. One  
2 of the things it talks about is plans for  
3 Transition Station Number 5 in Bethlehem. And  
4 it says "Given the amount of wetlands impacts  
5 and steep slopes in the area, alternative sites  
6 should be considered." Now, that's a  
7 transition station.

8 CHAIRMAN HONIGBERG: Okay, ma'am.  
9 Ma'am, that is far beyond what we're talking  
10 about right now. Thank you for adding that.  
11 We'll have an opportunity to look at what DES  
12 has provided and asked for. Right now we're  
13 talk about --

14 MS. JENSEN: I would say that would  
15 affect the time frame.

16 CHAIRMAN HONIGBERG: I understand  
17 exactly what you were saying. Thank you. I  
18 know there were a number of other intervenors  
19 who filed documents largely supporting the  
20 Forest Society's position. Would any of those  
21 who filed like to supplement what they have  
22 already said?

23 Other than Ms. Fillmore, Ms. Birchard  
24 I see. I see a bunch. You do not get to say

1 "I agree." I don't want to hear that. You've  
2 already signaled your assent. If you have  
3 something new, you're welcome to add it. We'll  
4 start from the back. Why don't you come first.

5 MS. BRADBURY: My name is --

6 CHAIRMAN HONIGBERG: Off the record.

7 *[Brief off-the-record discussion*  
8 *ensued.]*

9 MS. BRADBURY: Thank you. My name is  
10 Joanne Bradbury. I am one of the Deerfield  
11 abutters. We're 16 people in the Town of  
12 Deerfield. And we have been working very hard  
13 gathering and discussing our data requests and  
14 all of the -- all of the disparate information  
15 that we need to gather. And I just wanted to  
16 point out that, apart from the attorneys in the  
17 room and the people whose careers involve doing  
18 this sort of thing, we are ordinary people.  
19 And we are truly working on this, as ordinary  
20 people, as much as we can, to try to get our  
21 information together and to proceed with this  
22 procedure, which is new to all of us. And that  
23 is why we support the longer time frame  
24 proposed by the Forest Society. Thank you.

1 CHAIRMAN HONIGBERG: Understood. I  
2 saw Ms. Birchard's hand up.

3 MS. BIRCHARD: Very briefly, Mr.  
4 Chairman. There's been some discussion of the  
5 complexity of the Application itself. I  
6 believe it's over 27,000 pages. By the time  
7 we're done, I would expect it to be at least  
8 3,000 [30,000?] pages of information that we  
9 all have to review and consider. In addition,  
10 there are 25 or 26 witnesses put forward by the  
11 Applicant itself. This, you know, doesn't  
12 consider any other witnesses that may be  
13 involved in the proceeding.

14 But, apart from the Application, you  
15 know, a lot of people's hands go up in the  
16 room, and that's because there are a lot of  
17 people who care about this case, and a lot  
18 people who want to meaningfully participate.  
19 And the unfortunate reality is that meaningful  
20 participation in a case as complex as this one  
21 does take time.

22 I hope that the Committee will  
23 consider that in reviewing its decision on the  
24 time frame. Thank you.



1 CHAIRMAN HONIGBERG: Who else who  
2 filed supporting documents? I see you, Ms.  
3 Fillmore. I'm going to come to you last,  
4 because I can see you best.

5 Mr. Cunningham, and then over here.  
6 Mr. Cunningham, you have a microphone there, so  
7 you can stay right where you are.

8 MR. CUNNINGHAM: Thank you, Mr.  
9 Chairman. I have two things I want to talk  
10 about with respect to the procedural schedule.

11 The first is, the proposed procedural  
12 schedule put forth by the Applicant is  
13 restrictive. And let me explain what I mean by  
14 that. And I filed an objection to it for this  
15 purpose.

16 CHAIRMAN HONIGBERG: Mr. Cunningham,  
17 the pending question is "whether to suspend the  
18 time frames?" That's the question before us  
19 right now. Not interim deadlines within an  
20 overall schedule that gets us to a completion  
21 at one point or another.

22 MR. CUNNINGHAM: With respect, Mr.  
23 Chairman, I think, if you hear me out, you'll  
24 understand why the time frame should be

1 suspended.

2 In that restriction, in that  
3 restriction in the procedural schedule, it is  
4 clearly suggested that only the Counsel for the  
5 Public can hire an expert or experts at the  
6 expense of the Applicants. RSA -- the Site  
7 Evaluation Committee statute does not prohibit  
8 others, others, including other intervenors,  
9 from asking for that relief. Let me explain  
10 what I'm talking about.

11 I read -- I've very carefully read  
12 the outlines made by the Counsel for the  
13 Public's excerpts. I have some difficulties  
14 with it. With respect to Mr. Pappas and with  
15 respect to Mr. Roth, they didn't define a  
16 couple things I think are critical in terms of  
17 the public interest. They didn't tell us who  
18 the public is and they didn't define what the  
19 "public interest" is.

20 And my concern about that is  
21 multifold. One, is the public -- are the  
22 people in the public the existing PSNH  
23 distribution and transmission ratepayers? Are  
24 the people in the public the property owners

1 over which this huge project will go? Or are  
2 they just talking about the public in general?  
3 I think we need to know what the public is and  
4 what the public interest is.

5 And let me explain why. There's  
6 pending before the Public Utilities Commission  
7 two critical dockets. Docket DE 15-459, in  
8 that docket, Northern Pass has asked for public  
9 utility status for that entity. If you look at  
10 the Petition in that docket, it does not tell  
11 anybody why they want that status. So, the  
12 question I have, in terms of their existing  
13 ratepayers, distribution and transmission  
14 ratepayers, is the purpose of that docket to  
15 offload costs of this project onto the  
16 transmission and distribution ratepayers? The  
17 Counsel for the Public did not address that  
18 issue.

19 Another critical docket that's  
20 pending, of course, is the lease docket. In  
21 that docket, PSNH proposes to lease all of this  
22 critical right-of-way, that's in-dispute  
23 property rights, that proposes to lease that,  
24 that critical right-of-way corridor to NPT for

1 less than \$1 million a year. That docket is  
2 critical to understanding the public interest  
3 in this docket, and let me explain why.

4 The proposed experts by Counsel for  
5 the Public did not even mention the  
6 Transmission Service Agreement. If you look at  
7 the Transmission Service Agreement that's been  
8 approved by FERC, that Transmission Service  
9 Agreement allows Northern Pass Transmission,  
10 the entity, to pass all of its costs onto  
11 Hydro-Quebec, and then, on top of that, they  
12 earn a net 12.56 percent. If you take the  
13 \$2 billion figure that they propose this thing  
14 is going to cost, that will earn Northern Pass  
15 Transmission somewhere in the neighborhood of  
16 \$250 million. My concern there is,  
17 \$250 million to Northern Pass Transmission,  
18 less than a million dollars to PSNH, and  
19 presumably some benefit to the ratepayers, my  
20 concern is that the experts proposed by Counsel  
21 for the Public do not address these issues.  
22 Sure, I hope they do, with respect to Mr. Roth  
23 and Mr. Pappas, I hope they do.

24 But what I'm saying here, and the

1 relief I'm asking and my objection, is that  
2 ordinary intervenors in this case get to ask  
3 for an expert, once they see what these expert  
4 opinions are going to be. And ordinary  
5 intervenors ought to be able to ask for expert  
6 testimony at the expense of the Applicant to  
7 ensure that the public interest is satisfied in  
8 this case.

9 So, that, Mr. Chairman, will add to  
10 the time. And I think it's critical for this  
11 Committee to understand that the public  
12 interest involve not just some amorphous public  
13 here, but it involves ratepayers, it involves  
14 property owners, and others who would be  
15 impacted by this project.

16 So, that's why I support the  
17 extension of this time frame.

18 CHAIRMAN HONIGBERG: Mr. Cunningham,  
19 have you filed a motion seeking authority to  
20 retain experts at the expense of the Applicant?

21 MR. CUNNINGHAM: I have not. Not  
22 yet.

23 CHAIRMAN HONIGBERG: And, so, what  
24 you're suggesting is that, after you've seen

1           what Counsel for the Public does, if you're not  
2           satisfied with their work, you intend to file a  
3           motion at that time seeking authority to retain  
4           experts at the Applicant's expense to complete  
5           the job that you believe Counsel for the Public  
6           should have done?

7                       MR. CUNNINGHAM:   That's correct.

8                       CHAIRMAN HONIGBERG:   And what you're  
9           suggesting further then, with respect to the  
10          schedule, is that built into whatever schedule  
11          is created, the Committee should account for  
12          the possibility that you'll want to file such a  
13          motion?

14                      MR. CUNNINGHAM:   That's correct, Mr.  
15          Chairman.

16                      CHAIRMAN HONIGBERG:   Thank you.

17                      MR. CUNNINGHAM:   And let me say one  
18          more. I do not think that intervenors, small  
19          intervenors, who have no resources, should be  
20          stuck with the expert opinion of the Counsel  
21          for the Public's experts if they don't satisfy  
22          the public interest.

23                      CHAIRMAN HONIGBERG:   I understand  
24          that to be your position.

1 Ma'am.

2 MS. DRAPER: My name is Gretchen  
3 Draper. And I'm here with the Pemigewasset  
4 River's Local Advisory Council. And we have  
5 put in a motion to suspend the time frame, to  
6 extend it as well. And it seems to me that the  
7 time frame has already been pushed or breached.  
8 And what I'm talking about is the actual number  
9 of intervenors has surprised everyone in this  
10 whole case. There's been difficulties getting  
11 information out over email and internet and  
12 there's been delays in that. There's also --  
13 we've been waiting for information to be posted  
14 at times.

15 And that, when we talk about the  
16 Applicant versus the rest of us and time  
17 frames, Northern Pass transmission lines have  
18 been planned since like 2008, you know, up in  
19 Montreal and with Hydro-Quebec and all. We're  
20 all starting from December.

21 So, I would like all of that kind of  
22 information to also be taken into  
23 consideration. Thank you.

24 CHAIRMAN HONIGBERG: Thank you.





1           We filed -- ten towns initially filed  
2           a motion supporting both the motions of Counsel  
3           for the Public and the Forest Society. And, in  
4           particular, our motion supported the schedule  
5           that the Forest Society put forward. And what  
6           I'd like to talk to you today is not anything  
7           that anybody else talked about. I'd like to  
8           focus on interest -- in the public interest so  
9           far as it relates to municipalities. The  
10          municipalities who are intervenors were granted  
11          intervenor status based on the fact that they  
12          had some kind of interest, right or privilege  
13          that was going to be perhaps affected by the  
14          project.

15                 And I'd like to also note that, in  
16          the Committee's rules, 202.11(e), it says that  
17          "any limitations that are imposed on  
18          intervenors shall not be so extensive as to  
19          prevent such intervenor" --

20                         *[Court reporter interruption.]*

21                 CHAIRMAN HONIGBERG: Hold on, Ms.  
22          Fillmore.

23                 MS. FILLMORE: I'm sorry.

24                 CHAIRMAN HONIGBERG: When you're

1 going to read, slow down.

2 MS. FILLMORE: Didn't want to take up  
3 too much time.

4 COURT REPORTER: I'm here all day.  
5 Sorry.

6 MS. FILLMORE: When limitations are  
7 placed on intervenors, the limitations "shall  
8 not be so extensive as to prevent such  
9 intervenor from protecting the interests that  
10 form the basis of the intervention."

11 And it's our contention that, by not  
12 permitting all of the parties in this case to  
13 have sufficient time to do everything that  
14 needs to be done, that the interests of the  
15 municipalities will be infringed upon.

16 One of the purposes of the Site  
17 Evaluation Committee, in RSA 162-H:1, is for  
18 the project to be treated as "a significant  
19 aspect of land use planning in which all  
20 environmental [and other issues are tackled] in  
21 an integrated way." And that goes to the heart  
22 of what municipalities are concerned about.

23 The municipal intervenors in this  
24 have specific challenges that don't apply to

1 most of the other intervenors, which you have  
2 heard about at the last hearing. Most of them  
3 are governed by a governing body, not one  
4 official. They have to take any action they  
5 take by meeting and making a decision at a  
6 meeting, which is most likely public, has  
7 public notice, the public can be there. They  
8 can't respond and do things that a corporate  
9 officer or governing board can do, they can't  
10 respond as quickly, even when they have  
11 counsel. And, trust me, we have been trying.

12 If you multiply this situation by at  
13 least five, which is the number of  
14 municipalities in most of the intervenor groups  
15 at this point, the problem is magnified even  
16 further, and not all of those municipalities  
17 are represented by counsel. So, the technical  
18 difficulty of coordinating, I can say now with  
19 the basis of experience, dealing with the data  
20 requests is extremely difficult. The  
21 difficulty is very high. And we are doing  
22 everything that we can to meet the deadline.

23 Also, in this case, since motions  
24 were filed on this issue, all of the issues

1 that have been talked about today, we've had a  
2 lot more experience with the process. Without  
3 a clarifying order regarding the intervenor  
4 groups and exactly how they are supposed to  
5 operate, based on the April hearing, which was  
6 now almost five weeks ago, we have still been  
7 without the guidance that we needed five weeks  
8 ago, which we asked for. So, we've been doing  
9 the best that we can in the interim. But it  
10 has been a very slow and difficult process.

11 Without a more complete schedule, the  
12 intervenors have no way to determine whether  
13 additional or follow-up data requests are going  
14 to be required, or whether they would be  
15 granted if they were required. And the  
16 Committee is under the same obligations that  
17 our municipal governing bodies, to meet and  
18 deliberate in public. And that makes sense,  
19 but it also slows the process down. You can't  
20 meet and make decisions any faster than you  
21 can.

22 As we continue, it seems evident that  
23 we are going to continue to experience delays  
24 in this case. And we believe that it makes

1 more sense to set a sensible schedule now, up  
2 front, rather than to grant piecemeal  
3 continuations and delays as we go along. That  
4 would be more fair to everyone.

5 And, aside from all of the other  
6 challenges, this Subcommittee is going to be  
7 called on to receive, digest, and understand  
8 and evaluate an incredible amount of  
9 information. And, if you can do that within 12  
10 months, I will be very impressed. And I have  
11 no doubt that you will do your very best.

12 But, for the sake of the Committee  
13 and the public and the municipalities that we  
14 represent, we strongly suggest that you adopt  
15 the Forest Society's suggested schedule. Thank  
16 you.

17 CHAIRMAN HONIGBERG: Thank you.

18 Mr. Needleman, will you be speaking to this?

19 You have the floor.

20 MR. NEEDLEMAN: Thank you, Mr. Chair.

21 Let me start by saying that I understand what  
22 everybody in this room has been saying and  
23 thinking. This is a big project. It's a  
24 complicated project. We get that. We get that

1           it puts burdens on these people, we get that it  
2           puts burdens on you.  It's not lost to us.

3                         But that point notwithstanding, I  
4           want to go to something you said a moment ago,  
5           Mr. Chairman.  You said "why not do as much as  
6           you can do as fast as you can do it?"  And  
7           that's what we've been asking for and that's  
8           what we think you need to use as a departure  
9           point here when you try to figure out what kind  
10          of schedule you want to adopt to drive this  
11          procedure forward.

12                        Now, a moment ago Mr. Iacopino  
13          pointed to the DES letter, which came in on  
14          Monday, I realize some people haven't seen it.  
15          I read it.  It's a long letter.  For anybody  
16          who has ever dealt with a Shoreland Protection  
17          Permit or a Terrain Alteration Permit, a  
18          Wetland Permit, I will tell you that, although  
19          there is a lot of requested information there,  
20          it was entirely predictable from our  
21          perspective.  They're asking us for a lot, and  
22          we've already started to work on it.  There's  
23          nothing there that I would say was a surprise.  
24          And, in fact, I think it illustrates that the

1 process is working exactly the way it's  
2 supposed to work.

3 And I would even suggest that, if you  
4 think for a minute about all of the agencies  
5 here that have some sort of permitting role in  
6 the context of this proceeding, it may well be  
7 that DES has one of the heaviest lifts as it  
8 relates to actual issuance of permits. And  
9 they were able to meet this schedule. They  
10 were able to ask for this additional  
11 information. We will get them the information  
12 they requested. And they're saying they can  
13 act in a timely way.

14 So, I think what Mr. Iacopino was  
15 saying a moment ago really illustrates the  
16 point that we can move this process forward in  
17 the way it was envisioned in the statute. Can  
18 we do it the whole way and get there within the  
19 time frames? I don't know. It seems like it  
20 may be a big lift. But I think doing all that  
21 we can, as fast as we can, as diligently as we  
22 can, as early as we can, is something that we  
23 should do, and I think it's really something  
24 that the statute demands.

1           I want to point out something else as  
2 well. There hasn't been a single person in  
3 this room who has pointed you to a critical  
4 provision of the "Purpose" section of the  
5 statute. But we did in our memo, and I want to  
6 remind you of. One of the things that the  
7 statute says is that it's the role of this  
8 Committee, in implementing its authority, to  
9 "avoid undue delay in construction of new  
10 energy facilities". So, at the same time that  
11 you're trying to balance all of the other  
12 interests that have been raised here, you have  
13 to balance that interest as well.

14           Now, I'm not going to repeat  
15 everything we said in our October -- in our  
16 April 7th objection. You have that. I'm sure  
17 you've read it. I want to hit a couple of  
18 critical points.

19           We all know that the old version of  
20 this statute used to have a nine month time  
21 clock, and the Legislature extended it to 12  
22 months. They did so in 2014. There can't be  
23 any question that they did so after a careful  
24 deliberation and with a great deal of public



1 input. Is there any place in there that says  
2 "we are doing this because of Northern Pass"?  
3 No. Of course, there isn't.

4 But nobody can deny that, at the time  
5 this was all going on, one of the critical  
6 features that was driving that debate, one of  
7 the critical features that was driving the  
8 reconstitution of this Committee, the SB 99  
9 process with respect to your change in rules  
10 related to this project. And, so, to suggest  
11 that that wasn't part of the backdrop when the  
12 Legislature was contemplating revising the  
13 statute, I just don't think it's a credible way  
14 to view this.

15 Now, we've also pointed to other  
16 decisions or other dockets that you've had in  
17 the past where you have suspended your  
18 deliberations. I would say that, as far as I  
19 can figure out, in every case where you  
20 suspended deliberations, and you didn't always  
21 do it, there are plenty of dockets that you got  
22 through in a timely manner. But, in every case  
23 where you suspended deliberations, it came near  
24 the end of the process. It didn't come at the

1 beginning of the process. I don't believe that  
2 there is a single time in the history of this  
3 Committee where you suspended deliberations,  
4 and I keep using that word, because that's the  
5 phrase, at this early point in the process.

6 Now, I want to turn to this handout  
7 that Mr. Pappas gave you. Let's look at the  
8 title. What's the title of H:14 as amended?  
9 "Temporary Suspension of Deliberations".  
10 "Temporary Suspension of Deliberations". There  
11 are a lot of words in here that I think the  
12 Committee is going to have to struggle with as  
13 it tries to figure out --

14 MR. IACOPINO: Which document are you  
15 referring to?

16 MR. NEEDLEMAN: The one that  
17 Mr. Pappas handed out, showing the old version  
18 and the new version of H:14.

19 MR. IACOPINO: Okay.

20 MR. NEEDLEMAN: The Legislature  
21 talked about the "temporary suspension of  
22 deliberations". Three words of that are  
23 critical that you're going to have to think  
24 about: "Temporary", "suspension", and

1 "deliberations". I think that, if the  
2 Legislature wanted to write this in the way  
3 that Mr. Pappas was saying you should interpret  
4 it, it really could have easily done so. I  
5 mean, I sketched it out as I was sitting there.  
6 It would have said "the Committee may extend  
7 any of the time frames", plural, "in H:7 at any  
8 point if it finds it's in the public interest  
9 to do so." That would have been crystal clear  
10 and we wouldn't be having this discussion. It  
11 didn't say that. It said something different.  
12 And I think you're obligated to look carefully  
13 at that language to try to figure out "what did  
14 they mean? Why did they use the words  
15 "temporarily"?"

16 If you do what Mr. Pappas is asking  
17 you to do or you do what SPNHF is asking you to  
18 do, there is nothing temporary about that. You  
19 are rewriting the entire statutory schedule.  
20 That's one critical point.

21 Another critical point relates to the  
22 use of the words "deliberations and time  
23 frames". Why would the Legislature have  
24 included the words "deliberations" and the word

1 "time frame", not "frames", if it didn't intend  
2 this to be more limited and used in a much more  
3 sparing way, the way you have used it every  
4 single time you have implemented this in the  
5 past.

6 Let me turn to our schedule. I  
7 think, with each passing day, it's probably  
8 fair to look at the schedule we proposed and  
9 say "Boy, this schedule is going to be harder  
10 and harder to implement." I understand that.  
11 I don't -- you know, I wouldn't dispute that.  
12 But what I would say, where I would end is  
13 where I started. Which is, the Committee has  
14 put a temporary schedule in place. It's got us  
15 going on the discovery process. We have  
16 already received discovery requests from  
17 Counsel for the Public. We got a set of  
18 discovery requests yesterday from one of the  
19 intervenor groups. We are working hard on it.  
20 We are going to work hard starting all weekend  
21 as we get a new round of requests.

22 Let's keep moving forward with the  
23 process you've put in place. If you think it's  
24 appropriate at this point to put some

1 additional milestones in place that keep us  
2 moving forward, then I think you should do  
3 that. But I think that it is absolutely  
4 premature, and I sincerely question whether you  
5 even have the authority at this point to say  
6 "Out with the whole schedule. Let's pick a  
7 time next summer or the end of next year where  
8 we'll get to these hearings, and let's just go  
9 with that." I don't think it's an appropriate  
10 way to do it. And I'm really not certain that  
11 you have the authority to do it.

12 I would be happy to take any  
13 questions.

14 CHAIRMAN HONIGBERG: All right. Who  
15 has questions for Attorney Needleman?

16 *[No verbal response.]*

17 CHAIRMAN HONIGBERG: I do. I want to  
18 talk about the "temporary" -- the word  
19 "temporary" in that suspension provision. If  
20 the Legislature had drafted the statute that  
21 you outlined, wouldn't the Committee be  
22 permitted to suspend a project permanently?  
23 Isn't "temporary" there to be the opposite of  
24 "permanent"? That you can suspend for a time,

1 but you can't spend forever?

2 MR. NEEDLEMAN: No. I don't think so  
3 at all. Because that would be inconsistent  
4 with the totality of the statute. Ultimately,  
5 you have an obligation to review an application  
6 that's been provided and to make some sort of  
7 decision about it. And I think all this  
8 provision is saying is, "if you can't meet  
9 those timelines, and it's in the public  
10 interest to do so, you're allowed to  
11 temporarily extend some of those timelines." I  
12 don't think it's a back door saying that "you  
13 don't have to decide".

14 CHAIRMAN HONIGBERG: No, clearly,  
15 it's not. But, if you didn't have the word  
16 "temporary", wouldn't that be the argument?  
17 That this one -- "this one isn't viable, we  
18 should suspend it indefinitely"?

19 MR. NEEDLEMAN: No. Well, I think I  
20 think somebody could make that argument. I  
21 don't think it would be credible when you read  
22 the statute as a whole. And I don't have to  
23 tell you that one of the Canons of Statutory  
24 Construction is you have to read the statute as

1 a whole, you can't read pieces in isolation.

2 CHAIRMAN HONIGBERG: Is it your view  
3 that the use of the word singular of "frame"  
4 limits the time frames or the time periods  
5 specified in Section 7 that we can deal with?

6 MR. NEEDLEMAN: You know, I'll be  
7 honest, that's a challenge. It's hard to read  
8 this whole provision and make clear sense of  
9 it. I mean, the best I can do, when you talk  
10 about the words "temporarily", "deliberations",  
11 and "time frame", is to put it together in the  
12 context of what you have previously done. You  
13 moved the project through the process. You've  
14 gotten as far as you can go. You're not going  
15 to meet that final deadline that's in the  
16 statute to issue a decision. And, so, you can  
17 temporarily suspend that time frame and your  
18 deliberative process in order to make a  
19 decision.

20 CHAIRMAN HONIGBERG: Taking on  
21 something Mr. Pappas said, and you've alluded  
22 to the change, but not really responded to his  
23 suggestion about why the change was made or the  
24 effect of the change, to say that any time an

1 application is before us, that change from  
2 "during deliberations", and it now says "at any  
3 time". Isn't that hugely significant to our  
4 authority to do it? And wasn't the Legislature  
5 telling us "craft a rational schedule, once  
6 you've seen what you've got"?

7 MR. NEEDLEMAN: I'm not sure I would  
8 read it that way. I'll confess that, when it  
9 inserts the phrase "at any time", it certainly  
10 makes this more challenging to understand, and  
11 that's what I was saying a moment ago. I don't  
12 think I could stand here and tell you "This is  
13 clearcut. This is how you must read it."  
14 That's not what I'm saying. What I'm saying  
15 is, when I look at that, and then I look at the  
16 rest of this, and I try to read this in  
17 totality and make some sort of sense out of it  
18 collectively, the best I can come up with,  
19 given that they use "time frame", given that  
20 they talk about "deliberations" and  
21 "temporarily", is that, even in the context of  
22 using that other language, there is an inherent  
23 limitation in this provision. It's not carte  
24 blanche to just throw it all out.



1 CHAIRMAN HONIGBERG: And how would  
2 you respond to Mr. Pappas's and I think  
3 Ms. Manzelli's, and a few other people made the  
4 point, that it would be better, we would have a  
5 better process, if we were to plan out or give  
6 more time right now and lay out a more rational  
7 schedule?

8 MR. NEEDLEMAN: I've never been  
9 involved in a litigated case that I can think  
10 of where regardless of what process you laid  
11 out at the beginning stuck. And, so, I think  
12 it's a fallacy to say "we can come up with a  
13 schedule today, and that we can take comfort in  
14 the fact that that will be the schedule and  
15 we'll stick to it."

16 I think it's a far better approach to  
17 do what I suggested. Which is to take this in  
18 some small pieces for now, figure out what we  
19 can do in the near term to drive this forward  
20 as aggressively as we can, and do all we can to  
21 try to meet these timetables. And, if the day  
22 comes where we decide we can't, so be it.

23 But I don't think we're at that day,  
24 and I don't think we should cross that bridge

1 right now.

2 CHAIRMAN HONIGBERG: Do you have any  
3 response for Ms. Fillmore or the others who are  
4 concerned about their ability to move quickly  
5 and nimbly within the system that currently  
6 exists?

7 MR. NEEDLEMAN: I'm sympathetic to  
8 it. It's not the first time I've heard a  
9 concern like that in these proceedings. I  
10 don't -- I'm not disregarding it. We, as the  
11 Applicant, have volunteered to do whatever we  
12 can within reason to try to help with that. I  
13 think we have in some circumstances.

14 But I think, again, I think it's the  
15 obligation of every party in this proceeding,  
16 notwithstanding whatever difficulties they may  
17 encounter, to do all they can to try to push  
18 this forward as aggressively as possible. And,  
19 if we find out we truly can't, then, as I said,  
20 we'll cross that bridge when we come to it.

21 CHAIRMAN HONIGBERG: All right. Who  
22 else has questions for Attorney Needleman?

23 Commissioner Bailey.

24 CMSR. BAILEY: You say we're "not at

1           that day yet". How long did it take for the  
2           Applicants to prepare the testimony that they  
3           filed?

4                       MR. NEEDLEMAN: It's a hard question  
5           to answer, because the nature of different  
6           parts of the Application changed over time.  
7           So, you know, for example, that, in August of  
8           last year, we announced -- I think it was  
9           August, we announced the new route with the  
10          additional underground. And, you know, that  
11          changed aspects of it. So, I could take it  
12          perhaps piece-by-piece and try to recall. It  
13          took some time. It was a lot of work.

14                      CMSR. BAILEY: Six months? Maybe  
15          more?

16                      MR. NEEDLEMAN: I think that's  
17          probably fair.

18                      CMSR. BAILEY: Okay. And did you  
19          hear Counsel for the Public say that their  
20          experts needed "five to six months to get  
21          testimony filed"?

22                      MR. NEEDLEMAN: Yes. I heard that.  
23          And let me take that point up for a minute. I  
24          wasn't going to say anything about that, but,

1 since you raised it, I will.

2 We have tried hard to work with  
3 Counsel for the Public. And, I think, in many  
4 respects, we have done a good job of that. We  
5 have a good, cooperative relationship.

6 We have not hidden the fact that we  
7 were frustrated and concerned with the pace  
8 with which they sought and disclosed their  
9 experts. And I understand it's a large task,  
10 and I think that they probably did go about it  
11 diligently. And we certainly appreciate their  
12 effort to find people who they think are  
13 competent and that can also do this work at  
14 what they perceive to be a fair price.

15 That said, I really believe that it  
16 could have been done faster. I mean, at a bear  
17 minimum, certain experts could have been  
18 identified, motions could have been put in  
19 front of you, and we could have been doing this  
20 in a serial way earlier. Now, that's water  
21 under the bridge. I mean, there's not much  
22 point in arguing about that at this point. But  
23 I would disagree with their characterization at  
24 least with that respect.

1 CMSR. BAILEY: Okay. Well, whether  
2 or not that be the case, in your schedule, you  
3 suggest that their testimony be filed on  
4 August 5th, and they just got information today  
5 that their consultants are going to be -- their  
6 motion to hire consultants will be granted.  
7 So, take today as day one. I mean, what's the  
8 -- what is a reasonable amount of time to allow  
9 them to prepare their case?

10 MR. NEEDLEMAN: I don't have the  
11 schedule in front of me. I would say the  
12 reasonable amount of time, our schedule has  
13 sort of been eclipsed by events. And, so, what  
14 I would do is, I would go back to whatever date  
15 in our schedule contemplated the approval of  
16 their experts, and I would say that's a  
17 reasonable time.

18 And I would also say that I think  
19 it's very important for the Committee to  
20 consider exactly what sort of work these  
21 experts are going to be doing. We have a very  
22 specific burden of proof under the statute that  
23 we have to meet. We're the Applicant. And, if  
24 we don't meet that burden of proof, we lose.

1           They don't have that same burden of proof. And  
2           that doesn't mean they don't have a lot of work  
3           to do. It doesn't mean that they don't have  
4           experts who have to do a fair bit. But they  
5           don't have to do what we did, and they don't  
6           have to do it in the manner that we did it.

7                         And, so, I think trying to compare  
8           the amount of time it took us to put things  
9           together that meet the completeness  
10          requirements of this Committee, and that meet  
11          the very detailed burden of proof under the  
12          statute that we have to demonstrate, I think is  
13          very different than what they have to do here.  
14          And I think that has to be considered.

15                        CMSR. BAILEY: Okay. And one final  
16          area of questions. You suggest in your  
17          schedule that technical sessions on witnesses  
18          can be conducted, I think, twice in three days,  
19          in three days. Is that --

20                        MR. NEEDLEMAN: I think --

21                        CMSR. BAILEY: I mean, I've been  
22          involved in complicated cases with far fewer  
23          witnesses than this that took more time than  
24          that. So, --

1 MR. NEEDLEMAN: I think we phased  
2 those. I think we had several sets of  
3 technical sessions. One set that was intended  
4 to deal with their first round of discovery,  
5 hoping that they would introduce experts  
6 sooner, and then a second set of technical  
7 sessions that came later.

8 CHAIRMAN HONIGBERG: Right. But it's  
9 a total of six days.

10 MR. NEEDLEMAN: I think it's longer  
11 than that in our schedule.

12 MR. WAY: No.

13 *(Short pause.)*

14 MR. WAY: Eight days.

15 MR. NEEDLEMAN: Yes, I think it was  
16 eight or nine days.

17 CMSR. BAILEY: Okay. Eight or nine  
18 days. And that -- what is the last -- the last  
19 one, which is for the Counsel for the Public  
20 and the other witnesses. So, I was speaking  
21 just about your witnesses.

22 MR. NEEDLEMAN: Right.

23 CMSR. BAILEY: So, you propose six  
24 days just for your 30 -- how many?

1 Thirty-eight?

2 MR. NEEDLEMAN: Twenty-five  
3 witnesses.

4 CMSR. BAILEY: Twenty-five witnesses?  
5 That seems like a short amount of time, for 25  
6 witnesses.

7 MR. NEEDLEMAN: I understand why you  
8 would say that.

9 CMSR. BAILEY: So, your point that  
10 got me thinking about all this was, you know,  
11 "there's no reason to suspend now, let's keep  
12 trying to go with the dates that we have",  
13 doesn't seem to me realistic. Because I think  
14 that the dates that we have right now  
15 already don't -- we already can see that they  
16 don't work.

17 MR. NEEDLEMAN: Well, again, I'm not  
18 sure that's the case. Why don't we resolve the  
19 issues today about discovery, get discovery  
20 completed on us. Set a realistic deadline for  
21 others parties to provide their testimony to us  
22 and set discovery deadlines there, and then see  
23 where that takes us.

24 CMSR. BAILEY: Okay. Thank you.



1 CHAIRMAN HONIGBERG: Other questions  
2 for Attorney Needleman?

3 Attorney Iacopino.

4 MR. IACOPINO: Mr. Needleman, am I  
5 correct to understand that one part of your  
6 argument regarding the statute is that the  
7 Committee has to be in the deliberation phase  
8 in order to suspend?

9 MR. NEEDLEMAN: Well, I'm not quite  
10 sure what "deliberations" could mean, if you  
11 weren't interpreting the deliberation phase.  
12 For example, I'm not quite sure how one could  
13 interpret the discovery phase as  
14 "deliberations".

15 So, again, the best that I can make  
16 of that is that it was complicated we would be  
17 getting near the end of the process.

18 MR. IACOPINO: But you did review the  
19 prior cases where the Committee has, in fact,  
20 suspended, correct?

21 MR. NEEDLEMAN: I can't say I  
22 reviewed every one of those cases. But I  
23 reviewed a good handful of them and cited them  
24 in our motion.

1 MR. IACOPINO: But, in none of those  
2 cases, except for maybe one, was the Committee  
3 actually deliberating on the case, isn't that  
4 correct?

5 MR. NEEDLEMAN: Again, you were near  
6 the end of the process. All the discovery --

7 MR. IACOPINO: That's not my  
8 question. That's not my question. My question  
9 was, was the Committee actually deliberating  
10 when they suspended? Was the record closed and  
11 were they deliberating?

12 MR. NEEDLEMAN: Oh, no. No. If  
13 that's how you're interpreting "deliberations",  
14 no.

15 MR. IACOPINO: And can you tell me  
16 why using the singular word "time frame", in  
17 reference to Sections -- the singular term  
18 "time frame" used in Section 14, referring back  
19 to Section 7, why doesn't that reflect all of  
20 the dates as a single time frame, being 150  
21 days, 240 days, 365 days? Isn't that what a  
22 time frame is?

23 MR. NEEDLEMAN: I think you could  
24 read it that way. I don't think that's the

1 best way to read it.

2 MR. IACOPINO: Thank you.

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

5 *[No verbal response.]*

6 CHAIRMAN HONIGBERG: It would seem  
7 not. Thank you.

8 MR. NEEDLEMAN: Thank you.

9 CHAIRMAN HONIGBERG: Yes. I think  
10 we're going to need to take a ten-minute break,  
11 so the stenographer's fingers can cool off.

12 *(Recess taken at 3:04 p.m. and*  
13 *the hearing resumed at 3:23*  
14 *p.m.)*

15 **D E L I B E R A T I O N S**

16 CHAIRMAN HONIGBERG: All right,  
17 folks. We've heard both from the Parties and  
18 Intervenors regarding the question about  
19 suspending the time frame or time frames  
20 established under RSA 162-H:7.

21 Would anyone like to offer their  
22 comments or make a motion?

23 *(Short pause.)*

24 CHAIRMAN HONIGBERG: Don't all speak

1 at once. Commissioner Bailey.

2 CMSR. BAILEY: Come on you guys, help  
3 me out. I don't see any way that we can get  
4 this done by the end of this year. And I think  
5 that there are many important, very important  
6 issues that we have to get through. And I  
7 don't think that we would be doing justice to  
8 the process if we try to rush through as much  
9 as we can and then get a whole bunch of motions  
10 to suspend the schedule later that we all have  
11 to get back together to discuss.

12 Every time we get a motion, we have  
13 to get together to discuss it, unless it's  
14 purely procedural and the Chairman can make the  
15 decision by himself.

16 So, I think -- I think that, in order  
17 to fairly adjudicate all the issues, we should  
18 suspend the time frame, but we should put a  
19 limit on it, and I think it should be a  
20 realistic limit that we stick to going forward.  
21 So that, whatever happens in the future, if we  
22 give people a good amount of time now, and also  
23 keeping in mind the Applicant's desire to  
24 actually build this project, and I think they

1 wanted to start it in the next construction  
2 season, so, a year from now, I think we need to  
3 keep that in mind. But I think we need to  
4 suspend. That's my opinion.

5 CHAIRMAN HONIGBERG: Are there other  
6 thoughts or comments?

7 DIR. WRIGHT: Yes. I'll make a  
8 couple of thoughts here. This issue of  
9 suspending the time frame is something that  
10 weighs pretty heavy on me. I've spent the last  
11 28 years as a regulator at DES, and living with  
12 time frames and meeting time frames, whether  
13 they're legislative or administrative rules,  
14 basically, it's what we do every day, it's  
15 inherent that we meet those time frames.

16 Similar to what Commissioner Bailey  
17 said, though, I do think in the public  
18 interest. This is a unique case, I think,  
19 given the complexity of the case, the size of  
20 the case, just the simple geographic nature of  
21 the case.

22 And, also, similarly, I think, if we  
23 do suspend the time frame at the end of the day  
24 here, I think we really need to put a realistic

1 schedule in place, with something that is still  
2 at a somewhat accelerated pace, and, certainly,  
3 I don't think going out another year beyond  
4 what's envisioned in the statute is reasonable.  
5 I think that's way outside the realm of what I  
6 would consider to be reasonable.

7 CHAIRMAN HONIGBERG: Mr. Wright, what  
8 you've said causes me to ask a question of  
9 Attorney Iacopino. You said something about  
10 "putting a realistic schedule in place".  
11 Attorney Iacopino, is it necessary that the  
12 Subcommittee lay out the specifics of a  
13 schedule? Or is it sufficient, legally, for  
14 the Subcommittee to suspend and identify a new  
15 end point, and then authorize the reluctant  
16 Chair, working with Administrator and Counsel,  
17 to develop a specific schedule?

18 MR. IACOPINO: I do not believe that  
19 it is necessary for the Committee, if they are  
20 inclined to suspend the time frame, to then  
21 provide a complete procedural schedule for the  
22 parties. I think that is something that the  
23 Committee -- Subcommittee, if it wishes, can  
24 leave to the discretion of the Chair. Under

1 the statute, the Chair generally makes all of  
2 the procedural decisions, unless the  
3 Subcommittee, in its discretion, chooses to  
4 make them.

5 So, that is something that could be  
6 left to the Chair to decide. And, when I say  
7 that, for the folks who aren't used to our  
8 procedures, as you know, you've seen a  
9 temporary schedule in this case, where we talk  
10 about things like data requests and responses  
11 to data requests, technical sessions and things  
12 like that. Those things don't need to be  
13 addressed by the Subcommittee as a whole,  
14 unless the Subcommittee, in its discretion,  
15 chooses to do that. It can be delegated to the  
16 Chair.

17 CHAIRMAN HONIGBERG: All right.  
18 Thank you. Other thoughts or comments?

19 Mr. Way.

20 MR. WAY: I just also wanted to say  
21 as well that I agree that this process has to  
22 reasonable and achievable for all parties that  
23 are involved with this. And I think we've  
24 heard from several that it's just not a goal

1 that's easily met.

2 The question I would have is, and  
3 I -- well, first off, I would say that I'm  
4 comfortable with the Chair then tackling the  
5 date issue. And I'm wondering if we can wrap  
6 that, if you'd be willing to amend your motion  
7 to do that? Or do we have a separate motion?

8 CMSR. BAILEY: I haven't made a  
9 motion.

10 MR. WAY: You haven't made a motion.  
11 But can we suspend and include the delegation  
12 of that, of the date creation, in one motion?

13 MR. IACOPINO: Yes. I think you can  
14 do that in one motion. But I also think that  
15 it would be advisable to say what the temporary  
16 time that you're suspending the deliberation  
17 for -- the new time frame is for is, so that  
18 you have a date that your Chairman can then  
19 work back from to schedule things.

20 MR. WAY: Very good.

21 CHAIRMAN HONIGBERG: Other thoughts?  
22 Comments?

23 Ms. Weathersby.

24 MS. WEATHERSBY: First, I'd like to



1 say that I think that it's fairly clear that  
2 suspension of the time frame is allowed by the  
3 statute. And I do believe that it is in the  
4 public's interest to suspend the time frame.  
5 It's a complex and significant project. It's  
6 going to affect many either way it's decided.  
7 The number and the complexity of issues will  
8 require significant time, a large number of  
9 parties, large number of witnesses, require a  
10 lot of time to conduct discovery, brief issues,  
11 *etcetera*. The case seems to be unprecedented  
12 in recent memory.

13 So, I would be in favor of suspending  
14 the time frames. And I would think that the  
15 Counsel for the Public's proposed scheduling  
16 order, with the shorter time frame than the  
17 Forest Society's, would be the better initial  
18 approach. That has us starting the  
19 deliberations and decision-making on June 26,  
20 meaning that we'll go through the summer. And,  
21 given holidays, *etcetera*, vacation schedules,  
22 it seems as though a September 30, 2017  
23 deadline might be achievable.

24 I'm just throwing that out there for

1 a discussion. And, if that -- with that date,  
2 or whatever date we decide, we could vote on,  
3 and then authorize the Chairperson to develop a  
4 procedural schedule counting backwards from  
5 there.

6 CHAIRMAN HONIGBERG: Other thoughts?  
7 Comments?

8 MS. WHITAKER: I actually have a  
9 question. So, if we suspend our end of the  
10 time frame, do the time frames for the state  
11 agencies also change? I think that was  
12 mentioned a couple times, but I'm still  
13 confused about that.

14 MR. IACOPINO: I believe that that's  
15 one of the dates that the Chair could  
16 rearrange, assuming that the time frames have  
17 been suspended.

18 MS. WHITAKER: Okay.

19 CHAIRMAN HONIGBERG: Would it be  
20 necessary, Attorney Iacopino, for the action by  
21 the Subcommittee to specify that that's part of  
22 what it wants the Chair to do? Because, if it  
23 is within the statute, as I think it probably  
24 is, given what I think is a better reading of

1 the statute, it does appear perhaps to be  
2 something that is -- that the Subcommittee has  
3 to do.

4 MR. IACOPINO: It's probably the  
5 better course for the Subcommittee to do that  
6 and to actually take a vote to do that. But,  
7 you know, the issue, the legal issue revolves  
8 around the word "time frame", and whether it  
9 references just the end date or whether it  
10 references the total time frames, starting with  
11 the acceptance of the Application, going  
12 through all of the other times listed in  
13 Section 7 in the statute.

14 I'm comfortable that, in my  
15 interpretation of it, that it refers back to  
16 the statute as a whole, and to no individual  
17 section of the statute. So, even if you did  
18 just make a generic suspension of the time  
19 frame, it would be suspending the 150-day and  
20 240-day times as well.

21 CHAIRMAN HONIGBERG: Other thoughts  
22 or comments? Does someone want to make a  
23 motion?

24 CMSR. BAILEY: I have a question.

1 DIR. WRIGHT: Yes.

2 CHAIRMAN HONIGBERG: Commissioner  
3 Bailey, then Mr. Wright.

4 CMSR. BAILEY: So, the 150-day time  
5 date has already passed, I believe.

6 MR. OLDENBURG: Yes.

7 CMSR. BAILEY: And I don't know about  
8 DES, but they didn't ask for an extension.  
9 And, so, I'm wondering if we should give the  
10 Chair authority to extend those deadlines, if  
11 the state agencies ask for those time frames to  
12 be suspended, or, you know, and within reason,  
13 obviously. Maybe, if you get such a request,  
14 to follow the cadence that Ms. Manzelli  
15 articulated. Otherwise, maybe they can get the  
16 work done in the time that the statute  
17 contemplated, and then the parties will have  
18 that information available and we will have  
19 that information available.

20 So, I'm willing to give the Chair  
21 discretion to extend those time frames, if the  
22 agencies ask for them to be extended. I don't  
23 know if we can do that.

24 MR. IACOPINO: I suppose there's a

1 way a motion could be crafted to do that.

2 DIR. WRIGHT: I guess, in my mind,  
3 what I'm still just trying to figure out is how  
4 long are we actually extending the deadline to  
5 at this point. I think that's the question we  
6 really need to answer. Am I wrong?

7 CHAIRMAN HONIGBERG: Well, that's one  
8 question. And, I think, if answered in the  
9 affirmative with a particular date, it does  
10 lead to the second question.

11 DIR. WRIGHT: Okay.

12 CHAIRMAN HONIGBERG: What about  
13 those, the agency deadlines that are also  
14 contained in Section 7 of RSA 162-H?

15 I'm all in favor of getting an answer  
16 to the first question, though.

17 DIR. WRIGHT: Okay.

18 CHAIRMAN HONIGBERG: Should we  
19 suspend and, if so, to what date?  
20 Ms. Weathersby has suggested September 30 of  
21 2017 as the new end point.

22 Mr. Way.

23 MR. WAY: I'll make a motion. I  
24 would make a motion that the current time frame

1 be suspended with a new end date established as  
2 September 30th, 2017. And, then, further  
3 request the Chair to create a new time  
4 structure, including new time frames for agency  
5 response, as requested -- if so requested by  
6 state agencies.

7 CHAIRMAN HONIGBERG: Is there a  
8 second for that motion?

9 MS. WHITAKER: I'll second.

10 CHAIRMAN HONIGBERG: Any discussion  
11 of Mr. Way's motion?

12 DIR. WRIGHT: I guess, Mr. Chairman,  
13 my question would be, is that too far out into  
14 the future? Does the deadline -- could the  
15 deadline be shorter than that? Could it be  
16 more in lines with something in between what  
17 the Applicant had suggested, which was December  
18 of 2016, and what Counsel for the Public had  
19 suggested, which was I think June of 2017. I  
20 didn't know -- I wasn't quite prepared to go as  
21 far out as November '17, but --

22 CMSR. BAILEY: September.

23 DIR. WRIGHT: September.

24 CHAIRMAN HONIGBERG: Well, the

1           September date is actually -- is Counsel for  
2           the Public's end date, when you look at what  
3           they propose for the beginning of deliberations  
4           at the end of June.

5                     DIR. WRIGHT:   Okay.

6                     CHAIRMAN HONIGBERG:   And I think we  
7           all recognize I think the Applicant's proposed  
8           schedule and the Society's proposed schedule  
9           each contain multiple months for deliberations  
10          and preparation of a final order.  And I think,  
11          when asked, I think Counsel for the Public  
12          confirmed that.

13                    So, when you add that time to Counsel  
14          for the Public's proposed schedule, you do get  
15          to the early fall.

16                    Commissioner Bailey.

17                    CMSR. BAILEY:   I have the same  
18          concerns as Mr. Wright.  And maybe we can look  
19          at Counsel for the Public's proposed schedule.  
20          For instance, the second -- second round of  
21          data requests from the Counsel for the Public  
22          and Intervenors proposed in the schedule isn't  
23          until July 1st, and we're at May 15th.  So, you  
24          know, I'm wondering if we could move

1           September 30th up a few months. And I know  
2           we'd have to amend the motion. But, you know,  
3           to keep -- to keep some emphasis on the fact  
4           that we're trying to balance here, you know,  
5           we're trying to give people the opportunity to  
6           meaningfully participate, and ourselves time to  
7           fully consider and deliberate appropriately,  
8           but also to give some balance to the  
9           Applicant's schedule -- requested schedule.

10                   CHAIRMAN HONIGBERG: Other thoughts  
11           or comments? Go ahead.

12                   MR. WAY: I was just going to -- I  
13           mean, it doesn't sound like we have a real  
14           basis for an end date. But, if it would make  
15           sense, I could amend my motion to say "August".  
16           But, I mean, we're accepting that there's  
17           somewhat -- it's somewhat of an arbitrary date  
18           at this point, but, you know, it does set a  
19           little bit more of an aggressive schedule.  
20           But, in terms of September, I think we -- we  
21           put that out there. But, in terms of the  
22           Counsel's projected schedule, that has us at, I  
23           think, September, or maybe August, September.

24                   CMSR. BAILEY: End of September.



1 MR. WAY: End of September. The  
2 Society had us, I believe, at November.

3 CMSR. BAILEY: Yes. But I think the  
4 Society's schedule had a lot of -- a lot of  
5 extra time.

6 MR. WAY: I agree. And that's why,  
7 if it would be helpful, we could back it up a  
8 little bit.

9 CMSR. BAILEY: Maybe by the end of  
10 July?

11 *[Audience interruption.]*

12 CMSR. BAILEY: That's more than a  
13 year from now.

14 CHAIRMAN HONIGBERG: Other thoughts  
15 or comments?

16 MS. WEATHERSBY: Mr. Chairman?

17 CHAIRMAN HONIGBERG: Yes.

18 MS. WEATHERSBY: Why I had thrown out  
19 the September 30 date, just recognizing that we  
20 may not want to all be in hearings the complete  
21 months of July and August, that there may be  
22 personal matters that people might want to tend  
23 to, like family vacations. And maybe there is  
24 a way to tighten it, so that it's done by

1 June 30, or else we are going to go through the  
2 summer. And I would recommend that people have  
3 a chance to take a little break in between.  
4 The September date may be more realistic.

5 CHAIRMAN HONIGBERG: My own opinion  
6 on that is that -- well, let me preface this by  
7 saying, I come from the same lawyer background  
8 as a number of the other lawyers in the room,  
9 Mr. Pappas, Mr. Needleman, and Ms. Manzelli,  
10 and Mr. Roth, of litigation, that always  
11 slides. And schedules that are set get broken  
12 all the time. And it's frustrating for those  
13 who want to get things completed and bring  
14 cases to resolution.

15 That said, it is equally frustrating  
16 when an unrealistic schedule is set. And I  
17 agree with the folks up here that this -- that  
18 trying to get this done by the end of 2016 is  
19 just not realistic. And I think, given the  
20 realities of what needs to be done, mid next  
21 year is the right time to try to resolve this.

22 Now, once we get to mid 2017, if  
23 we're done with hearings in June, and are  
24 deliberating and trying to get an order issued,

1           September 30th is actually probably the right  
2           date.  If we get to hearings on the merits next  
3           spring, we're probably looking at 30 hearing  
4           days or so over an eight or nine week period.  
5           That's just what -- that's what's going to have  
6           to happen.  So, there's going to have to be  
7           other things that happen during those eight or  
8           nine weeks.  There's going to have to be other  
9           things happening during the period of  
10          deliberations and preparation of the order.  I  
11          think that the September 30th date is a more  
12          realistic one, and one that we are much more  
13          likely not to have to move again.

14                        I wouldn't -- and I wouldn't -- I  
15          mean I might support an earlier date, but I  
16          don't -- I think the September 30th date is  
17          probably correct.  I'd be prepared, I'm  
18          probably going to vote in favor of the motion  
19          as it is, I want to add a couple of thoughts.

20                        I agree with what Ms. Weathersby said  
21          about the reading of the statute.  I would  
22          recognize the charge in Section 1 of RSA 162-H,  
23          to "avoid undue delays", but the word "undue"  
24          is in there for a reason.  "Undue" is ones that

1 are not necessary. And the scope of this  
2 project, the word "unprecedented" gets thrown  
3 around a lot. You know, maybe there is, maybe  
4 Seabrook -- maybe Seabrook Station is a  
5 precedent for this. But Seabrook Station, even  
6 as controversial and as large as it was, was in  
7 one place. It generated opposition from all  
8 over, but it was only in one place. This is --  
9 this goes up and down the center of the state,  
10 and has triggered the activity and  
11 participation of folks all along the line.

12 I'm sympathetic to the concerns  
13 raised by Ms. Fillmore and others. But I'm not  
14 that sympathetic. Because, ultimately, in  
15 order to participate meaningfully in one of  
16 these projects or one of these proceedings, it  
17 requires some real serious time commitment, and  
18 compromising on what you would otherwise like  
19 to do. And that's true for us, it's true for  
20 everyone involved in this.

21 So, people are going to have to work  
22 hard going forward. Whether the deadline is  
23 the end of this year or the deadline is the end  
24 of next year, or somewhere in between, there's

1 a lot of work that going to need to get done.

2 So, my intention is to vote in favor  
3 of Mr. Way's motion, with September 30th as the  
4 date, although I could easily be convinced that  
5 it should be a date earlier.

6 Other thoughts or comments?

7 *[No verbal response.]*

8 CHAIRMAN HONIGBERG: I sense you're  
9 ready for the question. All in favor of  
10 Mr. Way's motion, please say "aye"?

11 *[Multiple members indicating  
12 "aye".]*

13 CHAIRMAN HONIGBERG: Are there any  
14 opposed?

15 *[No verbal response.]*

16 CHAIRMAN HONIGBERG: All right. The  
17 ayes have it.

18 Now, that leaves the question,  
19 Mr. Iacopino, the temporary scheduling order,  
20 is what we've just done affect the temporary  
21 scheduling order in any way? I will say I  
22 think the answer to that is "no".

23 MR. IACOPINO: No, it doesn't.

24 CHAIRMAN HONIGBERG: So, I think that

1 order stays in the effect, unless -- oh, yes,  
2 Ms. Manzelli?

3 MS. MANZELLI: Thank you, Mr.  
4 Chairman. I'd like to be recognized for a  
5 moment to make an oral request to extend the  
6 deadline for data requests. May I do that?

7 CHAIRMAN HONIGBERG: You're already  
8 there. Go for it.

9 MS. MANZELLI: All right. So, as the  
10 Subcommittee may know, the group of  
11 intervenors -- one group of intervenors has a  
12 deadline of tomorrow to propound data requests.  
13 Many of the parties have been working  
14 diligently, we could meet that deadline. But,  
15 if we do, we will waste several data requests.  
16 Because the Department of Environmental  
17 Services' letter that came just this morning,  
18 which many of us have not had a chance to read  
19 yet, would make -- would obviate many of the  
20 data requests we were planning to make. So, we  
21 would like an additional few days to cull  
22 through our data requests, remove the ones that  
23 would be duplicative of the information the  
24 Department of Environmental Services already

1 asked for.

2 And, therefore, I'm making an oral  
3 motion to request the Forest Society, and  
4 everybody else probably would make the same  
5 request, to extend for one week. So, from  
6 tomorrow through to the next Friday.

7 I did seek the Applicant's assent,  
8 and they were not able to provide assent on  
9 that motion. Thank you.

10 CHAIRMAN HONIGBERG: Would I be  
11 correct that virtually everyone would support  
12 Ms. Manzelli's request? If you would, by a  
13 show of hands, the intervenors and other  
14 parties who would support that request?

15 *(Show of hands.)*

16 CHAIRMAN HONIGBERG: All right.  
17 Mr. Needleman, would you like to respond? Let  
18 the record show that everybody raised their  
19 hand, except for the Applicants. So, on  
20 behalf, Mr. App -- Mr. Needleman, sorry.  
21 Sorry. Mr. Needleman, your response.

22 MR. NEEDLEMAN: I'm getting  
23 accustomed to that.

24 Obviously, we're opposed to the

1 motion. Let me start by saying, again, what I  
2 said before. There's nothing unexpected. The  
3 information that they have requested may not  
4 have been available to people in this room, but  
5 everybody knew that that was the deadline for  
6 DES to provide their letter, and they met that  
7 deadline. And, if people wanted additional  
8 time, they should have come to the Committee a  
9 long time ago knowing that that was going to  
10 happen, and they didn't. And I think now, at  
11 the eleventh hour, to take another week and  
12 slip in the discovery, frankly makes no sense  
13 to us. And, at the very -- what I'm concerned  
14 about is, every time we have an event that  
15 gives rise to somebody saying "well, we should  
16 be allowed to see this before we serve this  
17 discovery", "we should be allowed to see this  
18 person going before we serve discovery", we're  
19 going to keep slipping. It's the thing that I  
20 talked about before and I was concerned about.

21 At the very least, if the Committee  
22 is inclined to entertain this, then I would  
23 urge you, Mr. Chairman, and the Committee to  
24 take careful note of the admonition that you



1 just gave a moment ago, which is "this going to  
2 require some hard work". Let's get these  
3 requests on Monday. You know, let's not lose  
4 another week.

5 CHAIRMAN HONIGBERG: Ms. Manzelli, I  
6 know you want to respond. But one of the  
7 questions I'm going to ask you is, what would  
8 be wrong with serving what you have prepared,  
9 and letting Mr. Needleman know in a week "I'm  
10 withdrawing Data Requests 17 through 35, in  
11 light of the information that's been provided  
12 to me"?

13 MS. MANZELLI: Thank you, Mr.  
14 Chairman. I hadn't thought about that  
15 possibility. Certainly, it's your discretion  
16 to make that order. I think it would be more  
17 efficient to allow a mere few business days to  
18 get one clean set of data requests, rather than  
19 having 20 different parties propound 20  
20 different sets of data requests, and then  
21 having 20 different sets of withdrawals of  
22 questions.

23 It seems to me cleaner to just do it  
24 once and do it right. But, you know, we're at

1 your discretion, and I appreciate that.

2 CHAIRMAN HONIGBERG: There was  
3 something else I think you wanted to say,  
4 though.

5 MS. MANZELLI: I understand that the  
6 Applicants and several others were copied on  
7 the Department of Environmental Services at the  
8 time that it came out, which I understand was  
9 Monday. But that letter was not available to  
10 me, and I don't think it was available to most  
11 of the people in this room until this morning.

12 So, had we had it on Monday, we would  
13 have had about a week to do this process that  
14 I'm talking about, but we didn't. We just got  
15 it this morning. So, it's certainly unfair to  
16 expect us to have absorbed this 20 to 30 page  
17 document before tomorrow or by tomorrow. Thank  
18 you.

19 MR. NEEDLEMAN: Mr. Chair?

20 CHAIRMAN HONIGBERG: Yes.

21 MR. NEEDLEMAN: I'm certainly not  
22 suggesting they should have absorbed it.  
23 That's not what I meant. I think it's  
24 important for the Committee to understand, or,

1 if they do understand, to have in mind, that in  
2 most other dockets that I can think of, these  
3 types of requests from the agencies come either  
4 during or after discovery is complete. And,  
5 so, there's nothing particularly special about  
6 these agency requests coming out now that  
7 should somehow alter discovery here.

8 CHAIRMAN HONIGBERG: Yes, ma'am.

9 MS. CRANE: My name is Charlotte  
10 Crane. I have not appeared in this forum  
11 before.

12 CHAIRMAN HONIGBERG: Then, I'm going  
13 to stop you right there. Where are you from?

14 MS. CRANE: I am part of the Southern  
15 Non-Abutters Intervenor Group. I own property  
16 in Bridgewater, with a Plymouth address.

17 CHAIRMAN HONIGBERG: Is there a  
18 spokesperson designated for that group?

19 MS. CRANE: I -- to the extent it was  
20 necessary for today, I believe that I was.

21 CHAIRMAN HONIGBERG: Okay. You may  
22 proceed.

23 MS. CRANE: I would just like to  
24 point out that, although my intervenor group's

1 data requests are not due until Tuesday, one of  
2 the -- or, is that the right date? I think so.  
3 Or Monday? Yes. Anyway, whatever the 23rd is.  
4 One of the things that seemed appropriate to  
5 me, as an intervenor compiling useful data  
6 requests, would be identifying those places  
7 where the materials that have already been  
8 filed by the Applicant overlook some of the  
9 things that I, as an affected landowner, my  
10 land is along the Pemi, don't think are  
11 adequately presented in what was already filed.

12 If the information that the agencies  
13 are now asking for will satisfy me, if  
14 answered in good faith, then I don't have to  
15 answer [ask?] those data requests. And I would  
16 think that that would be true for many of the  
17 groups whose data requests were due tomorrow.

18 And I find it baffling that we  
19 wouldn't want to make all of our data requests  
20 as rational and as organized as we possibly  
21 could. And this new information is not new  
22 information, it's new requests that don't need  
23 to be made. Thank you.

24 CHAIRMAN HONIGBERG: Ms. Birchard.

1 MS. BIRCHARD: Mr. Chairman, I  
2 apologize if I'm confused as to any of the  
3 details of the discovery time frames. But I  
4 wonder if this might not be an appropriate time  
5 to discuss some of the motions that are pending  
6 to request two sets of discovery, as opposed to  
7 one? Because, if the parties were allowed two  
8 sets, that might resolve some of the issues  
9 arising from concern about this late  
10 information that we've received.

11 CHAIRMAN HONIGBERG: I sense that  
12 there's some -- this is a completely -- this is  
13 an unrelated issue to that. It may well be  
14 appropriate to discuss multiple rounds, but I  
15 don't think in this context it is.

16 MS. BIRCHARD: The reason it rang a  
17 bell in my brain was because you were  
18 discussing withdrawing, you know, asking  
19 discovery requests and then withdrawing them.  
20 We would avoid perhaps that withdrawal process.  
21 There might be some potential to avoid that by  
22 simply cutting out all those questions, and not  
23 having to take the time to compare them to what  
24 DES has already requested. So, if you cut out

1 the entire tranche of questions that could  
2 overlap with DES, and then have the opportunity  
3 to ask those questions later, it will take less  
4 time to process that original data request.  
5 That being said, we're talking about a deadline  
6 of tomorrow. This is not, you know, --

7 CHAIRMAN HONIGBERG: You're always  
8 going to be fighting against new information.  
9 I mean, everyone of you is always going to be  
10 thinking "gee, I wish I had X" or "I wish I had  
11 it last week when I did what I did".

12 If we are going to try and  
13 micromanage every deadline based on something  
14 that just happened, we're always going to be, I  
15 don't know, chasing our tails. We're always  
16 going to be wrong if we try and do that.

17 MS. BIRCHARD: I defer to your  
18 discretion on this matter. However, I would,  
19 you know, recommend that we try and dispatch as  
20 many issues as possible, in as a sensible  
21 manner as possible now, rather than having  
22 these loose ends hanging around that will  
23 affect our further decisions.

24 And that would also include, for

1 example, the motion that our grouping has filed  
2 as regards the potential for some additional  
3 discovery requests. Thank you.

4 CHAIRMAN HONIGBERG: Mr. Roth.

5 MR. ROTH: I was considering saying  
6 something. But I was advised by Mr. Pappas to  
7 hold my tongue.

8 *(Laughter.)*

9 CMSR. BAILEY: I think the  
10 Applicants' proposed schedule contemplates a  
11 second round of discovery. And I think what  
12 Ms. --

13 CHAIRMAN HONIGBERG: Ms. Birchard.

14 CMSR. BAILEY: -- Birchard was  
15 suggesting is, if she knew there was going to  
16 be a second round or not, then she could ask  
17 data requests tomorrow and keep within the  
18 schedule.

19 CHAIRMAN HONIGBERG: Mr. Iacopino, is  
20 it necessary for the full Subcommittee to rule  
21 on Ms. Manzelli's motion or is this something  
22 that the Presiding Officer can do?

23 MR. IACOPINO: It's only necessary if  
24 the full Subcommittee believes they want to

1 exercise their discretion to do that. But you  
2 are authorized, under Section 4 of the statute,  
3 to rule on procedural motions, such as the one  
4 made by Ms. Manzelli, as Chairman.

5 CHAIRMAN HONIGBERG: What is the  
6 desire of the Subcommittee? Does the  
7 Subcommittee want to rule on Ms. Manzelli's  
8 motion? And, if so, we're probably going to  
9 need to do it soon. If not, you can say it  
10 will be dealt with by the Chair probably  
11 tomorrow.

12 CMSR. BAILEY: I think, Mr. Chairman,  
13 if you can deal with it by tomorrow, that would  
14 be adequate. I think the concern is they need  
15 to know today or tomorrow in order to know what  
16 to do.

17 CHAIRMAN HONIGBERG: We're going to  
18 take a five-minute break.

19 (Recess taken at 3:57 p.m. and  
20 the hearing resumed at 4:03  
21 p.m.)

22 CHAIRMAN HONIGBERG: All right.  
23 We're going to go back on the record.

24 Mr. Needleman.



1 MR. NEEDLEMAN: Thank you. We talked  
2 at the break. And, in light of the Committee's  
3 decision about the broader schedule, we want to  
4 make a proposal about dealing with these  
5 short-term discovery issues.

6 The Committee's current order has a  
7 group of intervenors who are required to file  
8 their discovery tomorrow, May 20th. We would  
9 propose extending that deadline to Tuesday, May  
10 31st. There is then a group of intervenors who  
11 has discovery due on this coming Monday, May  
12 23rd. We would propose extending their  
13 deadline to Tuesday, June 7th. And, then, the  
14 last deadline would be the Counsel for the  
15 Public's expert discovery, which we would  
16 propose being Tuesday, June 14th.

17 CHAIRMAN HONIGBERG: Thank you,  
18 Mr. Needleman. Ms. Manzelli, I am guessing  
19 that that is a delightful proposal in your  
20 view?

21 MS. MANZELLI: Yes. For the record,  
22 on behalf of the Forest Society, we are  
23 delighted with that proposal. Thank you.

24 CHAIRMAN HONIGBERG: Can I get a show

1 of hands from folks? My expectation is a lot  
2 of hands are going to go up, that that's a good  
3 proposal for folks?

4 *(Show of hands.)*

5 CHAIRMAN HONIGBERG: All right.

6 MR. ROTH: Mr. Chairman, it is, from  
7 our perspective, everything, except the part  
8 that pertains to us, is acceptable.

9 CHAIRMAN HONIGBERG: Tell me about  
10 the part that pertains to you.

11 MR. ROTH: The part that pertains to  
12 us was that we would have our expert-based data  
13 requests by June 14. We had suggested in our  
14 papers that it be 30 days from the date by  
15 which the Committee enters the order  
16 authorizing me to engage those people, which  
17 would be basically 30 days from, I assume,  
18 today or tomorrow.

19 CHAIRMAN HONIGBERG: I don't believe  
20 it's necessary for us to deal with that right  
21 this second. So, I think we're not going to.  
22 But I understand what you're saying.

23 MR. ROTH: That's fine. But, in  
24 terms of the proposal that was just offered by

1 the Applicants, --

2 CHAIRMAN HONIGBERG: Understood.

3 MR. ROTH: -- the first two pieces  
4 are okay, the last one is not.

5 CHAIRMAN HONIGBERG: Okay. So, would  
6 the Subcommittee like to make a motion? Or,  
7 I'm sorry, Mr. Iacopino, did you have  
8 something?

9 MR. IACOPINO: I just want to say  
10 that you received notice today that your  
11 motions are granted. So, 30 days from today is  
12 like two or three days after the 14th, isn't  
13 it?

14 MR. ROTH: June 20th.

15 MR. IACOPINO: Does the six days  
16 really make that much of a difference to you?

17 MR. ROTH: It could. I'm going to be  
18 on vacation next week. So, that's part of it.

19 CHAIRMAN HONIGBERG: You've got two  
20 other lawyers sitting next to you.

21 So, setting aside the date related to  
22 Public Counsel, would someone on the Committee  
23 like to make a motion to amend the current  
24 temporary procedural schedule as proposed by

1 Mr. Needleman, with the first two dates for the  
2 folks who have data responses due tomorrow and  
3 Tuesday, I believe?

4 CMSR. BAILEY: So moved.

5 CHAIRMAN HONIGBERG: Is there a  
6 second?

7 MR. WAY: Second.

8 CHAIRMAN HONIGBERG: Any further  
9 discussion?

10 *[No verbal response.]*

11 CHAIRMAN HONIGBERG: Seeing none, all  
12 in favor say "aye"?

13 *[Multiple members indicating*  
14 *"aye".]*

15 CHAIRMAN HONIGBERG: Any opposed?

16 *[No verbal response.]*

17 CHAIRMAN HONIGBERG: All right. The  
18 ayes have it.

19 Mr. Iacopino, there are other pending  
20 motions related to the numbers of data  
21 requests. I believe the Applicant has  
22 responded to the one that was filed by the --  
23 by Ms. Birchard's group. There is also one  
24 that I think was filed within the last 24 hours

1 from the Deerfield Group, but I don't think the  
2 Applicant has responded to that one yet.

3 MR. IACOPINO: That's correct. There  
4 was a motion filed to be permitted to ask an  
5 additional 42 questions by I forget which  
6 Deerfield grouping it was, I believe it's  
7 abutters.

8 CHAIRMAN HONIGBERG: I think there is  
9 just one Deerfield group, isn't there?

10 MR. IACOPINO: I don't know. I'll  
11 have to pull out my sheet. But, yes, there is  
12 that one motion pending to ask 42 additional  
13 questions.

14 And, then, the only other motion is,  
15 there was a motion filed by the Power  
16 Generators, but I'm not sure that's only about  
17 the number of things they were looking for more  
18 time in terms of, and, actually, for an  
19 entirely different date with regard to their  
20 data requests.

21 CHAIRMAN HONIGBERG: And I don't  
22 think the Applicants have responded to that  
23 either.

24 MR. IACOPINO: I haven't seen it.

1 CHAIRMAN HONIGBERG: Someone over  
2 here wanted to speak. Ma'am?

3 MS. CRANE: There are Deerfield  
4 residents in the Southern Non-Abutters  
5 Intervenor Group, which I am representing in  
6 this meeting.

7 MR. NEEDLEMAN: Mr. Chair?

8 CHAIRMAN HONIGBERG: The only one  
9 that is queued up for a decision, really, I  
10 think is the one from -- that was filed by CLF  
11 and AMC and the other two groups that are --  
12 the other two organizations that asked to  
13 increase -- an increase in their number of data  
14 requests to 100. And I believe that the  
15 Applicants' response was that they would agree  
16 to 80.

17 Does anyone want to discuss that,  
18 take that up, or do you want to have the Chair  
19 rule on that when he can get to it?

20 CMSR. BAILEY: Can the Chair get to  
21 it right now?

22 *(Laughter.)*

23 CHAIRMAN HONIGBERG: Mr. Needleman,  
24 refresh my memory. Why 80? Why not 100?

1 MR. NEEDLEMAN: Well, I think the  
2 better question is "why not 50?" We are trying  
3 to compromise. And I don't think there is a  
4 party in this room that wouldn't come up and  
5 make an argument that somehow they need more.  
6 And, I think at this point, with something like  
7 20 adverse parties, we're potentially looking  
8 at a thousand data requests. And, I think, if  
9 we're talking about "unprecedented" things,  
10 that is completely unprecedented in SEC  
11 practice. And it may seem a little bit unfair  
12 of us on a case-by-case basis to push back and  
13 say "we don't think you're entitled to more".  
14 But, collectively, if everybody gets a little  
15 bit more, it's just going to add to what is  
16 already I think a pretty substantial burden.

17 CHAIRMAN HONIGBERG: Ms. Birchard. I  
18 know you want to say something, but I have a  
19 question that you can address as you're saying  
20 something.

21 What would be -- would it be a  
22 problem for you to share with the Applicant,  
23 and then, as part of your motion, identify the  
24 questions that you want to ask, and that way we

1 would all know what it is you are looking for  
2 that's on top of the 50? I mean, because, at  
3 this point, it's pretty hypothetical for me,  
4 because I don't know what it is you want to  
5 know.

6 MS. BIRCHARD: Right.

7 CHAIRMAN HONIGBERG: And, so, deal  
8 with that, but I'm sure there's something else  
9 you want to say as well.

10 MS. BIRCHARD: Yes, Mr. Chair. I  
11 guess, first my response would be that  
12 normally, it's my understanding that the  
13 Committee doesn't review or decide on the value  
14 of discovery that is lodged by the parties in a  
15 proceeding.

16 In any event, I don't have the  
17 discovery questions in front of me to share  
18 with you right now, and I apologize for that.

19 But I did want to, without repeating  
20 anything that we've said in our earlier filing,  
21 I wanted to briefly explain, as the members of  
22 our intervenor grouping, we're entering into  
23 the process of coordinating our data requests.  
24 It quickly became clear to us that our areas of



1 interest were divergent, and that the total  
2 number of discovery requests would  
3 substantially exceed 50. This is not entirely  
4 a surprise, because we knew that our groups had  
5 different interests at the outset.

6 But, in any event, we did discuss the  
7 number with the Applicants. And,  
8 unfortunately, didn't come to a consensus. I  
9 understand that they are willing to go as high  
10 as 80. With regard to the suggestion that no  
11 party in this room would say that they don't  
12 want more or that they, you know, wouldn't  
13 stand up here and ask for more, I actually  
14 don't see any other party in the room standing  
15 up here and asking for more. And, I'm not sure  
16 that any other party had, in fact, requested  
17 more.

18 CHAIRMAN HONIGBERG: There are a  
19 couple, but they haven't been responded to.  
20 What I think would be helpful, not all of the  
21 questions specifically, but you have made  
22 representations in your papers and you've  
23 repeated them here, that your group's interests  
24 are divergent in some ways. And the way -- I

1 think it would be helpful for me, and if the  
2 Committee were to get involved, the Committee  
3 to understand "Well, we want to ask 15  
4 questions about X. Another member of the group  
5 wants to ask 23 questions about Y." So,  
6 there's some context to what's going on. I  
7 mean, I'm aware that there's a member of your  
8 group who has a very different interest. And,  
9 if they want to ask 50 questions on that one  
10 topic, that will inform us as to what the --  
11 where the push-and-pull has to go. And, you  
12 know, without that information, it's pretty  
13 abstract.

14 And I'm very sympathetic to  
15 Mr. Needleman's point. There will inevitably  
16 be requests that come over and over again if  
17 these become routinely granted. There has got  
18 to be some showing that it makes sense to do.

19 MS. BIRCHARD: Right. And, of  
20 course, this is an exceptional proceeding.  
21 There -- to my knowledge, it is not standard  
22 process that you have this number of parties  
23 combined into, honestly, you know,  
24 unprecedented groupings. It's not that there's

1 never been any grouping of parties before. But  
2 my understanding is that this is entirely  
3 unprecedented, the scope of grouping here.

4 And that we've agreed and compromised  
5 to some extent on our own representation of our  
6 interests in order to expedite this proceeding  
7 and to increase the efficiency of this  
8 proceeding.

9 However, our interests still must be  
10 preserved to some degree of meaningful, you  
11 know, some meaningful level. And, --

12 CHAIRMAN HONIGBERG: I don't  
13 disagree, and I understand what you're saying.  
14 And I am sympathetic to that. And I'm inclined  
15 to agree with you. And I think the Company  
16 already recognizes that it is appropriate to be  
17 reasonable, and they have made a counteroffer  
18 to you.

19 But, without understanding what it is  
20 or at least the nature and the topics, and why  
21 it is that that's not enough, it's just not  
22 enough information, I think, for me to grant  
23 the request.

24 MS. BIRCHARD: You know, I haven't

1 discussed with the members of our group  
2 exactly, you know, what they would be willing  
3 to divulge as to their discovery requests in  
4 advance. But I can give you a sense, without  
5 having them in front of me. That, you know, it  
6 really goes back to what we've said all along,  
7 which is that Conservation Law Foundation has  
8 an interest in, you know, we have a variety of  
9 interests, but one of the things that  
10 distinguishes us from the other groups in our  
11 grouping, is that we are very interested in the  
12 energy markets and the energy future of this  
13 state. I do not believe that the other members  
14 of our grouping share that interest to the  
15 extent that CLF has it.

16 The Ammonoosuc Conservation Trust is  
17 very locally concerned. It does not have the  
18 broad interests of some of the other groups.  
19 It also doesn't have the same kinds of -- it is  
20 more historic preservation oriented, in my  
21 understanding. And, so, many of the questions  
22 may be oriented, in fact, closer to the  
23 historical preservation angle than the  
24 environmental or conservation angle that might

1 be pursued by an organization like Conservation  
2 Law Foundation.

3 In addition, you have the Appalachian  
4 Mountain Club. Their focus is on the enjoyment  
5 of the environment by outdoor activity  
6 participants, and, as such, I believe their  
7 focus is more heavily on the visual elements of  
8 the project. Conservation Law Foundation may  
9 also be concerned with that, but it is not our  
10 top priority.

11 And, so, as I look at the portion of  
12 data requests that might be allotted to my  
13 group, I would not prioritize that over my  
14 energy-related questions.

15 That kind of gives you a sense of the  
16 scope of the questions that we're dealing with.  
17 We're talking about energy markets and  
18 economics, the future of the state in the  
19 energy realm. We're talking about, you know,  
20 the views and the property values and the  
21 mountains of this state. We're talking about a  
22 very specific local area and its concerns.  
23 And, then, we're also talking about Sierra  
24 Club's concerns, which have another thrust

1 driven by their membership as a  
2 membership-based organization.

3 CHAIRMAN HONIGBERG: All right. Does  
4 any members of the Subcommittee have questions  
5 for Mr. Needleman or Ms. Birchard on this  
6 topic?

7 MR. NEEDLEMAN: May I just respond  
8 briefly?

9 CHAIRMAN HONIGBERG: Sure.

10 MR. NEEDLEMAN: Just a couple of  
11 points. First of all, I don't think that  
12 anybody should lose sight of the fact that,  
13 when we get through the data requests, that's  
14 not the end of discovery. We are as -- we are  
15 going to have technical sessions, and there's  
16 going to be significant opportunity for all  
17 these parties during those technical sessions  
18 to pursue discovery as well. So, to the extent  
19 they might not have been able to quite get all  
20 their questions in that they want to ask at  
21 this point, they're not foreclosed in this  
22 proceeding.

23 Second of all, we would welcome the  
24 opportunity to work with any of these parties

1 in advance. We got some discovery from one  
2 group before their deadline, and, frankly, we  
3 appreciate that. It just gives us a little bit  
4 more time to deal with it.

5 If others want to do that, or they  
6 want to work with us to try to deal with some  
7 of these issues by showing us the questions  
8 they're talking about, we'll sit down and talk.

9 And, frankly, I do think the other  
10 benefit of that is going to be that I am  
11 certain there are going to be disputes between  
12 the Applicant and these parties about how to  
13 count the number of questions when you get to  
14 50. We've already seen that a little bit. And  
15 we're going to try to be flexible, but only to  
16 a limit. And, so, I think those sorts of  
17 discussions beforehand will be beneficial in  
18 that way as well.

19 CHAIRMAN HONIGBERG: Ms. Birchard,  
20 you indicated something what you said about the  
21 parties being "willing to disclose questions",  
22 I think was the phrase, I don't exactly  
23 remember how you put it. But that seems like a  
24 very odd position.

1 MS. BIRCHARD: I simply don't have  
2 them in front of me, which is the bottom line.  
3 So, I apologize for that. But I don't have  
4 them in front of me to share with you. I have  
5 tried to give you a sense of the different  
6 focuses. And I would also emphasize that  
7 there's no one group that's trying to hog all  
8 the questions, if that's, you know, a concern  
9 that, you know, we're trying to ask 50  
10 questions about one topic. We have tried to  
11 allot them proportionally to each group. And,  
12 yet, we are still running up against that top  
13 number there.

14 CHAIRMAN HONIGBERG: I mean, I'm  
15 inclined to tell you to work with the Applicant  
16 on the questions that you and your group want  
17 to ask, and see what can be crossed off.  
18 Because, once you compare the list, there  
19 actually is some overlap. What can be  
20 eliminated, what you think somebody else might  
21 be asking about. And seeing just how close the  
22 two of you can get, before seeking a ruling  
23 like this.

24 And, frankly, I would say to all of



1           you, and it's very common in litigation, that,  
2           especially talking about discovery in matters  
3           like this, to have to go through a full  
4           negotiation process to try to work out  
5           differences before you bring them to the  
6           decision-maker.

7                        I'm not in any way suggesting that  
8           you didn't make an effort here, I just don't  
9           know. But it sounds to me like there's another  
10          discussion the two of you can have regarding  
11          the questions that you want to ask, and what  
12          the Applicant can do to accommodate the need  
13          for additional questions.

14                       And, then, if a ruling has to be  
15          made, we'll make it, or I'll make it. But I  
16          don't think I'm going to make it right now.

17                       MS. BIRCHARD: Okay. I appreciate  
18          that. Are we asking them to approve the  
19          specific -- I mean, in terms of coordination,  
20          we've already coordinated within our group.  
21          What coordination are you recommending exactly?

22                       CHAIRMAN HONIGBERG: We would want to  
23          get answers to all of these questions. And, if  
24          they -- they may not object. They may look at

1 the 100 questions and say "we can do that".  
2 Or, they may look and say "No, this is just a  
3 little bit too much. We won't agree to all of  
4 them." And, then, you come and seek help.

5 But I think if you -- I think there's  
6 a chance. I'm not saying it will work. But  
7 there's a chance that, if you have them take  
8 another run at Mr. Needleman and his group, you  
9 might be able to find a place where you don't  
10 need a ruling at all.

11 And, ultimately, if you do need a  
12 ruling, it might be much narrower or much more  
13 precise than 80, 100, 60, whatever.

14 MS. BIRCHARD: Thank you. I  
15 apologize for taking your time on this matter.

16 CHAIRMAN HONIGBERG: No, don't  
17 apologize. It's perfectly appropriate.

18 Mr. Iacopino, are there any other  
19 motions that are queued up with responses from  
20 those who have filed?

21 MR. IACOPINO: No. But I did have a  
22 question for the Applicant on that Power  
23 Generators' motion. Did you get that and have  
24 you filed a response? I had not seen one.

1           MR. NEEDLEMAN: We got it, and we did  
2 file one. If you look at our May 12th filing,  
3 the caption of that motion is "Objection to  
4 various motions to reconsider", etcetera. And,  
5 if you look at Paragraph -- the beginning of  
6 Paragraph 7, on Page 3, you will see our  
7 response to New England Power Generators.

8           MR. IACOPINO: Okay. You said  
9 "Paragraph 7"?

10          MR. NEEDLEMAN: Yes.

11          MR. IACOPINO: Thank you.

12          MR. NEEDLEMAN: I have a hard copy  
13 here, if that would be easier?

14          CHAIRMAN HONIGBERG: Yes. We're not  
15 going to rule on that right now.

16          Ms. Manzelli.

17          MS. MANZELLI: The Forest Society has  
18 filed a motion to clarify the temporary  
19 procedural order. I believe that the  
20 Applicants have responded to that. So, I think  
21 it's "queued up". Although, I understand that  
22 the Chair has the ability to decide on his on,  
23 and there may be plans to do that at a  
24 different time.

1                   CHAIRMAN HONIGBERG: That would be  
2                   correct.

3                   MS. MANZELLI: Thank you.

4                   CHAIRMAN HONIGBERG: All right. I  
5                   think, if there's nothing else we need to do  
6                   right now, we will adjourn. The Subcommittee  
7                   will be reconvening for a Public Comment  
8                   Hearing at six o'clock. I will remind those  
9                   who plan on attending that the subject matter  
10                  of the public comment is the additional  
11                  information filed by the Applicant at the end  
12                  of February, and that's what we expect people  
13                  to be commenting on.

14                  I know that there's another common  
15                  issue in both the PUC and historically at the  
16                  SEC about whether intervenors are also in a  
17                  position to provide public comment.  
18                  Intervenors have other ways to convey their  
19                  positions to the Subcommittee. I'm not going  
20                  to -- we're not going to issue an order  
21                  preventing intervenors from participating  
22                  tonight. But I would ask you, if you are  
23                  intervenors, to think long and hard about  
24                  whether you want to stand in front of people

1 and take the turns of people, make others wait  
2 who are not, who do not have the status that  
3 you have in this proceeding.

4 Yes, Ms. Menard.

5 MS. MENARD: Thank you, Mr. Chairman.  
6 Just for a point of information. At the two  
7 other hearings that I've attended and the  
8 towns -- my fellow intervenors have attended,  
9 before motions were decided by the Committee,  
10 you had gone around and polled the various  
11 groups. And, so, I wrongly assumed that,  
12 before you were going to be making your  
13 decision regarding the wetlands waivers, that  
14 we were going to have an opportunity to weigh  
15 in.

16 And, so, I understand that I was  
17 incorrect that, you know, I'll take  
18 responsibility for that. And, so, I'm  
19 struggling with how -- what is the best venue  
20 to present information that I feel very, very  
21 strongly does impact our concerns about the  
22 wetland waivers.

23 CHAIRMAN HONIGBERG: There's a very  
24 specific -- there's a very specific answer

1 regarding the wetlands waivers and all of the  
2 waivers. The notice before the Loon Mountain  
3 hearing specified that those who had made  
4 written filings on the waivers were going to be  
5 allowed to participate and provide oral  
6 argument, as it were, on the hearings. And  
7 that all that we just did was continue the  
8 deliberations on a matter we had heard back  
9 when we were at Loon. So, that's a very  
10 specific answer to that.

11 When intervenors receive motions of  
12 any sort, from any of the parties, they have a  
13 right to respond in writing, and typically they  
14 have, I think, ten days, right?

15 MR. IACOPINO: Yes.

16 CHAIRMAN HONIGBERG: Ten days under  
17 our rules to respond. And the best way to  
18 respond to a written request from another party  
19 is to file a written response.

20 Then, if there is an oral -- an  
21 opportunity to argue orally to the  
22 Subcommittee, that those who have filed will be  
23 invited to speak. That's generally how it  
24 works. And, if you have chosen not to file a

1 written response, the assumption is that you  
2 don't have a position.

3 MS. MENARD: Okay. Maybe --

4 CHAIRMAN HONIGBERG: Because -- well,  
5 let me finish, actually. Because the Committee  
6 is not obligated to hold hearings on motions.  
7 There are certain things that may have to be  
8 heard orally, but virtually everything can be  
9 decided on what lawyers call "on the papers".  
10 When the motions and objections are filed,  
11 decision-makers can decide based on what's  
12 filed.

13 So, if parties choose not to make  
14 written filings, the assumption is they don't  
15 have a position.

16 MS. MENARD: Okay. So, we missed the  
17 opportunity to -- am I understanding correctly  
18 that we had missed the opportunity to present  
19 information, because that should have happened  
20 back in Lincoln?

21 CHAIRMAN HONIGBERG: It should have  
22 happened in a response to the motion --

23 MS. MENARD: The motion.

24 CHAIRMAN HONIGBERG: -- seeking the

1 waiver.

2 MS. MENARD: Okay. Thank you.

3 CHAIRMAN HONIGBERG: Uh-huh. All  
4 right. Yes?

5 MS. BRADBURY: Actually, I did file  
6 the objection to the request for the waivers on  
7 the 7th for the Deerfield people.

8 CHAIRMAN HONIGBERG: And were you --  
9 did you have an opportunity to speak in  
10 Lincoln?

11 MS. BRADBURY: No. Not on the  
12 waiver. I didn't think that was the -- where  
13 we would -- I thought that was going to be  
14 decided here, on the waivers. I mean, that's  
15 what I thought was happening, because we -- I  
16 stayed till the end of that meeting -- oh, no,  
17 because I had to leave at six o'clock. But  
18 Ms. Menard stayed, and Ms. Menard has the maps  
19 that we've copied. But I did -- I'm on there,  
20 if you look at the April 7th date on the  
21 docket, you'll see that I concurred with the  
22 Forest Society request and also on the waivers.

23 CHAIRMAN HONIGBERG: Did you file a  
24 document that said anything other than "I



1 concur"?

2 MS. BRADBURY: I don't recall it now.

3 CHAIRMAN HONIGBERG: I don't think  
4 you did.

5 MS. BRADBURY: Okay. Well, I'd have  
6 to go --

7 CHAIRMAN HONIGBERG: Here's the  
8 general rule, folks. If you want to respond to  
9 what someone has asked for, file something. I  
10 mean, that's how you get on the -- that's how  
11 you get your position on the record.

12 MS. BRADBURY: Okay. Well, --

13 CHAIRMAN HONIGBERG: And I gather you  
14 did. You said you "concurred" in what someone  
15 else said.

16 MS. BRADBURY: Well, yes, it was --  
17 yes, with the request for the waivers. And I  
18 thought that that meant that that was a  
19 placeholder that we would be able to raise our  
20 issues at the appropriate time. And this is  
21 just an example of how, you know, --

22 CHAIRMAN HONIGBERG: I'm fairly  
23 certain we heard from a lot of people on the  
24 waivers when we were in Lincoln.

1 MS. BRADBURY: Well, I don't recall  
2 saying anything about the waivers in Lincoln.

3 CHAIRMAN HONIGBERG: It was late.

4 MS. BRADBURY: I thought that was  
5 coming later.

6 CHAIRMAN HONIGBERG: It was late.

7 MS. BRADBURY: Okay.

8 CHAIRMAN HONIGBERG: We got to the  
9 waivers late at Lincoln.

10 MS. BRADBURY: Okay.

11 CHAIRMAN HONIGBERG: And we went, as  
12 I recall, around the room. But --

13 MS. BRADBURY: Well, okay. I'll  
14 accept that. I mean, I'm sure that's true. I  
15 mean, it's just an example of the kinds of  
16 intervenors that you're dealing with here. We  
17 are new to this process. This is entirely --  
18 we're learning this as we go. We just had --  
19 we are making mistakes as we go.

20 CHAIRMAN HONIGBERG: I think there's  
21 a lot of people, however, who are actually  
22 fairly impressed with the level of  
23 attentiveness and activity in the intervenor  
24 groups. And, as the groups have worked

1 together now over a number of weeks, it is  
2 apparent, from my seat, that there's actual  
3 cooperation going on within the groups and  
4 across the groups. Lawyers make mistakes, too.  
5 And it happens all the time.

6 So, I wouldn't in any way apologize  
7 for how you've been participating in this  
8 docket.

9 MS. BRADBURY: Well, I didn't mean to  
10 apologize for it.

11 *(Laughter.)*

12 MS. BRADBURY: I'm sorry. We are  
13 deeply concerned about the wetlands. We really  
14 are. That's one of our highest concerns.

15 CHAIRMAN HONIGBERG: Well, you're  
16 going to have an opportunity as an intervenor  
17 to file testimony regarding the effect of the  
18 project on wetlands about what you're  
19 concerned. And that testimony will have --  
20 there will be a deadline for that filing, and  
21 it will then be subject to data requests and  
22 discovery from the other parties. And, then,  
23 it will be the subject of one or more technical  
24 sessions.

1           And, then, when we get to a hearing  
2           on the merits, you'll present that testimony to  
3           the Subcommittee and be subject to questioning  
4           about it.

5           MS. BRADBURY: Well, I think our big  
6           concern today is, how does the granting of the  
7           waiver on the wetlands affect our ability to do  
8           that? And we're very concerned about it.

9           CHAIRMAN HONIGBERG: Mr. Iacopino.

10          MR. IACOPINO: I would just point out  
11          that, at the hearing, if you look at the  
12          transcript on Page 370 of the hearing in  
13          Lincoln, during the discussion of the waivers,  
14          you specifically recognized Ms. Menard. And  
15          Ms. Menard did speak, said "Yes. The Deerfield  
16          abutters did file an objection to the waiver  
17          for historic, and I have no further  
18          information." So, it's not as though they  
19          weren't recognized at the time.

20          MS. BRADBURY: We didn't know we were  
21          giving away rights by being there and having  
22          that happen.

23          CHAIRMAN HONIGBERG: When an order  
24          issues, a written order, confirming the grant

1 of the waivers that we just did by vote earlier  
2 today, parties have a right to seek rehearing  
3 or reconsideration, if they are -- the word is  
4 "aggrieved", but that's not a meaningful word  
5 to nonlawyers, if people are unhappy and  
6 disagree with the order that's been issued.

7 At this point, I think we're done  
8 giving legal advice. But I think you can --  
9 you should confer with any number of the  
10 lawyers here who can sort of outline the  
11 process and help you and some of the others  
12 work through the options, if you are unhappy  
13 with how things are coming out.

14 MS. BRADBURY: Okay. So, we should  
15 file a -- it would be what, a motion to  
16 reconsider the waiver?

17 CHAIRMAN HONIGBERG: I think that it  
18 would be best for you to speak with one of the  
19 other lawyers here when we're done.

20 MS. BRADBURY: Okay. Okay, thank  
21 you. Thank you very much.

22 CHAIRMAN HONIGBERG: All right. With  
23 that, we really are going to adjourn, until we  
24 open the six o'clock public comment hearing.

1 Thank you all.

2 *(Whereupon the hearing was*  
3 *adjourned at 4:35 p.m.)*

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