

STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

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2  
3 **April 4, 2017** - 12:52 p.m.  
49 Donovan Street  
Concord, New Hampshire

**AFTERNOON SESSION  
ONLY  
SENT VIA EMAIL 4-15-17**

5           **IN RE:**       **SEC DOCKET NO. 2016-05**  
6                   **NORTHERN PASS TRANSMISSION - EVERSOURCE**  
7                   **Joint Application of Northern Pass**  
8                   **Transmission LLC and Public Service of**  
9                   **New Hampshire d/b/a Eversource Energy**  
10                   **for a Certificate of Site and Facility**  
11                   **(Prehearing conference)**

12  
13  
14 **PRESIDING:**       Michael J. Iacopino, Esq. (Brennan...  
15                               (Presiding as the Presiding Officer)  
16                               Pamela G. Monroe, SEC Administrator

17  
18 **ALSO PRESENT:**   Iryna N. Dore, Esq.  
19                               (Brennan, Caron, Lenehan & Iacopino)

20  
21                   *(All other appearances as noted in the*  
22                   ***Morning Session ONLY transcript.***)

23 COURT REPORTER:   Cynthia Foster, LCR No. 14  
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**I N D E X**

Postponement of site visits	2
Discussion of time to end each day	7
Scheduling of public comment	12
Additional Hearing Days and Nonavailability of Witnesses	19
V. Discussion of exhibits, exhibit lists and marking of exhibits	30
Impeachment exhibits	75
Prefiled testimony not provided	90
Length of cross-examination of Applicant's witnesses	104
VI. Discussion of hearing room layout and presentation of exhibits	113

1 MR. IACOPINO: Welcome back from lunch,  
2 everybody. We're going to switch up the order  
3 from the agenda just for a minute. We need to  
4 address the site visits because there's  
5 apparently some very nasty weather that's going  
6 on up north right now, and it's supposed to be  
7 pretty bad Thursday.

8 What we wanted to throw out there is the  
9 fact that we may need to cancel the site visits  
10 that are scheduled this week. Postpone. Yes.  
11 Postpone. Sorry. Do them on another day. Part  
12 of the difficulty, I guess, that we are running  
13 into is flooding up in the North Country, and if  
14 we get an inch of rain Thursday like is  
15 scheduled, that's going to make that part of the  
16 site visit very difficult as I understand that  
17 there are, on Thursday there's many points of  
18 interest where we're supposed to get out of the  
19 bus and some of those look at simulations. And  
20 the weather isn't, if we're going to get an inch  
21 of rain during the course of the day, it's  
22 probably not conducive to that.

23 So let me ask the group assembled. Does  
24 anybody have a huge objection to rescheduling

1           these site visits? There's been a lot of work  
2           that's gone into them, getting them scheduled,  
3           unfortunately, but how about on the Applicant's  
4           part? What's your pleasure?

5           MR. NEEDLEMAN: We have no strong feelings.  
6           I guess if we're going to go, we should make  
7           sure when we do they're productive, and it  
8           sounds like they may not be productive this  
9           week.

10          MR. IACOPINO: Mr. Roth?

11          MR. ROTH: Yes. We agree with that. We  
12          already had a bad weather tour. We know what  
13          that's like.

14          ADMINISTRATOR MONROE: We had one bad day.

15          MR. IACOPINO: Ms. Pacik?

16          MS. PACIK: In terms of rescheduling, will  
17          we be rescheduling them to a day on a hearing we  
18          already had set aside? For example, the first  
19          week of May, there's four days. I'm just trying  
20          to make sure that they're not scheduled on a day  
21          that's not already on my calendar, at least for  
22          May. I thought we had all the dates for the  
23          Site Evaluation Committee at least for the  
24          upcoming months.

1 MR. IACOPINO: Madam Administrator?

2 ADMINISTRATOR MONROE: I don't believe we  
3 would cancel a hearing day. We would schedule  
4 it at some other time.

5 MS. PACIK: Some of us are leaving in May  
6 for vacation, and I would just not want --

7 ADMINISTRATOR MONROE: There's a two-week  
8 block in May which I don't anticipate any  
9 activities of the Committee will be happening.  
10 So if that's when the two weeks that you and I  
11 have discussed, you're probably okay.

12 MS. PACIK: That would make me happy.  
13 Thank you.

14 MR. IACOPINO: Counsel for the Committee is  
15 going away one of those weeks as well so --

16 ADMINISTRATOR MONROE: So it would be some  
17 other date, some other dates to be determined.  
18 I believe we indicated in the Notice of the  
19 visit that the Committee was open to the third  
20 day up in the north section, and the roads up  
21 there are not open until after May 1st. So the  
22 logistics of these things are not easy. It's  
23 unfortunate the weather is not cooperating  
24 because, as Mike said, there's been a lot of

1 time and effort put into the current schedule,  
2 but we want it to be productive.

3 MR. IACOPINO: So I think that you will see  
4 something indicating that the site visits are  
5 cancelled. Not cancelled but postponed. We  
6 will get a new date and notify everybody of  
7 that.

8 What is likely to happen is on Thursday in  
9 lieu of the site visit the Committee is likely  
10 to meet, and we have three motions, I believe,  
11 that require full Committee consideration. They  
12 will deliberate on those three motions. We do  
13 not anticipate any argument. And take a vote on  
14 how to rule on those three motions. The three  
15 motions being the Sabbow motion to revisit the  
16 intervention order, the motion filed by  
17 Mr. Whitley to suspend the proceedings, and the  
18 motion filed by, I think, Mr. Palmer to suspend  
19 the proceedings as well. And we'll get into a  
20 written notice out that complies with RSA 91-A  
21 about that deliberative meeting. You're all  
22 welcome to come and watch, but I don't think  
23 that there will be any, we don't anticipate  
24 holding arguments or hearing testimony or

1 anything like that. Those are motions that, I  
2 think, at least initially, has been determined  
3 the full Subcommittee must rule on.

4 So Jim, I think you can cancel. Thank you.

5 ADMINISTRATOR MONROE: For those of you  
6 that, I will send out, we will send out the  
7 notice and I'll send out an email to the  
8 parties' Service List but there were some folks  
9 from the AMC. If you know of particular people  
10 in your groups that were planning on attending,  
11 if you could help me out with that and let them  
12 know we will be rescheduling that, I'd  
13 appreciate it.

14 MR. IACOPINO: Let's deal with a couple of  
15 other smaller issues before we get into the  
16 exhibit marking and things like that.

17 Ms. Manzelli, you raised an issue about  
18 time of day. Why don't you tell us your  
19 concerns.

20 MS. MANZELLI: Yes. Thank you. The  
21 concern is just that we have that all of the  
22 parties can have an anticipation of when the day  
23 might conclude. So that we know we start at 9  
24 and then we finish at 4 or 5 or 4:30 or whatever

1           it is that we decide but that we have some  
2           certainty with the conclusion of the day.

3           MR. IACOPINO:   Should we take a vote on  
4           what time we should conclude?  I think that  
5           generally you can plan on the day ending some  
6           time between 4:30 and 5:15.  However, there have  
7           been times in the past through experience where  
8           if we have two people left to cross-examine a  
9           witness and that witness is not going to be  
10          around where we have gone later.  I'm sure there  
11          will be in this docket, like there have been in  
12          other dockets, situations like that.

13          The best way to deal with those situations  
14          is for you all to let us know because you're  
15          going to know those issues before we do.  You  
16          all know when you have to leave, when you have  
17          things that might be a problem.  You also know,  
18          I think some of you will know, how much longer  
19          other parties that you may have been working  
20          with have to go with the witness.  So, you know,  
21          raise the issue as early as it is apparent to  
22          you so that we can make a decision as to how to  
23          deal with it as early as possible, and that way  
24          takes some of the concern out of the day for

1           you. Danielle?

2           MS. PACIK: Just a question is if we could  
3 look or try to shoot for 4:30 it would be  
4 appreciated. This is a project where people  
5 have to travel from around the state. There's a  
6 lot of dates where we have consecutive days with  
7 different witnesses. We have to go back to the  
8 office, prepare for the following day, maybe eat  
9 something, and this is a long hearing that's  
10 going to be draining on all of us. So if we  
11 could try to get out at 4:30, that would be very  
12 helpful.

13           MR. NEEDLEMAN: I appreciate the burdens of  
14 travel on people and the fact that this is going  
15 to take a long time, but what I would say is  
16 every half hour or 45 minutes we gain every day  
17 could save us several days by the end.

18           MR. IACOPINO: I'm sorry. I didn't hear  
19 what you said.

20           MR. NEEDLEMAN: Every half hour or 45  
21 minutes that we gain every day could save us  
22 considerable time at the end and avoid extra  
23 hearing days so we would really be in favor of  
24 going as long as we can on those days within

1 reason.

2 MS. PACIK: I mean, I would just note that  
3 for a lot of us there's one attorney handling  
4 this case, not six, so it's a lot of work on us.

5 MR. IACOPINO: Ms. Saffo?

6 MS. SAFFO: I would just also note that for  
7 many people it's literally three to four,  
8 sometimes five hours of travel on each end of  
9 it, too. For me, it's two hours of travel on  
10 each end of it so you're adding my day by four  
11 hours which I understand is part of the  
12 situation, but 4:30 is far preferable to us as  
13 well. People are just going to get tired.

14 MR. IACOPINO: Anybody else want to chime  
15 in in terms of the appropriate time to conclude?

16 MR. ROTH: I don't have a problem with the  
17 4:30 stopping time, but as we've experienced in  
18 the technical sessions and in other hearings  
19 that I've been involved in, there are times when  
20 it does make sense to go until 6 to finish it up  
21 on a particular day. And the 8 o'clock pizza  
22 party is what I'm trying to, I think we all want  
23 to avoid, but I think if the circumstances  
24 demand it, going into, and we appreciated the

1 pizza, Mike.

2 MR. IACOPINO: Well, it was a pizza. I  
3 wouldn't say it was a party.

4 MR. ROTH: If the circumstances require  
5 finishing a little later than 4:30, I think that  
6 that ought to be fine on occasion, but I support  
7 the general rule for the reasons that we've just  
8 stated to stop at 4:30.

9 MR. IACOPINO: I'm going to let the Chair  
10 know that the -- I'm sorry, Steve. Go ahead.

11 MR. WHITLEY: I wanted to concur with the  
12 request for 4:30 and also point out that that's  
13 typically when courts wrap up their sessions for  
14 the day, and that seems a reasonable corollary  
15 for what the SEC is doing.

16 MR. IACOPINO: But the court has lots of  
17 staff that has regular hours.

18 MR. WHITLEY: Look to your left and your  
19 right.

20 MR. IACOPINO: She works whenever I tell  
21 her to, and Ms. Monroe wants to get to -- not  
22 you. And I'm sure you want to get these  
23 hearings concluded as soon as possible. Ms.  
24 Menard?

1 MS. MENARD: Yes. Deerfield Abutters also  
2 would like to concur with the 4:30 goal for end  
3 time.

4 MR. IACOPINO: I guess that's what we'll  
5 recommend to the Chair then. Commissioner?

6 MR. SAMSON: As a closing comment, the  
7 160-mile drive that those of us in Municipal  
8 Group 1 in Northwood concur with the 4:30 stop  
9 time as well. Thank you.

10 MR. IACOPINO: Thank you. Let's turn to  
11 public comment because I think that's going to  
12 be a relatively short discussion as well. It  
13 has been the tradition of the Site Evaluation  
14 Committee to set aside time for public comment.  
15 It's been done in different ways over the course  
16 of time. Generally, we have determined during  
17 the course of the hearing certain days, usually  
18 it's about a half day at a time, where we will  
19 have the Committee here and we will take comment  
20 from the public.

21 In the past the way that that has operated  
22 is that we provide a Notice to the Service List  
23 and to the website. It's also posted, I believe  
24 at DES and the PUC, and the public is invited to

1           come in. A period of time is set aside. They  
2           sign in, depending on the attendance. They are  
3           permitted a period of time to make public  
4           comment. Understanding that this public comment  
5           is not to the exclusion of the public comment  
6           that we've already received which we've received  
7           lots of it. Generally at these public comment  
8           sessions we prefer and actually make it may  
9           order that those who are intervenor parties not  
10          make public comments at those times because  
11          you're going to have an opportunity, some of  
12          you, to actually testify if you filed Prefiled  
13          Testimony and also at the end of the case to  
14          make argument with respect to what the Site  
15          Evaluation Committee should do with this  
16          Application. So you kind of have a venue  
17          already, and it lowers for time for the folks  
18          who have not been able to participate or become  
19          Intervenors to come and make their thoughts  
20          known to the Committee.

21                 One question that I have, one of the things  
22                 that we've been batting around is a way to have  
23                 people sign up in advance. In other words, if  
24                 we set aside a morning, we know it's going to be

1 say from 9 to noon, we're just going to take  
2 public comment, one thing that we've been  
3 considering is there some way that we can have  
4 folks sign up in advance and that way we'll have  
5 a better idea of how long it's going to actually  
6 take. Because quite frankly, once everybody's  
7 in the room, we go until they're done, and  
8 sometimes that goes, that plays havoc with the  
9 rest of the schedule. So anybody got any ideas  
10 out there on ways to get --

11 MR. ROTH: I do.

12 MR. IACOPINO: Let me hear from Ms. More,  
13 Peter. She raised her hand first, Peter. Then  
14 we'll discuss with you.

15 MS. MORE: I just was going to say that  
16 plenty of places, the university I work in,  
17 students just register. We have a big speaker  
18 like David Cameron came, students sign up  
19 online, they register for a time, they say  
20 they're going to make a comment, that goes into  
21 a rota, and they are assigned a time. Very  
22 simple.

23 MR. ROTH: What I was going to suggest is  
24 that the Committee schedule appointment slots

1 for actually each day of the hearing a limited  
2 number, and perhaps have one day that's sort of  
3 the jamboree of public comment but to allow that  
4 kind of flexibility, and if nobody signs up for  
5 those appointments for public comment slots,  
6 then they will go over to testimony, but at  
7 least provide a couple of opportunities on each  
8 day of the hearing for people for whom the  
9 timing or the subject matter work to speak at  
10 that time.

11 MR. IACOPINO: Have you got any idea on how  
12 that gets communicated to the public and how the  
13 public actually signs up for that?

14 MR. ROTH: Thinking outloud --

15 MR. IACOPINO: You're familiar with the  
16 State OIT is --

17 MR. ROTH: I guess I would leave it to the  
18 Committee staff to keep an appointment book.

19 MR. IACOPINO: All our pull with the OIT,  
20 right?

21 MR. ROTH: And that there be a notice to  
22 that effect posted and an appointment book kept  
23 by Committee staff through email or telephone  
24 conversations.

1 MR. IACOPINO: Mr. Whitley?

2 MR. WHITLEY: Are you, and I don't know  
3 what the past practice has been, but are you  
4 anticipating publishing some sort of a notice  
5 once a decision is made?

6 MR. IACOPINO: Yes. There will be a notice  
7 published as I indicated before. It will be on  
8 our website. It will be posted in the same way  
9 that we do 91-A, although probably with plenty  
10 of time for people to prepare and plan to be  
11 there.

12 MR. WHITLEY: My followup suggestion was  
13 obviously the more time you can give members of  
14 the general public to plan for something like  
15 this the better. And in terms of getting the  
16 word out, you know, I'm sure that you can work  
17 with the host municipalities to try to get them  
18 to communicate it to their residents, too,  
19 because I don't know if people know to look, for  
20 instance, on the SEC website to see when  
21 something like that is announced.

22 MR. IACOPINO: Anybody else want to  
23 address -- Mr. Needleman?

24 MR. NEEDLEMAN: I think the past practice

1 the Committee has used where you designate  
2 portions of a couple of particular days would  
3 work much better than having a segment every  
4 day. One particular concern I have about that  
5 is trying to put the puzzle together of  
6 witnesses and their availability is a bit  
7 challenging, and I've heard others suggest that  
8 that's the same issue that they've got, and I  
9 think if we're sitting aside time every day, it  
10 could interfere to some extent with the  
11 scheduling of some of those witnesses, and I  
12 think if there were more predictability to those  
13 days, we knew we were going to set aside half a  
14 day on "X" day, I think that would work better  
15 from a witness scheduling standpoint.

16 MR. IACOPINO: Anybody else want to address  
17 the issue of public comment? Commissioner?

18 MR. SAMSON: Mr. Iacopino, would there,  
19 realizing there will be a time constraint on the  
20 public input, would there be made available to  
21 the public perhaps a place to show a couple of  
22 slides or something short of that nature?

23 MR. IACOPINO: To show to?

24 MR. SAMSON: If they had a slide or two in

1           their presentation, would there be something  
2           available for them to use to show that?

3           MR. IACOPINO:  If they made advance  
4           arrangements with us, it can probably be  
5           arranged, and one of the things we're going to  
6           do here today at the end of the day is deal with  
7           this presentation system that you guys see here,  
8           but I don't, I don't know what's necessary to do  
9           that.  I assume if it's just a Power Point or  
10          something, and it's something that can be done  
11          within whatever time constraints are set forth,  
12          I don't see why not.  Of course, somebody can  
13          always bring their own computer and show it,  
14          too, if they're interested in doing that, but I  
15          don't think we've ever had any real rules on  
16          whether they can present pictures or anything  
17          like that, and I doubt that we would limit it  
18          unless it's something that's just too long.  So  
19          yes, if somebody has pictures they want to show  
20          during public comment, we would likely permit  
21          that.

22          MR. SAMSON:  Okay.  Thank you very much.

23          MR. IACOPINO:  Anybody else want to address  
24          the public comment issue?  All right.  We will

1 issue in the report from this conference, it may  
2 not have the actual dates in it, but we'll issue  
3 in the report how we recommend that the Chair  
4 schedule them. I don't know what we're going to  
5 do yet. But we've got at least two, actually  
6 three different things if we can find a way to  
7 preschedule these folks we'll do what we can. I  
8 just don't think that the State has the capacity  
9 in its website to do that. At least as far as I  
10 know.

11 I'm going to turn to Ms. Manzelli for a  
12 moment. Ms. Manzelli, on paragraph 11 of your  
13 Prehearing Conference memo, you mention that  
14 there are certain Track 2 issues that you think  
15 would be helpful to discuss generally at this  
16 meeting. Why don't you fill us in.

17 MS. MANZELLI: I guess those two topics  
18 were, one, whether there is any information that  
19 you can provide us right now of when additional  
20 trial dates might be scheduled, and by Track 2,  
21 I guess we meant anything after Track 1,  
22 including deliberations as to whether there's  
23 any plan as to when deliberations might be  
24 scheduled, and if any parties knew as, I

1 apologize, I know that we know, but I don't have  
2 the information with me today right now. I'm  
3 awaiting it. One of our experts is not  
4 available for a two-week period of time during  
5 Track 2. So it seems easy to work around, but  
6 since we know that information now we'd like to  
7 share it, and if others know similar information  
8 we thought it would be helpful to share now. So  
9 that's what I thought it would be helpful for us  
10 to discuss so everybody can plan accordingly.

11 MR. IACOPINO: All right. Why don't we go  
12 around to the parties and just, I mean, I don't  
13 know that we can accommodate everybody, but if I  
14 think what, let me know if I misunderstand you,  
15 Ms. Manzelli, but what you're saying is if we  
16 know of blocks of times where certain witnesses  
17 are not going to be available, let's get them out  
18 on the table now so that people can schedule  
19 around them. Mr. Boldt?

20 MR. BOLDT: Isn't that a question we can't  
21 answer yet because we don't know when our Track  
22 3 time period is going to come. We have to go  
23 after the Applicant and after Counsel for  
24 Public.

1           MR. IACOPINO: Yes, and I don't think this  
2 is to hold anybody to, so if you say well, I  
3 don't know of any from my experts and find out  
4 that there isn't, this isn't to hold you to  
5 that. This is just a get an idea of times when  
6 various witnesses may or may not be available  
7 and that can be known for our planning purposes.

8           Why don't I start with Counsel for the  
9 Public? Is there any time that your witnesses  
10 are just not available?

11           MR. ROTH: Yes, but it's complicated. We  
12 have, what, 8 witnesses, 7 witnesses, and we  
13 have some of them --

14           ADMINISTRATOR MONROE: Could you speak up a  
15 little bit, Peter? Thank you.

16           MR. ROTH: We have 7 witnesses, I guess,  
17 and varying availability in May and June so it  
18 could take some time to outline it all and  
19 perhaps some graphing. I guess I can't really  
20 answer that question without getting into a  
21 super amount of detail that is probably  
22 unnecessary at the moment.

23           MR. PAPPAS: I think what might be helpful  
24 is to just have a sense of if there are

1 additional days, when that might be. For  
2 instance, not in May. But if it would be some  
3 time in that July period between the end of June  
4 and the July 20/21 if you have a sense.

5 ADMINISTRATOR MONROE: My only sense right  
6 now is possibly June 1st and 2nd. And then July  
7 31, August 1, August 2. July 31, August 1,  
8 August 2. And August 3. There are no other  
9 available July dates to my knowledge. I've  
10 pretty much covered the May dates. So anything  
11 beyond those two June dates would be further out  
12 into August. June 1 and June 2, July 31, August  
13 1, August 2 and August 3, subject to  
14 confirmation with the Subcommittee.

15 MR. PAPPAS: As Peter said, we've asked all  
16 our witnesses and they've all given their  
17 availability on the dates that are already  
18 scheduled, and it is a bit of a chart, and it's  
19 easier just to know what potential dates will  
20 be, and we can reach out say, best you can,  
21 block these out, but it's going to be a puzzle  
22 until we get close to it.

23 MR. NEEDLEMAN: Mike, wouldn't it make more  
24 sense maybe to revisit this issue at the third

1 prehearing conference when we get near the end  
2 of our case and folks have a clearer sense of  
3 exactly what days are left?

4 MR. IACOPINO: It probably would, but if we  
5 people know now, we can take that into  
6 consideration. Mr. Whitley?

7 MR. WHITLEY: To Barry's points, we, for  
8 instance, know that one of our experts,  
9 Mr. Sansoucy, has pretty limited availability,  
10 and so if we wait until the Track 3 prehearing  
11 conference, whenever that is, that may put us in  
12 a real bind. You know, I think that his  
13 availability of the dates we know currently and  
14 not including the ones that Pam just mentioned,  
15 I think his availability is limited to June 15th  
16 and 16th, and, you know, where that falls on the  
17 Track 1, Track 2, Track 3, we don't know, but  
18 that's where he is in terms of his availability  
19 right now. And, obviously, we'll go back to him  
20 with these additional dates and see if there's,  
21 any of those work as well but just wanted you  
22 guys to be aware of that at this time as well as  
23 the other parties.

24 MR. IACOPINO: Any other parties have

1 information like such as what Mr. Whitley just  
2 shared with us? For instance, he knows that  
3 Mr. Sansoucy is only available on the 15th and  
4 16th. Is there any other information like that  
5 that any of the parties have about their  
6 prospective witnesses? I know you have  
7 something, but I didn't think you knew when it  
8 was.

9 MR. REIMERS: Mike, it might make sense  
10 today to figure out, you know, we talked about  
11 the order of questioning of witnesses, but then  
12 once we get to Track 3, it might be helpful to  
13 know the order of presentation because then that  
14 could help, you know, if the Forest Society is  
15 going to go last, we can kind of game out in the  
16 calendar whether we're in June or August. Maybe  
17 it's the same order of questioning as it is  
18 presentation.

19 MR. IACOPINO: It probably will be,  
20 although I don't think anybody is prepared to  
21 actually, doesn't sound like anybody's prepared  
22 to actually say yeah, I can do it in that order  
23 or I can't and I know that people weren't  
24 prepared to come here today to do that.

1 MR. REIMERS: We hadn't thought of it  
2 either.

3 MR. IACOPINO: So really what I'm looking  
4 for is days that we know that witnesses you're  
5 definitely calling are unavailable.

6 MS. MANZELLI: So Harry Dodson is  
7 unavailable from 6/20 through 7/3. And Will  
8 Abbott is unavailable from 7/7 to 7/25.

9 MR. IACOPINO: Thank you. Mr. Baker?

10 MR. BAKER: I represent four clients, and  
11 I'm not exactly aware of their schedules, but I  
12 am familiar with their attorney's schedule, and  
13 I will not be available from July 17 to July  
14 26th.

15 MR. IACOPINO: July 17th to July 26th?

16 MR. BAKER: Yes, and my only request is  
17 that my clients not be scheduled to testify  
18 during that period.

19 MR. IACOPINO: Anybody else know  
20 information like that that would be helpful?  
21 Mr. Boldt and then Mr. Judge?

22 MR. BOLDT: We obviously have very minor  
23 witnesses in this. The mayor of Berlin is  
24 available in May and early June, but thereafter

1 it gets very dicey, but I doubt we would be  
2 reached by then in all candor. The town  
3 administrator of Franklin is not available May  
4 24th or 5th or June 14, 15 or 16. Those are the  
5 dates that have been provided to me so far.

6 MR. IACOPINO: What were the ones in June?

7 MR. BOLDT: For Elizabeth Dragon, June  
8 14th, 15th and 16 are bad days.

9 MR. IACOPINO: Thank you. Anybody else?  
10 I'm sure some of you -- Mr. Judge and then  
11 anybody else.

12 MR. JUDGE: Since we brought this to  
13 attorney availability, I don't think I have an  
14 issue given the dates that Pam has identified,  
15 but I just want to put on the record that my  
16 daughter is receiving her master's degree from  
17 ELTE University in Budapest in July around the  
18 17th so --

19 MR. IACOPINO: Short commute.

20 MR. JUDGE: So I'll be gone for the first  
21 part of July. My son's also in Brussels so --

22 MR. IACOPINO: I saw one other hand go up.  
23 I'm sure some of you folks have vacation  
24 scheduled in the Intervenors' Groups, don't you?

1 No? Okay. Is there any other dates that we  
2 know you're not going to be available? All  
3 right. We'll do our best to watch out for those  
4 dates. Obviously, there's going to be more  
5 discussion with this as we move on. Did I miss  
6 you again, Mr. Whitley?

7 MR. WHITLEY: That's all right.

8 MR. IACOPINO: If you're taking a vacation,  
9 you can let us know.

10 MR. WHITLEY: I am, but I have one  
11 scheduled for the July 24th which is currently  
12 not an adjudicatory date, but it sounded like  
13 that's the range that Ms. Monroe mentioned as  
14 being an add-on. No. Did I get that wrong?

15 ADMINISTRATOR MONROE: July 31st.

16 MR. IACOPINO: Your first day back.

17 MR. ROTH: Mike, I have not scheduled any  
18 vacation for this period on purpose. I may go  
19 to Germany in May, but that's different.

20 One of the concerns that we have about is  
21 we want to make sure that we'll able to  
22 structure our presentation in the way that we  
23 want, and, obviously, we're going to have some  
24 constraints with respect to our own

1           availability, and I think what we're prepared to  
2           do is provide you a list of the people we know  
3           about and their availability and  
4           nonavailability, but, ultimately, the decision  
5           about how we order them is going to have to be  
6           made later and hours.

7           MR. IACOPINO: I don't think we can sit  
8           here and do the Track 2 order of witnesses. I  
9           don't think we're going to be able to do that  
10          here today. I'm just trying to get an idea on  
11          those days because we do have a calendar and we  
12          can figure out what days are problematic. You  
13          know, as we go through this, it looks like  
14          they're all problematic, but that's the way  
15          things always are. Danielle?

16          MS. PACIK: Just a quick question. For  
17          scheduling the dates of the Site Evaluation  
18          Committee, are you requiring all of the members  
19          to be present?

20          MR. IACOPINO: Are we?

21          MS. PACIK: Is it anticipated that all of  
22          the members of Site Evaluation Committee will be  
23          present or just a quorum?

24          ADMINISTRATOR MONROE: Most, it varies from

1 day to day, but the general view was to try and  
2 get as many Subcommittee members on a given day,  
3 so there may be a day here and there where folks  
4 are not, an individual may not be available, but  
5 generally the plan was to have all 7. The  
6 expectation is they can review the transcripts  
7 for days they're not there. But generally the  
8 scheduling was to try and have them all here.  
9 So there will be days sprinkled in, and they  
10 might have things come up, too. Life happens.  
11 But that has been the approach.

12 MR. IACOPINO: And that will apply for  
13 those public comment, however we decide do it as  
14 well. Ms. Saffo?

15 MS. SAFFO: Just to confirm, are the  
16 current dates that are scheduled for  
17 adjudicatory hearings still the ones from the  
18 December 20th notice? Just we start on the  
19 13th.

20 ADMINISTRATOR MONROE: Yes. There's been  
21 no change to that, although I anticipate getting  
22 something out with the days, I just need to  
23 reconfirm with the Committee that nothing has  
24 happened that filled up those dates, and I'll be

1 getting a notice of this schedule out. There  
2 may also be some days that were previously  
3 scheduled, maybe half days, where we may take  
4 some of this public testimony also. So welcome  
5 to my scheduling hell.

6 MS. SAFFO: Yeah. You have fun with that.

7 MR. IACOPINO: Any other scheduling issues?  
8 All right. Let's move on and discuss exhibits.

9 ***V. Discussion of exhibits, exhibit lists and marking***  
10 ***of exhibits***

11 MR. IACOPINO: First of all, thank you all  
12 who have filed exhibit lists. I think in  
13 general you all did a good job of following the  
14 directions in my memo. I know that sometimes  
15 it's confusing, but I'm just going to go through  
16 a quick rundown on exhibits, and then we're  
17 going to discuss exchange and how to exchange  
18 them amongst the various parties and also any  
19 other questions that you all might have about  
20 exhibits.

21 There is a FAQ that I sent around, it's out  
22 there somewhere, on the proper way to mark  
23 exhibits. Again, if anybody has any questions  
24 about what's in that, you can come up and ask me

1 afterwards. I think it's pretty basic. The  
2 only idea behind the exhibits is to create a  
3 nice clean record so that when the Committee  
4 deliberates or when an Appellate Court reviews  
5 the record, they know what we're talking about.  
6 So the idea is that every exhibit will have a  
7 mark on it, preferably in the upper right-hand  
8 corner of the exhibit, that will have your  
9 parties' designated abbreviation which went out  
10 in either the memo or an order a couple weeks  
11 ago and a number. Your number should be  
12 sequential and there will be, we need that on a  
13 list. Like I say, we don't need the whole list  
14 today. We will set up a deadline for the filing  
15 of the exhibit lists for both the Track 2 and  
16 the rest of the parties and what we've been  
17 referring to as Track 3, I guess, today.

18 But basically, with respect to the  
19 exhibits, I know my memorandum requested that  
20 you provide a paper copy and an electronic copy  
21 of your exhibits to each of the other parties.  
22 I have a question. How many of you really want  
23 it on paper? I'm not seeing a single, well, I'm  
24 seeing half a hand raised.

1 MS. SAFFO: That may change.

2 MR. IAOCOPINO: That's okay. Because we  
3 can, I know that the requirements that are in  
4 the memo are kind of a pain in the butt because  
5 it's a lot of paper to make copies of. My goal  
6 here is to have that every member of the  
7 Subcommittee will have their own copy of the  
8 entire set of exhibits from everybody.  
9 Obviously, that makes much more sense to have it  
10 electronically. One of the difficulties that we  
11 have is I understand the State doesn't let  
12 people put flash drives into the State  
13 computers, and that's one of the difficulties  
14 why we have asked for 8 copies. One for our  
15 reporter and 7 for the Committee. We are  
16 working on making it so that is less. We're  
17 trying to find out, some of our Committee  
18 members may want it electronically. I assume  
19 they all will prefer electronically and may want  
20 it electronically and may use their own  
21 equipment, particularly our two public members,  
22 because I don't believe they have any  
23 State-issued computer. So we're working on  
24 that. But I think that if everybody in this --

1 I'll get to you, Ms. Pastoriza, and to you,  
2 Mr. Pappas, but as far as the exhibits  
3 themselves go, if you all are in an agreement  
4 that you don't need paper copies, I will put  
5 that in the record as well. Our rules actually  
6 require paper copies so we will get an order  
7 that says that we don't need paper. Let me  
8 start with Ms. Pastoriza in the back?

9 MS. PASTORIZA: I have a request for the  
10 latest DOT permit packages, hard copy, half  
11 size.

12 MR. IACOPINO: Okay.

13 MS. PASTORIZA: They have yet to be sent  
14 out to everybody, but they're in existence.

15 MR. IACOPINO: Do you guys have, what did  
16 you call them? DOT package half-size?

17 MS. PASTORIZA: Printed at half size?

18 MR. IACOPINO: Ms. Fillmore?

19 MS. FILLMORE: Attorney Getz and I are  
20 working together to resolve that request.

21 MR. IACOPINO: Okay. So that's something  
22 that your counsel is working on with the  
23 Applicant, Ms. Pastoriza. Mr. Pappas?

24 MR. PAPPAS: Let's first talk about copies

1 to the other parties. If we were to provide  
2 electronic copies of all our exhibits which  
3 would include the Prefiled Testimony and the  
4 exhibits to the Prefiled Testimony, we couldn't  
5 do that either by FTP site or by attachments or  
6 thumb drive. It would require a separate hard  
7 drive for each party because it's just so large.  
8 The Prefiled Testimony of our witnesses and  
9 their exhibits is one gigabyte, and that only  
10 fits on a hard drive. So we would have to copy  
11 30 hard drives and send them around in order to,  
12 in order to produce those, what's already been  
13 produced.

14 MR. IACOPINO: There are flash drives that  
15 are 16 gigabytes. I know we've used them with  
16 the Committee.

17 MR. PAPPAS: Maybe I'm getting my  
18 terminology wrong, but we've had --

19 MR. IACOPINO: Next one up would be a  
20 terabyte.

21 MR. PAPPAS: We've had both our IT folks  
22 and vendors look at this, and we would have to  
23 put on a hard drive in order to send around, and  
24 that would be not only extraordinarily expensive

1 but also very time consuming.

2 MR. IACOPINO: What are your exhibits? You  
3 mentioned your prefiled testimony.

4 MR. PAPPAS: Prefiled Testimony and the  
5 Prefiled Testimony, many of which are maps and  
6 photo simulations and that kind of thing and  
7 apparently they take up a lot of room.

8 MR. IACOPINO: Are these things that you've  
9 already filed with the Committee?

10 MR. PAPPAS: Correct.

11 MR. IACOPINO: How did you file them with  
12 the Committee?

13 MR. PAPPAS: We provided a hard drive.

14 MR. IACOPINO: A hard drive?

15 MR. PAPPAS: Or a hard disk, whatever they  
16 call it.

17 MR. IACOPINO: I don't think you did.

18 MS. MANZELLI: ADMINISTRATOR MONROE: The  
19 ones that are all on the website already?

20 MR. IACOPINO: Did we get all of your  
21 Prefiled Testimony up on the website? I think  
22 we did.

23 MR. PAPPAS: My point is that if it's  
24 already on the website, much like the

1 Application is already on the website, it  
2 doesn't make sense to have to reproduce it again  
3 as exhibits to all the parties because everybody  
4 already has access to it.

5 MR. IACOPINO: The difficulty that I see  
6 with that is that what's on the website is not  
7 marked, and the problem being is that you're  
8 going to have a roomful of people that are going  
9 to be looking for a document, and in some cases  
10 even when it's marked they may wind up going on  
11 the website anyway, but it's -- you're only  
12 talking about the sharing with the other  
13 parties, right?

14 MR. PAPPAS: Right now, yes.

15 MR. IACOPINO: So the concern that I see  
16 for that aspect of it is that, yeah, there's all  
17 sorts of information that's been shared, but  
18 nobody knows until you say I'm going to use it  
19 as an exhibit that it's going to be an exhibit,  
20 and it's not marked and nobody has any way to  
21 get to it in that case. I mean, they're going  
22 to be searching around the website, which our  
23 website is pretty hard to navigate as it is, and  
24 they're going to be searching around the website

1 for the document and then the page that you're  
2 talking about.

3 MR. PAPPAS: It's no different than the  
4 Application though. The Application is on the  
5 website, and that doesn't have Bates stamp  
6 numbers or marked. If we're going to put on a  
7 witness, that witness's Prefiled Testimony is  
8 his Prefiled Testimony. It's not going to  
9 change. The exhibits to the Prefiled Testimony  
10 are the same exhibits. That's what I'm talking  
11 about. To reproduce all of that to all the  
12 parties is going to be very expensive, and it's  
13 going to be very time consuming, and we can't  
14 get that done in less than a month. What I'm  
15 told.

16 MR. IACOPINO: Ms. Manzelli, I see you had  
17 your hand up.

18 MS. MANZELLI: Two points. I just wanted  
19 to reiterate your comment about the difference  
20 between what's on the docket already and what  
21 would be used at the hearing is the marking or  
22 not marking, and I do think that it would be  
23 very confusing if we don't have them marked.  
24 Now, I totally share Attorney Pappas's concern

1           that reproducing everything we already produced  
2           is really not an efficient process and  
3           potentially not possible before the start of  
4           Track 1. I don't necessarily have a great  
5           solution for all of this. You know, we even  
6           considered why don't we just take the docket and  
7           number them 1, 2, 3, in that fashion.

8           So I think it bears some discussion of the  
9           parties today, and one thing I would throw into  
10          the mix of that discussion is many of the  
11          parties have submitted photo simulations. There  
12          are photo simulations in Counsel for the  
13          Public's aesthetic experts material and the  
14          Applicant's aesthetic experts and in the Forest  
15          Society and in other parties' testimony. I  
16          think we might want to consider making an  
17          exception, if we're going pretty much paperless,  
18          that we make an exception for photo simulations.

19          As I know you're aware, there are some that  
20          prescribe that they be viewed at a certain size,  
21          at a certain distance, and I think it's going to  
22          be, certain paper. There's a lot of  
23          specifications to view them properly, and I  
24          think it's going to be important for the SEC, at

1 a minimum the SEC, potentially parties also, to  
2 be able to view those in that fashion.

3 MR. IACOPINO: I don't disagree with that,  
4 and there may also be charts that people create  
5 during the course of the hearing and whatnot  
6 that would also be marked and become part of the  
7 record, but they can be done both ways. I mean,  
8 you can provide the electronic version of the  
9 photo simulation and bring the mockup into the  
10 hearing room, and if you do do that, by the way,  
11 mark them accordingly. You might want to mark  
12 them 1 and then 1 A or however, but so they are,  
13 so the difference can be told by anybody reading  
14 the record.

15 Okay. Anybody else want to address this?  
16 Ms. Pacik?

17 MS. PACIK: Would it be possible for all  
18 Prefiled Testimony just to be marked for ID with  
19 some sort of exhibit number? And that way will  
20 also prevent duplication of every party filing  
21 months' Prefiled Testimony, and it would be up  
22 to somebody at some point to introduce that  
23 Prefiled Testimony and the attachments as a full  
24 exhibit?

1           MR. IACOPINO: Meaning the Committee should  
2 do that is what you're saying? Committee should  
3 mark all the Prefiled Testimony, and then leave  
4 it up to the parties whether they're going to  
5 use it or not?

6           MS. PACIK: If there's a way just to put a  
7 Bates stamp at the top of it and drag it into  
8 another -- I don't know what Pam was planning to  
9 do. If she was going to have a separate link  
10 for exhibits that were introduced.

11          MR. IACOPINO: Eventually, yes. I assume,  
12 right? Actually our exhibits aren't usually on  
13 the website.

14          MR. ROTH: No, the exhibits never make it  
15 to the website. But this could be the  
16 exception.

17          MR. IACOPINO: Well, yes.

18          MR. ROTH: You just convert all of the  
19 stuff on the website into exhibits. That is,  
20 the testimony.

21          MR. IACOPINO: Mr. Boldt?

22          MR. BOLDT: Would it not be feasible since  
23 the Applicant's not having to reproduce  
24 everything in their Application that those of us

1 who have filed Prefiled Testimony or anybody  
2 that's got the exhibits already filed could do a  
3 chart or a summary sheet that simply says the  
4 Prefiled Testimony of Mayor Grenier filed on  
5 December 30th is our Franklin/Berlin Exhibit 1,  
6 and do something down like that so there is not  
7 this massive duplication effort. I know we are  
8 simple. We have two. But for everyone else  
9 that has multiple exhibits that have already  
10 been filed, it sure seems like a massive waste  
11 of effort to have to duplicate everything again.

12 MR. IACOPINO: The problem from the  
13 Committee's standpoint, at least from the  
14 Committee staff's standpoint, with respect to  
15 that is that if there's an appeal from whatever  
16 this Committee decides, we have to put together  
17 the record to send up to the Supreme Court which  
18 requires that the exhibits be identified. Also  
19 requires that they be numbered from 1 to  
20 whatever the end of the record is. So that if  
21 all you've provided is a reference and somebody  
22 is, or even like a hyperlink, then someone is  
23 going around and having to print that because  
24 right now the Supreme Court is only going to

1 take the paper, and they're going to have to go  
2 and find that and get it, print it, mark it, and  
3 then put the record markings as the Supreme  
4 Court requires on it. Go ahead.

5 MR. BOLDT: If that is the problem, then we  
6 were required to file one paper copy, use it for  
7 the marked exhibit to give to the reporter, we  
8 all then have everything else that is of  
9 reference. If there's an important document we  
10 feel is necessary for cross-examination of a  
11 witness, we can print that out, but then  
12 otherwise just refer to it either on downloaded  
13 or on computer or on the SEC website.

14 MR. IACOPINO: Well, okay. I don't know.  
15 That means the Committee doesn't -- anybody else  
16 have anything they want to offer with respect to  
17 this issue of trading, this is trading exhibits  
18 amongst the parties, I guess, is where we  
19 started, but we've gotten a little bit ahead of  
20 ourselves as well. Ms. Menard?

21 MS. MENARD: Jeanne Menard, Deerfield  
22 Abutters. What if we were to provide nine  
23 copies and then you would have an extra copy as  
24 a master copy for the SEC for any future use?

1 MR. IACOPINO: I think that's one of the  
2 issues that we're going to get to, that people,  
3 nine copies of some of these collections of  
4 exhibits is massive.

5 MS. MENARD: Oh, I understand. Thank you.

6 MR. PAPPAS: Let's stick within the parties  
7 first because before we get to the Committee. I  
8 started this by the parties. I think Chris's  
9 suggestion is fine in terms of the parties. You  
10 could say here's our exhibit list. Exhibit 1 is  
11 this Prefiled Testimony, it's already up on the  
12 website, you've already got it. Exhibit 2 is  
13 this Prefiled Testimony. To the extent that  
14 it's not on the website, it's not Prefiled  
15 Testimony, or an exhibit to Prefiled Testimony,  
16 then I think that we can make those available to  
17 parties, but that greatly reduces the amount of  
18 electronics that you have to send around.

19 The Committee we can deal with separately.  
20 We can provide to the Committee exhibits with  
21 numbers on it so you can have it for the  
22 Committee's record and for the appeal. Right  
23 now I'm talking about among all the parties  
24 because we've got 30 some-odd parties that need

1 to be circulated and that I think is the first  
2 problem to address, and I think Chris's  
3 suggestion is a good one, that as long as you  
4 have a list of the exhibits, if people already  
5 have those exhibits, no need to reproduce them.  
6 If they don't, that's different. And if we're  
7 coming up with new exhibits that people don't  
8 have they should make those available. But they  
9 already there them, and all they have to do is  
10 point to them and people can go on the website  
11 and download them if they want paper or keep it  
12 electronic. I think that should be fine for  
13 circulating among the parties. Let's talk about  
14 the Subcommittee separately.

15 MR. IACOPINO: Mr. Whitley?

16 MR. WHITLEY: The parties have already been  
17 using the ShareFile site to exchange documents,  
18 and it seems that that would be something people  
19 are already familiar with doing, and I'm  
20 wondering if that is one way to address this  
21 because of the size and the volume of the  
22 documents.

23 MR. PAPPAS: A couple of ours don't fit on  
24 the file site. They were so big.

1           MR. IACOPINO: Speak into the microphone,  
2 please, Tom.

3           MR. PAPPAS: A couple of our witnesses'  
4 documents were so big I had to send an email  
5 around saying if you want them, send us, I  
6 thought it was a hard drive and we'll download  
7 onto it and send it to you because they just  
8 wouldn't fit on a FTP site. They were just too  
9 big to fit.

10          MR. IACOPINO: I don't know because,  
11 obviously, we did not participate in the  
12 discovery documents, but that's the same, I  
13 understand that in discovery you might have  
14 volumes like that, but when you're talking about  
15 the exhibits, I mean, are you planning on  
16 putting everything that you provided or got in  
17 discovery in as an exhibit?

18          MR. PAPPAS: No. No. Of course not. But  
19 I'm told that some of them are so large they  
20 won't fit on an FTP site and so the only way to  
21 circulate them would be to put them on hard  
22 drive and mail them to everybody.

23          MR. IACOPINO: I'm amazed we got them on to  
24 the State website then. How about the

1           Applicant? You've been quiet about this issue?  
2           There's been a couple of things floated around.  
3           The possibility just floated by Mr. Pappas about  
4           having at least amongst the parties simply  
5           references as opposed to actually trading marked  
6           exhibits. There's been a suggestion that they  
7           use your ShareFile site. There's been a  
8           suggestion that, I forget who, somebody made a  
9           suggestion of nine paper copies. What does the  
10          Applicant think of all this?

11           MR. NEEDLEMAN: There's nothing I've heard  
12          among any of these suggestions that I think  
13          causes us a great deal of concern. A lot of it  
14          sounds like in one way or another it may help to  
15          make things easier for everyone. There's no  
16          particular path I've heard that we're  
17          necessarily in favor of. I think whatever makes  
18          it easiest for the greatest number of people, I  
19          think, is a the good way to go.

20           One thing I would say is the more we can  
21          lean toward relying on electronic documents  
22          rather than paper copies, that's something we'd  
23          certainly be in favor of.

24           MR. IACOPINO: Ms. Pasik?

1 MS. PACIK: I would note that I do have a  
2 strong preference to uploading documents to the  
3 share file rather than just references only  
4 because I can see spending a lot of time looking  
5 through the ShareFile. It's big at this point.  
6 Trying to find what exact documents somebody is  
7 talking about.

8 MR. IACOPINO: And because I'm uninitiated  
9 in using ShareFile, is uploading to the  
10 ShareFile right now something that all of the  
11 parties can do or should be able to do?

12 MS. PACIK: It is. All the spokespeople  
13 can get the documents off of the ShareFile.

14 MR. IACOPINO: I'm talking about the  
15 uploading.

16 MS. PACIK: They can unload, yes. We can  
17 all upload to the ShareFile.

18 MR. IACOPINO: And they can download?

19 MS. PACIK: And we can download. The only  
20 document that Tom was referencing in terms of  
21 being too large were data responses from Boyle  
22 and that was, we did have to get them a hard  
23 drive, but those were responses to data  
24 requests. I don't know if he's intending to use

1           that as an exhibit, but certainly we could work  
2           on, if there's a document that that's big, we  
3           could work with different parties if that issue  
4           came up.

5           MR. NEEDLEMAN:  Mike?

6           MR. IACOPINO:  Yes.

7           MR. NEEDLEMAN:  One cautionary note.  We've  
8           had experiences in other proceedings, partly  
9           here and partly over at the PUC, where when too  
10          many parties are relying on the internet at the  
11          same time to access documents, it doesn't work  
12          particularly well.

13          MR. IACOPINO:  Meaning on the wireless?

14          MR. NEEDLEMAN:  Right.  Wherever we might  
15          be.  So whatever we choose to do, I think we've  
16          got to have that in mind.

17          MR. IACOPINO:  Ms. Manzelli?

18          MS. MANZELLI:  I just wanted to say there  
19          are a large number of documents in this case.  
20          Many of the documents are large in and of  
21          themselves.  ShareFile is not the only internet  
22          issue.  You know, if we don't do something like  
23          that, then parties in and of themselves may set  
24          up their own internet-based way of managing

1           these documents.

2           So in many of the scenarios with which we  
3           could roll forward here, many of us are going to  
4           be using the internet at the same time, and so  
5           I'm not sure if there's a technology solution to  
6           that. That's way above my pay grade, but I just  
7           wanted to be clear. I think we're all going to  
8           be sucking down a lot of internet power during  
9           this.

10           MR. IACOPINO: I've heard a lot from the  
11           lawyers. How about the folks back there who are  
12           doing this on their own? Ms. Pastoriza?

13           MS. PASTORIZA: I found the ShareFile site  
14           is almost impossible to find anything on there.  
15           There's unlabeled PDFs within unlabeled files.  
16           Nothing is labeled except the largest  
17           categories. You can go in there looking for one  
18           thing and come out two hours later with a lot of  
19           other stuff, but it wasn't what you were looking  
20           for. It's a mess. Things won't download  
21           because they're too big. Unless you download  
22           them to your computer, there's no preview. It's  
23           been a problem from the start and everyone  
24           dropped it because they were too busy trying to

1           move forward with the information. It's a  
2           disaster. That site is designed to repel  
3           access. So please don't put anything more on  
4           there.

5           MR. IACOPINO: Ms. Saffo?

6           MS. SAFFO: I agree the site is very hard  
7           to find information on it. Just wanted to voice  
8           that.

9           MR. IACOPINO: Okay. Ms. Menard?

10          MS. MENARD: Deerfield Abutters similarly  
11          have been having a hard time. If things are  
12          coming in batches and you know it's coming, then  
13          you can view it, but then to go back to try to  
14          retrieve something or to access it and find it  
15          again has been difficult.

16          MR. IACOPINO: Doesn't sound like the use  
17          of the ShareFile site is popular. Ms. Fillmore?

18          MS. FILLMORE: If we do use the ShareFile  
19          site, I would expect that it would be with an  
20          organized labeling system so that we could  
21          clearly know it's this party's exhibits, and we  
22          would presumably have a list of what those  
23          things are so that we could avoid that problem.

24          MR. IACOPINO: I don't use the ShareFile

1 site because it's discovery, but if it's like  
2 other Dropboxes or boxes where you upload stuff  
3 to it, it's usually the person who is uploading  
4 the document that labels it. Is that correct?

5 MS. FILLMORE: Yes. That's exactly right.  
6 So I would expect that we would have a naming  
7 convention and a labeling convention that we  
8 would all have to follow.

9 MR. IACOPINO: You know it better than I  
10 do. Is the abbreviation system that we  
11 typically use that we're using in this case for  
12 exhibits so far appropriate for the labeling on  
13 there?

14 MS. FILLMORE: Yes. I think it is. And if  
15 the exhibit, this is just my feeling, if each  
16 exhibit within that folder were marked as, say,  
17 Muni Group 2, Exhibit 1, 2 and 3, whatever, and  
18 presumably we would all have a list of what  
19 those things are, the title of what those things  
20 are, then that would be much more user friendly.

21 MR. IACOPINO: Mr. Baker?

22 MR. BAKER: On the labeling system, some of  
23 the groups have long labels like the Ashland  
24 Deerfield --

1 ADMINISTRATOR MONROE: Could you speak into  
2 the microphone, Mr. Baker?

3 MR. BAKER: The labeling system, sorry.  
4 The labels that have been given to some of the  
5 groups have very long names like the Ashland  
6 Deerfield and Abutter and then number. Is there  
7 any way to further abbreviate those.

8 MR. IACOPINO: You should have seen it when  
9 first started. Those are abbreviated.

10 MR. BAKER: I'm quite sure.

11 MR. IACOPINO: I mean, you know, I'm just  
12 trying to find them. I can say this, is that if  
13 there is, obviously, having a long abbreviation  
14 doesn't inconvenience anybody except for the  
15 person that has to mark them, what I would ask  
16 you is if you have a problem and you've got what  
17 you think is a better abbreviation to use, come  
18 and see us, and if it makes sense so that we'll  
19 still know who we're talking about, we probably  
20 are just going to use your abbreviation. But  
21 come and see me first because we're going to  
22 have to let everybody know if there is a change  
23 to an abbreviation.

24 MR. ROTH: How about assign every group a

1 National Hockey Team group name?

2 MR. IACOPINO: Right. I don't think we'll  
3 get agreement over that.

4 MR. REIMERS: I don't think there's enough  
5 teams.

6 MR. IACOPINO: As we get into the Abutting  
7 Groups and Non-Abutting Groups, I know that they  
8 get long. But if you have a suggestion for your  
9 group or anybody who has that same concern, let  
10 us know, and if there's something that will  
11 still make it clear, I mean, one of the things  
12 we want is that the people who are reviewing  
13 this to know who it's coming from, and in many  
14 cases, it's a geographic thing as well. But  
15 some of these were longer before.

16 The only other thing is is at Mr. Whitley's  
17 request there is one group of exhibits that will  
18 not be using the Munis' labels. It's  
19 Mr. Sansoucy's exhibits, and it's just going to  
20 be S A N S followed by the number of the exhibit  
21 because he's a witness for several different  
22 intervenor groups.

23 I don't really have a clear consensus on  
24 what you all want to do amongst yourselves

1           except for one thing. I think the one thing  
2           that I've heard is everybody agrees on is they  
3           don't want the paper other than the issue that  
4           Mr. Getz and Ms. Fillmore are working out with  
5           respect to the DOT package. Is everybody in  
6           agreement that they don't want paper? So that  
7           all we need to do now is find a way to exchange  
8           electronically that isn't going to take  
9           terabytes.

10           MR. ROTH: I just want to join that getting  
11           paper copy of the maps from the Applicant and  
12           I'll talk to them separately. I'm sure that  
13           won't be a problem.

14           MR. IACOPINO: Sounds like something is  
15           already in the works.

16           MS. DRAPER: This is Gretchen Draper from  
17           PRLAC. When I think about trying to get  
18           information, it would help if we had, say, for  
19           example, a file for each intervenor. Then I  
20           could go to that file of the so-and-so abutters,  
21           and their Prefiled Testimony would be in that  
22           same folder, maybe in a folder within a folder,  
23           and then you've got exhibits so that things are  
24           just in one place for that group of people. If

1 each one were labeled in one system, I feel like  
2 that -- it could be ShareFile. I don't know if  
3 it can be done as a separate, I don't know, a  
4 separate thing on the SEC list. I mean, right  
5 now we've got public comments. We've got the  
6 comments that go along with all of us. If  
7 there's a third place where people are just  
8 identifying, there's discrete files for each  
9 group. Does that make sense?

10 MR. IACOPINO: Yes. I think that's what we  
11 initially had hoped would be accomplished before  
12 I learned of this problem that Counsel for the  
13 Public can't get their exhibits onto a flash  
14 drive, but what would happen is you'd get a  
15 flash drive from each of the other parties and  
16 then you could then work off of the flash  
17 drives, plug them in and unplug them as you go  
18 along, or you could copy it down into your  
19 computer into whatever way you wanted to set up  
20 your file directory. So at this point, that's  
21 becoming an issue so we're trying to figure that  
22 out.

23 MS. DRAPER: So I'm hoping we can do that  
24 like through the ShareFile. One place, each

1 person has a folder. I mean, right now the  
2 folders are pretty well scrambled.

3 MR. IACOPINO: The perception that I'm  
4 hearing from most folks with the ShareFile is  
5 that it doesn't work very well for at least so  
6 far. So I don't know if that's going to be  
7 really a possibility. Steve?

8 MR. WHITLEY: I think the ShareFile issue  
9 is a fixable one. I think that taking the  
10 suggestions that I think Christine and Gretchen  
11 have said is that if people do create a new  
12 folder, and then put their Prefiled Testimony in  
13 there, various exhibits that they intend to use,  
14 that that would simplify things. The issue with  
15 the ShareFile site, and I know you haven't seen  
16 it so you don't know, is that it's typically  
17 organized by how it was produced and why it was  
18 produced. And so there's a folder that says,  
19 you know, Technical Session Number 4. And so  
20 you have to do a bit of homework to figure out  
21 what witnesses were at Technical Session 4 and  
22 what date it was. So it's not very obvious from  
23 just looking at the description of the folder  
24 what's going to be in there.

1           But I think that the ShareFile site is a  
2           useful mechanism for this because most people  
3           are familiar with at least attempting to  
4           navigate it, and it's already somewhat set up,  
5           and I'm hoping there's some ability to copy or  
6           move items that are in one folder to the new one  
7           that is created to help lessen this confusion so  
8           that people don't have to necessarily reupload  
9           things they've already uploaded to the ShareFile  
10          site before.

11          But I think that the issue is, just to say  
12          it again, the issues that I think are coming up  
13          are fixable ones as long as we kind of agree on  
14          how to label, a naming convention, folder  
15          convention, that sort of thing.

16          MR. IACOPINO: Can somebody from the  
17          Applicant after we're finished with the  
18          Prehearing Conference today take me through the  
19          ShareFile?

20          MR. NEEDLEMAN: Yes.

21          MR. IACOPINO: Thank you.

22          MR. PAPPAS: I think it would free up a lot  
23          of space if we just segregated the Prefiled  
24          Testimony. Because that's been on the website

1 for a long time. I think we take Chris's  
2 suggestion to just simply identify that without  
3 having to reproduce it either through the  
4 ShareFile or a separate box. That would free up  
5 a lot of space and time, and then we could  
6 probably make it much easier for people to find  
7 the other stuff. And since that's already been  
8 out there for a long time, some of it since  
9 November 15th, the rest of it since December  
10 30th, I think just identifying that for the  
11 other members. The Committee would have to mark  
12 it and provide it, but just for the other  
13 members that would free up a lot of space and  
14 some of the clutter up there, and I think it  
15 would make it easier for people to find the  
16 other stuff.

17 MR. IACOPINO: Okay. I'm going to take a  
18 look at the ShareFile after our meeting today,  
19 and we will issue something. It's really just  
20 the manner. Everybody's sort of in agreement it  
21 should be electronic, and it's just a manner  
22 of -- yes, ma'am. Please identify yourself,  
23 too.

24 MS. QUINN: Maureen Quinn.

1 Ashland/Deerfield Non-Abutters Group. I'm just  
2 wanting to clarify, will the Applicant's  
3 Supplemental Prefiled Testimonies and their  
4 exhibits and things also be made available on  
5 the ShareFile so everything is in one place?

6 MR. IACOPINO: My plan would be that  
7 everybody's going to follow the same rule so  
8 that if that's the way that it's going to be  
9 that the order issues that it's going to be  
10 shared with the parties, that's what, they'll be  
11 following the same rule. I mean, we typically  
12 don't have them provide another copy of the  
13 Application because they've already provided a  
14 roomful of Applications, and it's the way in  
15 almost every one of our cases is that we get on  
16 the initial filing a ton of paper for the  
17 Application, just because of what we require.  
18 Mr. Baker?

19 MR. BAKER: After consultation with  
20 everyone who's here from these Groups, I'm going  
21 to request that the Clarksville and Stewartstown  
22 Abutting and Non-Abuttings, their Prefiled  
23 Testimony exhibits be CS. That's item 10 under  
24 parties in paragraph 4.

1           MR. IACOPINO: We will change that  
2 designation to CS.

3           MR. BAKER: Then I have one more. Eleven.  
4 Dummer, Stark and Northumberland. Instead of  
5 Dummer/Northumberland Abutter, DNA.

6           MR. IACOPINO: Okay. Barry?

7           MR. NEEDLEMAN: So a couple of suggestions.  
8 It may be that with respect to the distribution  
9 of exhibits among parties, maybe one size  
10 doesn't fit all. So, for example, our plan was  
11 to give every party all the exhibits that we've  
12 listed on a stick. So that they'll all just be  
13 able to have them, plug it in and they're set to  
14 go.

15          MR. IACOPINO: That's what I thought at the  
16 beginning, too.

17          MR. NEEDLEMAN: I recognize everybody may  
18 not want to do that. To the extent people do  
19 want to do that, maybe they should have that  
20 option. There are a lot of parties here, I  
21 think, that don't have many exhibits. Chris was  
22 talking for a moment ago. He has two. Chris  
23 could email his exhibits, Exhibit 1, Exhibit 2,  
24 to the list, and then everyone would have them

1 very easily. So it may be that if you try to  
2 create the flexibility for people to share these  
3 exhibits in the most efficient way, we may get  
4 through a lot of this.

5 MR. IACOPINO: Danielle?

6 MS. PACIK: I can just speak for myself and  
7 the two people next to me which is the three of  
8 us would prefer not having everybody do it in a  
9 different manner. Because trying to find thumb  
10 drives and looking for emails and going to the  
11 ShareFile drive is going to take a lot of time.

12 MR. IACOPINO: Well, doesn't look like  
13 we're going to get overall agreement. So I'm  
14 going to look at the ShareFile after the meeting  
15 today. The only thing I think we have agreement  
16 on is that you prefer to trade it  
17 electronically, and we're going to change those  
18 two designations at Mr. Baker's request. So  
19 Danielle?

20 MS. PACIK: Sorry. If we do use thumb  
21 drives, can we make sure they're labeled because  
22 I have a lot of unlabeled thumb drives in my bag  
23 right now. Please.

24 MR. IACOPINO: And please make sure that

1           they don't have any viruses on them.

2           Ms. Menard?

3                   MS. MENARD:   Jeanne Menard.   Could  
4           Deerfield Abutters be abbreviated, please?  
5           Currently, we're spelled out as Deerfield, and  
6           if we can just shorten that a little bit it  
7           would help.   DFLD.

8                   MR. IACOPINO:   Sounds good to me.

9                   MS. MENARD:   Thank you.

10                   MR. IACOPINO:   Ms. More?

11                   MS. MORE:   The Nonabutters, we have been,  
12           we created for ourselves NAPO-SB back in July.  
13           So it would be easier for us if it's permissible  
14           to stick with that.   Non-Abutters Stark to  
15           Bethlehem.   Thank you.

16                   The other option you have is you could  
17           assign everybody a finding number.   Kind of  
18           standard library practice.

19                   MR. IACOPINO:   Right.   But one of the  
20           concerns that we have is when the Committee  
21           members look at the exhibit so they know what  
22           the party is.   I think I'm going to start to get  
23           some pushback from my Committee.   Mr. Palmer?

24                   MR. PALMER:   I guess I'll jump in here and

1 ask for a shorter abbreviation as well. For the  
2 Abutting Property Owners from Bethlehem to  
3 Plymouth, could we just have APOBP.

4 ADMINISTRATOR MONROE: Ms. More, what was  
5 your designation again?

6 MS. MORE: NAPO-SB. For Non-Abutting  
7 Property Owners, Stark to Bethlehem.

8 ADMINISTRATOR MONROE: Okay.

9 MS. MORE: Okay? Thank you.

10 MR. IACOPINO: Chris?

11 MR. BOLDT: Not a change in designation but  
12 a question. How many, if we are bringing thumb  
13 drives or paper copies, how many do we bring?  
14 Do we bring one for each 150 intervenor?

15 MR. IACOPINO: No. One for each entire  
16 Intervenor Group.

17 MR. BOLDT: Which now is how many.

18 MR. IACOPINO: 26.

19 MR. BOLDT: 26.

20 MR. IACOPINO: At least my list has 26.

21 All right. The report from this will have a  
22 final determination in terms of how we're going  
23 to do that. Like I said, I'll look at the  
24 ShareFile this afternoon.

1           Where were we. Exhibits for the Committee.  
2           You said you had a plan for the exhibits for the  
3           Committee, Mr. Pappas.

4           MR. PAPPAS: No. I just wanted to separate  
5           the other parties from the Committee. I  
6           understand the Committee would like 8 paper  
7           copies and 8 electronic copies. Is that  
8           supposed to be 8 separate electronic copies?

9           MR. IACOPINO: Eight thumb drives. But at  
10          the time it was written, I believed you could  
11          fit your exhibits on a thumb drive. Apparently  
12          you can't.

13          MR. PAPPAS: Whether it's thumb drive or  
14          hard drive, but 8 separate things. Whether it's  
15          a thumb drive, a hard drive or whatever, 8 of  
16          those plus 8 paper copies.

17          MR. IACOPINO: Yes. That's what we  
18          originally planned.

19          MR. PAPPAS: I want to make sure I  
20          understand it.

21          MR. IACOPINO: But you're saying you want  
22          to do that or you don't want to do that?

23          MR. PAPPAS: It's not that I want to do  
24          that, but it seems that that is much more

1           manageable than doing 26 of those for everybody  
2           else. I mean, that's, 8 is much more manageable  
3           than 26. That's why I wanted to separate the  
4           other parties and Subcommittee.

5           MR. IACOPINO: Okay. Mr. Whitley?

6           MR. WHITLEY: You were talking earlier  
7           about the Committee members and their maybe past  
8           practice or preference to use electronic. You  
9           know, if there's a way we can reduce the amount  
10          of paper copies to the Committee as well, I  
11          think that would be appreciated.

12          MR. IACOPINO: We'll trying to canvas and  
13          find out if we can do that. As I said before,  
14          one issue that we're running into is the  
15          inability of the Office of Information  
16          Technology to allow state computers to use thumb  
17          drives from other folks.

18          MR. ROTH: Can I ask a question about the 8  
19          electronic copies. It seems to me that that is  
20          a bit archaic in and of itself.

21          MR. IACOPINO: It is.

22          MR. ROTH: Why doesn't the Committee get  
23          one electronic copy and find a way to  
24          disseminate that amongst itself?

1           MR. IACOPINO: You mean take it and plug it  
2 into each computer and just pass it down and  
3 copy it?

4           MR. ROTH: Yes. Something like that.

5           MR. IACOPINO: Because I think that some  
6 people want to take them home and put them in  
7 their home computers when they consider these  
8 things at home. I think that's where it comes  
9 from.

10          MR. ROTH: My information technology people  
11 would probably tell me that using a home  
12 computer for State business is probably a  
13 violation of 91-A. I'll leave you to figure  
14 that out.

15          MR. IACOPINO: Not if there's not any  
16 meeting. If I'm reviewing documents because I  
17 have a hearing the next day and I want to know  
18 what the witnesses are going to talk about or if  
19 I'm reading the Prefiled Testimony on the day  
20 before they're cross-examined, how is that a  
21 91-A violation?

22          MR. ROTH: That document on that computer  
23 is probably a record subject to discovery under  
24 91-A, but I'll leave that to you and your

1 contact at the Attorney General's Office to  
2 figure out. But be that as it may, it seems to  
3 me to have this Committee assume responsibility  
4 for distributing the electronic copy that is  
5 delivered to it doesn't sound terribly  
6 unreasonable to me.

7 MR. IACOPINO: Ms. Manzelli, were you going  
8 to address that?

9 MS. MANZELLI: No. Thank you.

10 MR. IACOPINO: Ms. Birchard?

11 MS. BIRCHARD: Melissa Birchard. NGO  
12 Intervenors. Just for my clarification, if we  
13 are submitting our exhibits in three separate  
14 tranches, this means everything we're doing is  
15 three times whatever our determination is here;  
16 is that correct?

17 MR. IACOPINO: I don't understand the  
18 question.

19 MS. BIRCHARD: So if we have Track 1, Track  
20 2, and Track 3, and each has a different  
21 deadline, does this mean this is actually  
22 multiplied by 3 is my clarification question.

23 MR. IACOPINO: Yes. But those three things  
24 would contain different exhibits, I would

1 presume.

2 MS. BIRCHARD: Correct.

3 MS. QUINN: Maureen Quinn.

4 Ashland/Deerfield Non-Abutter. Is it possible  
5 that we could just do one hard copy for the  
6 record for future appeals or whatever that's  
7 labeled and just provide an electronic copy to  
8 the SEC? You know, the 8 different electronic  
9 copies?

10 MR. IACOPINO: It might be possible. As I  
11 said before, we're going to try to see if we can  
12 eliminate some of those paper copies. Whether  
13 it will be one, five, three, I don't know yet.

14 MS. QUINN: Okay. Thank you.

15 MR. IACOPINO: All right. So I don't hear  
16 the same objection to providing the electronic  
17 copies other than whether it's one thumb drive  
18 or 8 to the Committee. And as I've said to  
19 everybody, the 8 paper copies I know is a pain  
20 and we're going to try to figure out if we can  
21 whittle that down. Yes. Mr. Boldt.

22 MR. BOLDT: Would it be possible to provide  
23 the Committee the exhibits electronically in  
24 advance? Even if it's the night before. So

1           that it comes to Pam for dissemination through  
2           your internal system rather than us hopping up  
3           each morning, giving a new thumb drive?

4           MR. IACOPINO: With something like your two  
5           exhibits, that might be feasible. The problem  
6           becomes when it's a large amount. When it's a  
7           large file. Because what Pam is going to do is  
8           she's going to email it to us or to the  
9           Committee. That would be the only way she would  
10          get it from -- or she's going to put a thumb  
11          drive into her computer and copy it and put it  
12          on other people's computers so -- but we'll work  
13          on it.

14          MR. IACOPINO: Did anybody have any  
15          questions about their exhibits, what to do with  
16          them, how they're used? You will have a  
17          deadline for your Track 2 exhibits that will  
18          come out in a memorandum. Ms. Lee, did you have  
19          your hand up?

20          MS. LEE: As it stands right now, we'll get  
21          a memo on how many copies to provide.

22          MR. IACOPINO: Yes.

23          MS. LEE: Electronically only.

24          MR. IACOPINO: To provide to each other

1 electronically. You may still have to provide  
2 some paper copies for the Committee's purposes.

3 MS. LEE: All right.

4 MR. IACOPINO: But amongst the parties, it  
5 sounds like everybody's electronic. How they  
6 will be traded electronically is still to be  
7 determined.

8 MS. LEE: Thank you.

9 MR. IACOPINO: I want to go with Mr. Baker  
10 first and then Mr. Pappas?

11 MR. BAKER: Quick question on file format.  
12 Your memo says that PDF formats are preferred.  
13 For photographs are JPEGs okay?

14 MR. IACOPINO: Yes. Yes. The JPEGs, I  
15 mean, PDF, JPEG. I know there's some video like  
16 Avia or MPEG are the common files that are  
17 commonly used so that somebody with a regular  
18 computer without too many additional software  
19 programs can view them is basically what we're  
20 looking for. Mr. Pappas?

21 MR. PAPPAS: Let's talk a minute about  
22 impeachment exhibits.

23 MR. IACOPINO: We're going to get there.

24 MR. PAPPAS: Okay. Now? Or do you want to

1           wait?

2           MR. IACOPINO: Well, what is Ms. Manzelli  
3 offering here?

4           MS. MANZELLI: I had a couple wrap-ups on  
5 the transmission of exhibits. Can you just  
6 confirm, Mike, we talked about this on the  
7 phone. If we are sharing amongst email or even  
8 on a thumb drive and we have an unusually large  
9 file, whether JPEG or PDF, the preference I know  
10 is to not break up files, but if it's  
11 problematic to transmit we can break them up,  
12 right?

13          MR. IACOPINO: Yes. If you need to break  
14 up a file in order to transmit. Please make  
15 sure, though, same concerns that have been  
16 expressed, that it's labeled in a way that  
17 common sense says okay, this is the second part  
18 of that file or third part or whatever.

19          MS. MANZELLI: Then the second followup is  
20 just with illustrative exhibits I want to check  
21 my understanding of what we're supposed to do.  
22 So for Harry Dodson, for example, there are a  
23 bunch of photo simulations in there. We will  
24 have his entire report as an exhibit. It will

1 be SPNF 1 or whatever it ends up being. Now,  
2 when it comes to the day when Mr. Dodson is  
3 going to take the stand and we want the  
4 Committee to be viewing a particular photo  
5 simulation, you know, like I said, certain size,  
6 certain distance, then on that day, we would  
7 bring in those illustrative exhibits. So I  
8 guess when do you want me to identify those?  
9 And I don't need to separately exchange those  
10 with the parties or the SEC, right?

11 MR. IACOPINO: Well, you've already  
12 exchanged them electronically. What you're  
13 bringing in is just the mockup. I think that, I  
14 think if you've already exchanged them  
15 electronically, you wouldn't have to exchange  
16 them again. Obviously, everybody is going to  
17 get a chance to look at them before you use  
18 them. They should be marked though. I think  
19 they should be on your exhibit list whenever  
20 that is required to be provided, and they should  
21 be marked so that in such a way or I would  
22 prefer that they be marked in such a way so that  
23 you have, for instance, the electronic file is  
24 Exhibit 1, you might make this Exhibit 1-A or

1 1-1 or whatever. So that we know it's the same  
2 thing.

3 Some of them might not. I mean, if there's  
4 a simulation in the report itself that's not  
5 separate like sometimes there's a sim that's  
6 just a small one that's on a page with text, in  
7 that case you may not be able to do that.  
8 You'll just have to give it another number.

9 MS. MANZELLI: When we bring those in, do  
10 we just need to bring in one copy? You know,  
11 one mockup on the foam board?

12 MR. IACOPINO: Yes. I don't think the  
13 Committee is going to be bringing foam boards  
14 home with them so just one.

15 MS. MANZELLI: And one would be sufficient  
16 for other parties to view.

17 MR. IACOPINO: Yes. It will be here. They  
18 can see it. I'm assuming these are physical  
19 exhibits you're going to bring in, not something  
20 you're going to show over the TV sets?

21 MS. MANZELLI: I think that's true for the  
22 most part, but we may have something in the  
23 nature that would be shown on the TV sets.  
24 We'll identify those.

1 MR. IACOPINO: Thank you.

2 MS. PACIK: When we label the PDF and  
3 whether it's being emailed or uploaded to the  
4 ShareFile, put on thumb drives, can that label  
5 and what we name the PDF be consistent with what  
6 the exhibit number is so we don't have a  
7 variation between the two?

8 MR. IACOPINO: That would be the most  
9 common sense approach to that. I hope that  
10 everybody would try to do that. I don't know of  
11 any reason why you couldn't. That's what we  
12 would ask that people do. I don't know if  
13 that's going to make it into the order, that  
14 detail though, but everybody should, I mean if  
15 it's Exhibit 1 on your exhibit list, don't label  
16 the PDF file "French fries from McDonald's." So  
17 label it Exhibit 1 unless there's some reason  
18 why you simply can't do that. And no, it  
19 doesn't say anything about my dietary  
20 experience.

21 MS. MANZELLI: I just wanted to put in a  
22 plug, in addition for McDonald French fries, for  
23 if you could I think it would really assist the  
24 parties and make things a lot clearer and a lot

1 more efficient and, therefore, quicker at trial  
2 if you could attempt to get into that level of  
3 detail in the report resulting from this  
4 Prehearing Conference. I think it would be a  
5 great assistance.

6 MR. IACOPINO: I'll try.

7 MS. MANZELLI: Thank you.

8 MR. IACOPINO: Okay. Impeachment exhibits.  
9 Is somebody objecting to providing their  
10 impeachment exhibits?

11 MR. PAPPAS: Yes.

12 MR. IACOPINO: Why.

13 MR. PAPPAS: My understanding is that the  
14 concern is you don't slow up the process by  
15 having to stop and make copies for people. So  
16 it would seem to me, and you don't even know  
17 what impeachment exhibits you may use or not use  
18 depending on how the witness testifies. It  
19 seems to me that the party brings in a  
20 sufficient number of copies which would be  
21 probably on the order of 40 of any impeachment  
22 exhibit and labeled; that if they want to use  
23 it, they can disseminate it and use it, and if  
24 they don't want to use it, it never makes the

1 exhibit list. But many impeachment exhibits we  
2 don't know if we're going to use them until  
3 you're questioning a witness, and some  
4 impeachment exhibits you don't want the witness  
5 necessarily to see them until you show them the  
6 exhibit.

7 So it seems to me, as long as you have a  
8 sufficient number of copies, that that takes  
9 care of not slowing the proceeding down at all,  
10 and it takes care of the record should it go up  
11 on appeal, and, therefore, that should avoid the  
12 need to premark impeachment exhibits.

13 MR. IACOPINO: Why would you not -- the  
14 witness has already testified by providing  
15 Prefiled Testimony. What is the concern about  
16 the witness knowing that you may use an exhibit  
17 for impeachment?

18 MR. PAPPAS: Because you don't know what  
19 the witness is going to say on cross until they  
20 say it.

21 MR. IACOPINO: True.

22 MR. PAPPAS: Then there might be a need for  
23 an impeachment exhibit and there may not be a  
24 need for an impeachment exhibit. You don't know

1           that until they testify.

2           MR. IACOPINO:   Why would you not, the fact  
3           that you may use it or may not use it is  
4           accomplished even when you file the exhibits in  
5           advance because you can choose just not to admit  
6           it.  You can choose not to use it for  
7           impeachment.  So that doesn't change anything.

8           It seems to me that the only reason to have  
9           an impeachment exhibit that you don't want to  
10          provide in advance, especially when direct  
11          testimony has already occurred is because you  
12          want the element of surprise.

13          MR. PAPPAS:   Certainly.

14          MR. IACOPINO:   I don't know that the  
15          element of surprise is something that trumps the  
16          efficient operation of the Committee and the  
17          efficient running of the hearings.

18          MR. PAPPAS:   But if you have a sufficient  
19          number of impeachment exhibits already marked,  
20          and you've taken away the efficiency concern so  
21          then there is no efficiency concern and so  
22          there's no need to trump.  The element of  
23          surprise is what's left.

24          MR. IACOPINO:   Ms. Saffo?

1 MS. SAFFO: I was just going to say I  
2 completely agree, and there is a point where  
3 it's not so much element of surprise but you're  
4 playing your hand. I mean, what I mean by that  
5 is you're telling the defense attorney where  
6 you're going on a case ahead of time, and we  
7 shouldn't have to do that. It's not a surprise  
8 thing. It's just what's going on in your work  
9 product, what's going on in your mind, but  
10 definitely I agree. If you want us to mark  
11 everything you possibly could use, then I'm  
12 going to be giving you many extra exhibits that  
13 I end up not using because I don't know exactly  
14 what's going to happen. We have the prefiled  
15 testimony. I totally appreciate that. But if  
16 all this was was submit prefiled testimony and  
17 go by that, then we wouldn't even be having a  
18 hearing. So I just wanted to, again, voice my  
19 support for what he's saying. I think I'm going  
20 to be giving you a lot of extra documents if I  
21 can't use it unless I give it to you ahead of  
22 time.

23 MR. IACOPINO: Mr. Needleman?

24 MR. NEEDLEMAN: I agree with both of those

1 statements, and I want to add something else as  
2 well. If the other folks in this room prepare  
3 the way I prepare, frequently it's not until  
4 right before you're ready to cross-examine a  
5 witness that you actually have a sense of what  
6 you're going to do, and I certainly know with  
7 respect to my preparation, witnesses that I will  
8 be cross-examining aren't going to be appearing  
9 until some point in July or August. And for me  
10 to have to figure out what exhibit I'm going to  
11 use with those people and identify them well in  
12 advance, it's not even an element of surprise  
13 issue. It's just not possible given the way we  
14 do preparation.

15 MR. IACOPINO: But you're not going to have  
16 your exhibit deadline until some time around  
17 that third track that we discussed.

18 MR. NEEDLEMAN: But, again, collectively we  
19 have how many hundreds of witnesses to examine?  
20 I don't even know. Like I said, I'm not going  
21 to have those examinations ready at the time  
22 that deadline comes and probably not going to  
23 have the vast majority of them ready.

24 MR. PAPPAS: I'd agree with that.

1 MR. IACOPINO: I'm sure you will.

2 MR. PAPPAS: That's the way you do it.

3 MR. IACOPINO: I'm surprised because I  
4 would think that as the Applicant you would be  
5 the person that would be least wanting the  
6 surprise.

7 MR. NEEDLEMAN: I will add one other thing.  
8 Based on the experiences we've had in other  
9 dockets, I pretty much appreciate the concern  
10 you're trying to address about trying to keep  
11 things moving along, and I actually support  
12 that, and what I would say is to the extent that  
13 people can figure out what they might use, they  
14 should identify it. If they can't, they should  
15 do what Tom is talking about or come up with  
16 other mechanisms to move this along really  
17 smoothly. I do agree with trying to address  
18 those concerns, but I just don't think it's  
19 possible to completely do it the way it's been  
20 proposed here.

21 MR. IACOPINO: For some of the folks who  
22 might not know exactly what we're talking about,  
23 impeachment exhibits are exhibits that are used  
24 for the purposes of showing that there is some

1           lack of credibility in the direct testimony of  
2           the witness, whether it's what's sometimes  
3           preferred to as a prior inconsistent statement,  
4           which doesn't really happen that much in  
5           administrative hearings like this. Usually,  
6           it's more somebody will take out a treatise or  
7           something technical and say well, this does not,  
8           you've said this, this says that. It's usually  
9           something like that in an administrative  
10          proceeding. It's rarely something that goes to  
11          the actual integrity of the witness.

12                 The problem that we have had with, not just  
13          with impeachment exhibits but with unmarked  
14          exhibits in general in the past is that we'll be  
15          in the middle of a hearing and somebody will  
16          pull out a document that they want to use. In  
17          most cases they only have one copy of it, and  
18          they want to start putting it under the  
19          witness's nose or reading it to the witness, and  
20          everybody else in the room is like what is that.

21                 We then take a break, Pam runs out to the  
22          copier and makes copies for everybody. Then we  
23          come back and 25 minutes is gone. And then in  
24          some cases we've had it where that's happened,

1 and then 15 minutes later it happens again.  
2 That's the whole, that's the major concern  
3 behind any unmarked exhibits, including  
4 impeachment exhibits.

5 I understand what Mr. Pappas is saying.  
6 He'll mark his own impeachment exhibits, but I  
7 don't know if that's going to solve anything  
8 either. So Mr. Whitley?

9 MR. WHITLEY: We haven't done the technical  
10 training in the room yet, but my understanding  
11 was that some of the things that we're seeing  
12 here are designed to address that very issue by  
13 putting a document underneath the -- I don't  
14 know what you call it. On the table right  
15 there. The overhead.

16 ADMINISTRATOR MONROE: ELMO.

17 MR. WHITLEY: Thank you. The ELMO.  
18 Presumably is then displayed on all these  
19 screens so that you don't have that issue where  
20 if there's an impeachment document that's sprung  
21 on someone and you have to stop everything. So  
22 I guess I also, I couch that in my, I'm joining  
23 the other parties that have expressed some  
24 opposition to identifying impeachment exhibits

1 ahead of time.

2 MR. IACOPINO: I thought you would all be  
3 happy that you would get these exhibits ahead of  
4 time. Anyway. Ms. Fillmore?

5 MR. ROTH: We're happy to get them. We  
6 just don't want to give them up.

7 MS. FILLMORE: I think this is the unusual  
8 situation where all the parties agree.

9 MR. IACOPINO: Since we're in an agreeing  
10 mood, can we move on to something substantive?

11 MS. FILLMORE: If the Applicant, who is  
12 presumably the most concerned in the room about  
13 moving things along efficiently, if the  
14 Applicant's attorneys would prefer not to  
15 distribute impeachment exhibits, mark, admit,  
16 all of that ahead of time, I think we should  
17 probably all agree about that. If they don't  
18 have that concern, then I think maybe the  
19 Committee doesn't need to be quite as concerned  
20 about it.

21 MR. IACOPINO: Ms. Manzelli?

22 MS. MANZELLI: Just a couple points. I'm  
23 not prepared to brief this. You know, I didn't  
24 come with a legal memo on this issue, but we did

1 do a little bit of legal research, and I wanted  
2 to state on the record it's our position that  
3 it's not really supported having to provide  
4 impeachment exhibits in advance. And I think it  
5 would be helpful to the parties, for other  
6 issues you've said okay, we're going to put it  
7 in the order. We're probably going to write up  
8 like this. If you agree with everybody else, I  
9 think --

10 MR. IACOPINO: I don't.

11 MS. MANZELLI: You don't. Okay. In that  
12 case, perhaps this bears more discussion, and  
13 I'd like to also add for all of the reasons that  
14 everybody has stated, I don't think that it  
15 would, there's no efficiency concerns if  
16 everybody agrees we're going to come prepared  
17 with the copies. And if there's no efficiency  
18 concern, then there's no need to do this. So if  
19 everybody agrees, you know --

20 MR. IACOPINO: I hear you.

21 MS. MANZELLI: Okay. Thank you.

22 MR. IACOPINO: Anybody else want to address  
23 impeachment exhibits? Ms. Pacik?

24 MS. PACIK: I don't think anybody wants to

1 be here all summer, and we would like to get  
2 this moving along as much as possible. So the  
3 idea of marking as much as we can would be  
4 helpful.

5 MR. IACOPINO: So are you agreeing with me?

6 MS. PACIK: My opinion is we try to mark as  
7 much as we can, and if there's documents,  
8 though, that we're preparing the night before  
9 and we realize, oh, this is a great document,  
10 that we're not precluded from bringing it in and  
11 using it.

12 MS. SAFFO: I second that. We do our best  
13 efforts, and there's going to be some things I  
14 don't mind marking or have concerns about, but I  
15 agree that as you prep things you think of other  
16 questions based on what happened during the day.  
17 So that might be a good middle ground where we  
18 share what's ready and what we're not concerned  
19 about disclosing, but then we realize that at  
20 the hearing there might be some additional  
21 things we bring forward. We're just not  
22 precluded from bringing additional information  
23 at the hearings.

24 MR. IACOPINO: Okay. Anybody else want to

1 address impeachment exhibits? It will be  
2 addressed in the order.

3 We dealt with the site visit.

4 Any other concerns about exhibits that  
5 anybody has that we haven't already addressed?  
6 Ms. Pasik?

7 MS. PACIK: Thank you. One concern that I  
8 have is the duplication of exhibits that we've  
9 already seen in the exhibit list where each  
10 person has identified the same exhibit so we're  
11 going to have the same document with a lot of  
12 different identifying. For example, I might  
13 mark it, the Applicants might mark it, Counsel  
14 for the Public. So is there a way to try to  
15 just have one version of the document that when  
16 we're referring to it we're consistent?

17 MR. IACOPINO: The best thing that I can  
18 recommend to you is talk to the other parties.  
19 If there are things you know that the other  
20 party is going to use, talk with them and make  
21 sure that they're going to and choose not to put  
22 it on your list. If there's some that you  
23 suspect, do that. You know, speak with them.  
24 But the problem is is that if we create some

1 kind of system and then somebody doesn't have an  
2 exhibit that they wanted, then we're back at  
3 square one trying to get it into the record.

4 MS. PACIK: What about Prefiled Testimony  
5 of other parties?

6 MR. IACOPINO: I assume that every party is  
7 going to submit its own Prefiled Testimony.  
8 Well, actually there's a way to deal with that.  
9 Are there any witnesses who have submitted  
10 Prefiled Testimony that the parties intend to  
11 withdraw their testimony?

12 I don't see anybody saying that. So, I  
13 mean, I wouldn't think that that would be the  
14 type of exhibit that would cause your concern.  
15 There might be other types of exhibits that may  
16 be duplicated. We see duplicated exhibits in  
17 almost all of our hearings. It's just, it  
18 happens. But I don't think that there's any, in  
19 fact, I think we have the opposite issue here.  
20 I think we have some people who are listed on  
21 witness lists who have not provided Prefiled  
22 Testimony which we're going to deal with in a  
23 couple minutes, but I think that if somebody has  
24 submitted Prefiled Testimony, they're going to

1 be a witness, I don't know why you would want to  
2 mark it anyway, but it's likely they're going to  
3 submit it as their exhibit, and they're going to  
4 get up there and swear to it, and you'll get to  
5 cross-examine them.

6 MS. PACIK: Thank you. And just one last  
7 question. What I understand is at least from  
8 the exhibit list submitted by the Applicants,  
9 they have a lot of Prefiled Testimony of  
10 witnesses who are not relevant to Track 1 as  
11 well as reports that I don't think are relevant  
12 to Track 1. These are all being marked for  
13 identification, and they have to actually move  
14 to introduce it as a full exhibit; is that  
15 correct?

16 MR. IACOPINO: All of the exhibits will  
17 have to be moved.

18 MS. PACIK: Okay.

19 MR. IACOPINO: Everybody's. Not just the  
20 Applicant's. Everybody's. If I understand it,  
21 and, Mr. Needleman, correct me, was this meant  
22 to be solely a Track 1 exhibit list? Or were  
23 you trying to be more inclusive?

24 MR. NEEDLEMAN: Well, it's generally Track

1           1. There are things on there that are  
2           universal. Things having to do with the  
3           Application. But as far as specific witnesses  
4           go, yes, it's meant to be only Track 1. We're  
5           going to have additional for Track 2 obviously.

6           MR. IACOPINO: So, for example, if anybody  
7           has your exhibit list in front of them, we see  
8           Exhibit 11 through 31 is all Prefiled Testimony.  
9           That's basically of all of your witnesses,  
10          right?

11          MR. NEEDLEMAN: Well, because that was the  
12          Prefiled Testimony that was included in the  
13          Application originally.

14          MR. IACOPINO: So that came on Day 1. So  
15          that's why -- you don't anticipate that these  
16          witnesses are going to testify --

17          MR. NEEDLEMAN: No.

18          MR. IACOPINO: I think he's just being more  
19          inclusive than what the order required, and it  
20          would make sense because those things if  
21          somebody is rummaging around looking for them,  
22          they're going to be with the Application. So it  
23          would make sense to do it at somewhat in a  
24          chronological order if you're the Applicant.

1 Does that answer your question, Ms. Pasik?

2 MS. PACIK: Yes. Thank you.

3 MR. IACOPINO: Let's turn to the issue then  
4 of there are a couple of witness lists who have  
5 witnesses who did not provide Prefiled  
6 Testimony. I believe that one of them is from  
7 Ms. Lee with Mr. Kucman, and let me turn to the  
8 Applicant because I know this is a problem that  
9 you've noted. Can you tell us which witnesses  
10 there is the problem with?

11 MR. NEEDLEMAN: Well, I'm not sure I'm  
12 going to be able to identify every one, but I  
13 know, for example, that in the filing that  
14 Mr. Thompson submitted last night there were  
15 several on there. I believe that with the  
16 filing that Mr. Cunningham put in, there is at  
17 least one, perhaps more on there. I don't have  
18 a complete list but those are the ones that come  
19 to the top of my mind.

20 MR. IACOPINO: Let me turn first to Ms. Lee  
21 then. You've submitted Mr. Kucman as a witness  
22 on your list, but he has not provided Prefiled  
23 Testimony.

24 MS. LEE: Right. And being pro se, I

1           wasn't sure if his testimony would be germane to  
2           my health and safety issue which is the Track 1,  
3           and I know in conversation during a couple of  
4           the tech sessions we're on the same grouping of  
5           abutters, Ashland to Allenstown, so we've had  
6           that discussion so I thought he would be a  
7           perfect witness for speaking to the issue of  
8           public health and safety.

9           MR. IACOPINO: Okay, but there was a  
10          deadline for the filing of the Prefiled  
11          Testimony of your witnesses, of everybody's  
12          witnesses, and you did not file testimony from  
13          him. There was no Prefiled Testimony from Mr.  
14          Kucman. So let me just tell you is that in  
15          those circumstances, Mr. Kucman normally would  
16          not be permitted to be a witness unless you seek  
17          relief from the Committee and the Committee  
18          grants you that relief.

19          So, you know, I mean, nobody has ruled on  
20          Mr. Kucman's ability to testify or not, but I  
21          would tell you that the procedure generally used  
22          in those circumstances is to file a motion with  
23          the Committee asking to allow you to late-file  
24          Mr. Kucman's testimony. I don't know whether

1           that would be granted or not, and I know that  
2           Mr. Kucman is going to participate with you in  
3           some of the cross-examination. That's  
4           different. That's not being a witness. So just  
5           a fair warning to you about what may happen  
6           there.

7           MS. LEE: All right. So --

8           MR. IACOPINO: If you have any questions  
9           about it, you can always come up and ask us as  
10          well, but there is no Prefiled Testimony from  
11          Mr. Kucman so it's unlikely that he's going to  
12          be permitted to testify, at least if the Chair  
13          follows the rules that we've always been  
14          following.

15          MS. LEE: I see. All right. Thank you.

16          MR. IACOPINO: Mr. Thompson, there's been a  
17          suggestion that you have witnesses on your  
18          witness list who didn't provide Prefiled  
19          Testimony. Do you know who they are?

20          MR. THOMPSON: I could guess.

21          MR. IACOPINO: Why don't you guess for me.  
22          I'll bet it's a knowing guess.

23          MR. THOMPSON: Probably the two road  
24          agents. Former Road Agent Robert Brooks and

1 Aaron Yost. And the Fire Chief of Colebrook.

2 MR. IACOPINO: And what's his name?

3 MR. THOMPSON: Brett Brooks.

4 MR. IACOPINO: So we've got two Brooks.  
5 Brooks, Yost and Brooks?

6 MR. THOMPSON: Brooks, Yost and Brooks.  
7 Yes.

8 MR. IACOPINO: Yes. Same goes for you,  
9 Mr. Thompson. You did not file Prefiled  
10 Testimony from them.

11 MR. THOMPSON: It's hard to believe I  
12 didn't understand how to do everything.

13 MR. IACOPINO: No, I understand. But same  
14 that I said to Ms. Lee is that normally they  
15 would not be permitted to testify unless they've  
16 filed Prefiled Testimony. The deadline is gone.  
17 So in order to --

18 MR. THOMPSON: So I would have to file for  
19 relief.

20 MR. IACOPINO: Yes. And Mr. Cunningham,  
21 there's been a suggestion that you've listed  
22 witnesses that were not on, and you've been  
23 through this more than these guys so --

24 MR. CUNNINGHAM: I am totally guilty of not

1 filing Prefiled Testimony. Let me tell you what  
2 I want to do with Kevin Spencer and Mark  
3 Legasse. Kevin, this is a home-built project.  
4 Kevin is the carpenter that has been building  
5 the lodge. Mark Legasse is the equipment and  
6 money guy. What I want to do during the  
7 proceeding is to have all three of my witnesses  
8 on the witness stand. Karen's the  
9 secretary/treasurer of the LOC. She did the  
10 Prefiled Testimony, took the pictures and so on.  
11 But what I propose to do is have all three on  
12 the witness stand as a group. And should there  
13 be a question about who did what or why they did  
14 it and what money they spent to develop this  
15 property, Kevin will be there and Mark Legasse  
16 will be there to answer any questions.

17 MR. IACOPINO: So basically backup in case  
18 Karen can't answer.

19 MR. CUNNINGTON: Precisely.

20 MR. IACOPIINO: You might want to talk to  
21 the Applicant about whether they'll agree to  
22 that or not, but if not, the same goes for you  
23 with respect to those witnesses as to the  
24 process.

1           MR. CUNNINGHAM: I think it would be  
2 particularly useful to have those two business  
3 owners and contributors available to answer  
4 questions should they arise.

5           MR. IACOPINO: But because they didn't file  
6 Prefiled Testimony, you may have to convince the  
7 Chair that it's particularly useful. You may  
8 want to speak to the Applicant first because I  
9 know sometimes when we have Applicants in here,  
10 they have backup people who provide bits of  
11 information here and there. So you may want to,  
12 I don't know if they plan on having any of that  
13 in this, I tend to doubt it, but you may want to  
14 speak to them about whether or not they'll agree  
15 with that before you file a motion if you choose  
16 to do so.

17           MR. CUNNINGHAM: I don't expect any  
18 difficulty from Barry or Tom or Marvin.

19           MR. IACOPINO: Okay. Were there any other  
20 parties that had witnesses that you did not  
21 receive Prefiled Testimony on?

22           MR. NEEDLEMAN: There are no other parties  
23 that we identified. I think there were  
24 additional ones on Mr. Thompson's list beyond

1 the ones he mentioned, but I'm guessing he  
2 understands the issue.

3 MR. IACOPINO: Okay. So apparently they  
4 think there's somebody besides Brooks, Yost and  
5 Brooks on your list.

6 MR. THOMPSON: Brandon Kernan. That could  
7 be very true.

8 MR. IACOPINO: We don't need to go through  
9 them. The situation is what it is, and you  
10 understand.

11 MR. THOMPSON: I do understand. Thank  
12 you.

13 MR. ROTH: Seeing Brandon Kernan's name on  
14 this list, and I'm not trying to make a point  
15 other than so that people are aware of this. It  
16 is my assumption that there will not be people  
17 from, for example, the Department of  
18 Environmental Services or the Department of  
19 Transportation who can be questioned about the  
20 permit conditions that they have rendered or I  
21 guess also the Department of Historic and  
22 Cultural Resources and their responses. There  
23 will not be people present who can be  
24 cross-examined by any of the parties from any of

1           those agencies in this docket.

2           MR. IACOPINO: They have not been named as  
3 witnesses by any of the parties that I'm aware  
4 of. None of them have chosen to participate  
5 under the various means in which the statute  
6 allows state agencies to participate as parties  
7 here, whether it be by intervention or by simply  
8 naming liaison and working in there.

9           Now, that doesn't mean that the Committee  
10 itself might not summons somebody from one of  
11 those agencies to come in and explain something.  
12 That's happened in the past as well. But right  
13 now, as far as the parties' presentations go,  
14 that's my understanding is that there are no  
15 witnesses from the state agencies who will be  
16 called as witnesses.

17           Ms. Menard, I'm sorry. Your hand was up  
18 before.

19           MS. MENARD: No problem. Jeanne Menard.  
20 Can the witnesses that have not filed Prefiled  
21 Testimony testify as rebuttal witnesses?

22           MR. IACOPINO: You would have to make a  
23 case for it to the Chairman of the Committee,  
24 although I don't know what you're rebutting

1 because the Prefiled Testimony from the  
2 Applicant has been filed. If you're going to  
3 rebut that, you would have done that in Prefiled  
4 Testimony filed by you. So I don't know that  
5 it's actually proper for rebuttal unless there  
6 is something that occurs on their  
7 cross-examination that might call for rebuttal,  
8 but it would be a stretch. But the proper way  
9 to deal with that would be to ask the permission  
10 of the chair.

11 MS. MENARD: Thank you.

12 MR. IACOPINO: Anybody else have any  
13 questions about witnesses not being on witness  
14 lists? Okay. All right.

15 Couple just minor things. Other than for  
16 the Applicant's team and Counsel for the Public,  
17 we don't have assigned seating in this room.  
18 But it is nice if once you guys get accustomed  
19 to being here, once we're in the hearings, you  
20 sit in the same place. I don't know if you've  
21 noticed, but the way the sound is is somebody  
22 will say something from the front row and I'm  
23 looking back there because it's just the way it  
24 sounds. Sounds like it's coming from further

1 away. But if you're in the same place, it will  
2 make it easier for our court reporters, and  
3 there will be more than one during the course of  
4 these proceedings, to know who's speaking. And  
5 again, just as most of you have done very well  
6 today, identify yourself before you speak, and  
7 we should get a nice clean record that way.

8 I think we've addressed everything that I  
9 had on my agenda. I'm pretty sure we got  
10 through most of the issues raised in Ms.  
11 Manzelli's memo. Is there anything that I  
12 missed in your memo, Ms. Manzelli?

13 MS. MANZELLI: I was looking for some  
14 confirmation today that you would put into the  
15 order when historic and public interests should  
16 be addressed.

17 MR. IACOPINO: Oh, I wanted to address that  
18 with the Applicant. What is your understanding  
19 of when you're going to present your, I mean,  
20 I'll go back to my -- none of the witnesses that  
21 you have on your list right now are Historic.  
22 Some of them might have to do something with the  
23 Public Interest but depends how broadly you  
24 define that, I suppose.

1           MR. NEEDLEMAN: Our cultural resources  
2 experts, which is what I would call it, will be  
3 a panel in what we're calling Track 2.

4           MR. IACOPINO: So basically that Historic  
5 aspect would be Track 2. Now, public interest  
6 is interesting because it's we've only had one  
7 hearing where the new statute has been in  
8 effect. Our experience in that is sort of the  
9 public interest sort of involves every other  
10 aspect of it, and I don't know, is there a  
11 witness who -- I don't believe there's a witness  
12 in this case who addresses solely the public  
13 interest. So I would think that any public  
14 interest cross-examination really could be asked  
15 of any witness in the context of what they know  
16 and what they testify about.

17           MS. MANZELLI: And we agree with that. I  
18 think it's important for the record that there  
19 be an order stating when we could expect to  
20 address Historic and when we could address  
21 Public Interest, and that Public Interest would  
22 pervade Track 1, 2 and 3, et cetera.

23           MR. IACOPINO: I think that will make it  
24 into the order as well. Obviously, though, I

1 mean, I don't think that the Chair is going to  
2 allow somebody to stretch something that a  
3 witness is not either qualified or maybe  
4 prepared to testify or hasn't testified about  
5 into a public interest issue just because you  
6 label it public interest, but I think the public  
7 interest issue does spread across all of the  
8 other criteria.

9 Mr. Baker, you had a question about witness  
10 panels.

11 MR. BAKER: Yes.

12 MR. IACOPINO: Generally what we do is we  
13 allow the party who is presenting the witness or  
14 witnesses to make a determination as to whether  
15 or not those witnesses should be in a panel.  
16 For instance, the witness list that has been  
17 provided by the Applicant for Track 1 has a  
18 panel in it. They've decided they would like to  
19 present their evidence in that fashion.  
20 Generally, that's the same for everybody  
21 although we ask that you keep it to the same  
22 issues.

23 Sometimes, for instance, in the Antrim Wind  
24 case, we had a panel of witnesses who were all,

1 I think there were non-abutters. They all had  
2 the same interests in the case, it was all  
3 primarily aesthetic although there was some  
4 noise-related issues that they testified about,  
5 and I think there was four of them testified as  
6 a panel. They happened to be all the members of  
7 that intervenor group as well. There was nobody  
8 who was a subject matter expert. They all had  
9 just the interest of their homes were near, and  
10 they were asserting that they were going to be  
11 affected by the project.

12 Generally, we allow the party putting forth  
13 the witness to determine if they want to present  
14 them in a panel or not. But if you do present a  
15 panel, it should be on an issue basis. If  
16 everybody says the same thing, it makes a good  
17 panel but --

18 MR. BAKER: I'm thinking of my four  
19 clients. They're all North Country land owners.  
20 Some are under the right-of-way, some are on  
21 roads, but they all have similar interests in  
22 primarily the aesthetics.

23 MR. IACOPINO: And they've filed Prefiled  
24 Testimony.

1           MR. BAKER:  And they all four filed  
2           prefiled, yes.

3           MR. IACOPINO:  I don't see any problem with  
4           that proposal to present them as a panel.  I  
5           think it makes things more efficient, and it's  
6           generally worked.  I don't think the Applicant  
7           has any objection to that?  You've done it  
8           before.

9           MR. NEEDLEMAN:  Yes.  Certainly.

10          MR. IACOPINO:  At least your lawyers have.

11          MR. NEEDLEMAN:  Certainly not in that case,  
12          and typically it's up to the party presenting  
13          witnesses to make the determination.

14          MR. IACOPINO:  I mean, the thing is even if  
15          the panel is made up of people who might have a  
16          little bit of diverse interests which generally  
17          happens, then somebody will turn to the Chair  
18          and say I'm going to ask questions of witness A  
19          first and then witness B next.  But nonetheless,  
20          yes.  I think that you should, and for all of  
21          the parties, you can proceed by panel if that's  
22          the way you choose to present your evidence.  
23          It's just that the panel members should have  
24          some consistency amongst them in what they're

1           testifying about. Is there any other questions  
2           about panel presentations?

3           Ms. Manzelli, anything else you wanted to  
4           address?

5           MS. MANZELLI: Were we going to go through  
6           and poll the parties on how long they expected  
7           to cross-examine the Applicant's witnesses?

8           MR. IACOPINO: We can do that. Let's start  
9           with Forest Society.

10          MS. MANZELLI: Sure. And if the will of  
11          the room is to not do this, that's fine with us.

12          MR. IACOPINO: I actually think it will be  
13          helpful.

14          MS. MANZELLI: Okay.

15          MR. IACOPINO: Why don't we.

16          MS. MANZELLI: So for Mr. Quinlan, one and  
17          a half hours. For the Bowes and Ausere panel,  
18          two hours. For the Bailey/Johnson/Bell panel,  
19          30 to 60 minutes and for Mr. Andrew, 15 minutes.

20          MR. IACOPINO: Tom?

21          MR. PAPPAS: To be determined. I really  
22          don't know. We haven't prepared yet so --

23          MR. REIMERS: Can I ask Tom a question?

24          MR. IACOPINO: Sure.

1 MR. REIMERS: Tom, do you think it's  
2 realistic, for example, Mr. Quinlan to be  
3 finished in a day?

4 MR. PAPPAS: With just me?

5 MR. REIMER: If we're going to have up to  
6 an hour and a half. And if you guys go first.

7 MR. PAPPAS: We're not going first because  
8 Chris is going in front of me.

9 MR. REIMERS: Right.

10 MR. PAPPAS: I really don't know. I mean,  
11 I'd be guessing, and I don't want to guess and  
12 have 60 people rely on a guess when I haven't  
13 prepared yet.

14 MS. MANZELLI: And we should say these are  
15 guesstimates. These are estimates for the  
16 purpose of scheduling or figuring out logistics.

17 MR. IACOPINO: Mr. Thompson.

18 MR. THOMPSON: Are you talking about Track  
19 1 only?

20 MR. IACOPINO: Yes. We're talking about  
21 the witnesses, Mr. Quinlan, the Bowes panel,  
22 Bowes and Ausere panel, the Bailey/Johnson/Bell  
23 panel and then Mr. Andrew.

24 MR. THOMPSON: I would say that the only

1           one that I will definitely want to talk to is  
2           Mr. Bowes. I am going to review the prefiled  
3           testimony of the others just in case, but I  
4           doubt there will be any questions.

5           MR. IACOPINO: Do you know how long you  
6           might be spending with Mr. Bowes?

7           MR. THOMPSON: 45 minutes to an hour maybe.

8           MR. IACOPINO: Mr. Baker?

9           MR. BAKER: I'd have to pass that question  
10          to Art.

11          MR. IACOPINO: Mr. Cunningham?

12          MR. CUNNINGHAM: I do not know, do not want  
13          to say.

14          MR. IACOPINO: Mr. Judge? You indicated  
15          you were going to do one of these guys, if I  
16          remember correctly.

17          MR. JUDGE: Yes. Quinlan just filed  
18          Supplemental Testimony. In the interest of  
19          adding a little levity to this, can we also  
20          guess where the Red Sox are going to finish this  
21          year?

22          MR. IACOPINO: I don't think there's much  
23          dispute about that in this room.

24          MR. JUDGE: Very well. They'll be behind

1 the Mets.

2 MR. IACOPINO: So you don't have any  
3 estimate?

4 MR. JUDGE: I have no estimate that would  
5 be accurate.

6 MR. IACOPINO: Okay. Ms. Saffo?

7 MS. SAFFO: I'm clearly hoping not to  
8 duplicate questions asked by other people. So  
9 I'm going to estimate 15 minutes to a half an  
10 hour for each panel, but, definitely, I'll be  
11 listening to other people in front of me.

12 MR. IACOPINO: I appreciate that.

13 MS. SAFFO: And if it's already asked, I'm  
14 not going to ask. So I think it's really hard  
15 to estimate is the reality of it.

16 MR. IACOPINO: It is, but we're in the  
17 exercise anyway. Mr. Belliveau and Mr. Raff? I  
18 think Mr. Raff disappeared.

19 MR. BELLIVEAU: I think Attorney Raff has  
20 left for the day, but our time will be brief.

21 MR. IACOPINO: I'll write brief. Mr.  
22 Boldt, while I'm on the ones who are going  
23 first.

24 MR. BOLDT: Maybe 30 minutes on

1 Mr. Quinlan, maybe 45 minutes on the Bowes,  
2 Ausere. Don't know on the following panel or on  
3 Mr. Andrew at all yet.

4 MR. IACOPINO: Mr. Palmer?

5 MR. PALMER: We'll estimate 15 to 30  
6 minutes for each of the witnesses.

7 MR. IACOPINO: Thank you. Who's the next  
8 party?

9 MR. SAMSON: Commissioner Samson. In  
10 Mr. Ellis's absence of volunteering to be the  
11 one asking the questions, I don't have an answer  
12 for you. I'm sorry.

13 MR. IACOPINO: Okay. Is there another  
14 group back there that I can't identify? Ms.  
15 Percy?

16 MS. PERCY: Brief.

17 MR. IACOPINO: Okay. Mr. Foulkes?

18 MR. FOULKES: With any luck, the questions  
19 will have been asked, but we figure with  
20 Mr. Quinlan maybe 15 minutes. For Bowes and  
21 company, no more than 20, and very brief for  
22 Bailey, maybe ten minutes, if that. Twenty  
23 minutes. She wants 20 minutes.

24 MR. IACOPINO: Okay. Who's next back in

1           that row?

2           MS. MENARD: Deerfield Abutters?

3           MR. IACOPINO: Thank you, Ms. Menard.

4           MS. MENARD: Thirty minutes for  
5 Mr. Quinlan. 30 minutes for the panel of  
6 Bailey, Bell and Johnson. Five minutes for  
7 Mr. Andrew. And 15 minutes for Mr. Ausere. And  
8 Bob Cote has checked in, and he is available and  
9 will be the spokesperson.

10          MR. IACOPINO: Great. Thank you.

11          MS. MENARD: For the economic.

12          MS. BILODEAU: Joan and Phil Bilodeau.  
13 Probably brief, and like Mr. Foulkes, probably  
14 our questions will have been answered but maybe  
15 five minutes. Thank you.

16          MR. IACOPINO: Thank you. Have I missed --

17          MR. STAMP: Twenty minutes total.

18          MR. IACOPINO: I'm sorry?

19          MR. STAMP: Twenty minutes total.

20          MR. IACOPINO: Of all four of them?

21          MS. DRAPER: Twenty minutes for each.

22 Gretchen Draper. PRLAC. Thank you. Pemi.

23          MR. IACOPINO: Ms. Birchard?

24          MS. BIRCHARD: I will attempt, again, this

1 is Melissa Birchard. NGO Intervenors. I will  
2 attempt to avoid duplication, but if I had to  
3 guesstimate, I would suggest, probably on the  
4 outside, but for Mr. Quinlan one hour, for the  
5 Bowes panel one hour, no questions for the  
6 Bailey panel and 30 minutes for the Andrew  
7 examination.

8 MR. IACOPINO: Mr. Whitley?

9 MR. WHITLEY: We don't have any estimates  
10 at this time, unfortunately. I mean, I  
11 anticipate we'll have cross-examination for all  
12 of them, but I couldn't give you an estimate  
13 right now.

14 MR. IACOPINO: Ms. Pasik?

15 MR. WHITLEY: I think that goes for all of  
16 the represented municipalities.

17 MR. IACOPINO: You, too, Ms. Fillmore?

18 MS. FILLMORE: Yes.

19 MR. IACOPINO: Ms. Lee?

20 MS. LEE: I'll reserve 15 minutes.

21 MR. IACOPINO: For each one?

22 MR. LEE: For the whole lot.

23 MR. IACOPINO: Is there anybody I missed  
24 that's here? Yes?

1 MS. MENARD: I'm sorry. We had an  
2 omission. Could we also add 15 minutes for  
3 Mr. Bowes?

4 MR. IACOPINO: I thought you already said  
5 that. So 30 minutes for Bowes/Ausere then. You  
6 had indicated 15 minutes for Mr. Ausere. I  
7 thought. And he's in a panel with Mr. Bowes.

8 MS. MENARD: Yes. Okay. I'm sorry for the  
9 confusion.

10 MR. IACOPINO: So you're saying you want an  
11 additional 15 minutes for that panel.

12 MS. MENARD: Yes, please.

13 MR. IACOPINO: Okay. So that would be 30  
14 minutes for that panel. And nobody's going to  
15 hold you, we're not going to have a buzzer up  
16 here and buzz you off. This is just really for  
17 planning purposes. Actually, I've just been  
18 advised that the Chairman may. But I doubt it.  
19 Although we did have at the public hearing, I  
20 believe at a couple of them we did have a red  
21 light like in the Supreme Court. That's always  
22 fun.

23 I think we've exhausted all the Prehearing  
24 Conference issues that I'm aware of. Is there

1 any other business that anybody thinks should be  
2 taken up? Ms. Manzelli?

3 MS. MANZELLI: Can we incorporate the  
4 hearing room technology as part of the  
5 Prehearing Conference so the information about  
6 that is incorporated into the report? I don't  
7 understand why it's -- there seems to be some  
8 sort of bifurcation, you know, that this is the  
9 end of the Prehearing Conference, and now we're  
10 going to talk about hearing room technology.

11 MR. IACOPINO: My concern is we have a  
12 court reporter, and I was envisioning we're all  
13 going to go down here around the thing and see  
14 how it works and whatnot, and it would be very  
15 difficult to take that down in a transcript.

16 MS. MANZELLI: I understand that and  
17 appreciate that. That's totally acceptable, of  
18 course. But could you perhaps give us a verbal  
19 overview of what these screens at this table  
20 will be used for, what those will be used for?  
21 I believe, you know, there are work stations  
22 over there. What those will be used for, the  
23 big screens, just kind of lay that out for us?

24 MR. IACOPINO: I am not the person to do



1 ADMINISTRATOR MONROE: It's looking at it.  
2 So that's for those of you that don't want to  
3 actually plug into the system. So we have, this  
4 is the control box over here. All this is is  
5 Dawn Gagnon can switch what we're actually  
6 looking at. So I guess I'm going to switch you  
7 over. We don't have a computer. Can you plug  
8 in there, Mike? Maybe we can get Mike plugged  
9 in. Mike's going to plug in his computer and  
10 we're going to switch over to the, going to shut  
11 off ELMO. You're going to switch over? No, I  
12 still see ELMO.

13 So now you're looking at, if you wanted to  
14 plug in. So we've got four essential plug-ins.  
15 There's one here at the Counsel for the Public  
16 table. That's hard-wired. We've got one over  
17 here for the Applicants. We've got one over  
18 here for the witnesses. So if you wanted and  
19 this, for your experts, Amy, if you wanted to  
20 use it for your witnesses to pull up their  
21 visual impact assessments.

22 MS. MANZELLI: Can I take a stab at  
23 technology explanation which is not my strong  
24 suit, but I just looked at my computer and I

1 think that this is called an HDMI?

2 ADMINISTRATOR MONROE: That is an HDMI.

3 Correct, Dawn?

4 MS. GAGNON: Yes.

5 ADMINISTRATOR MONROE: We also have  
6 adaptors for folks, but if you have a HDMI, if  
7 your computer has the ability to have an HDMI  
8 adaptor, this is the other port right here that  
9 Mike has plugged in. We're going to make some  
10 larger tables up here. That's why we've got the  
11 microphone up here. So that folks that want to  
12 come. It's just the amount of wires, we're  
13 limited. So if folks want to be able to come up  
14 when they do their cross-examination and use  
15 their computers to pull up their exhibits, they  
16 can be able to plug in right here so that's the  
17 four.

18 MS. FILLMORE: Will there be any problem  
19 with the Mac?

20 ADMINISTRATOR MONROE: My understanding is  
21 she has Apple TV that runs on the Wi-Fi,  
22 correct, Dawn?

23 MS. GAGNON: Yes.

24 MS. FILLMORE: So if I plug the HDMI into

1 my MacBook, it will still be okay?

2 MS. GAGNON: Can you go to AirPlay?

3 ADMINISTRATOR MONROE: We can also set up  
4 some specific times, Christine. Dawn has been  
5 very accommodating and perhaps we can do some  
6 dry runs on? There's Dawn's phone on the  
7 screen. She's showing her Apple TV. Now we're  
8 going to link somebody in. There you are.

9 MS. FILLMORE: We will not clear my  
10 cookies. That's okay.

11 ADMINISTRATOR MONROE: So now we're looking  
12 at Christine's -- so she can do it without being  
13 plugged in. The beauty of Apple products, I  
14 guess. I'm a Droid user myself.

15 Hold on. Hold on. We're actually still on  
16 the record here so we need to have some  
17 semblance of order. So Mr. Kucman, do you have  
18 a question? If you do, please identify yourself  
19 and use the microphone for the court reporter.

20 MR. KUCMAN: This is Taras Kucman from  
21 Concord. I'm just looking, and this is all  
22 great, but how does one take precedence over  
23 another? You had Mr. Iacopino plugged in and  
24 then somebody else plugged in from over there

1 and somebody else plugged in from over there.  
2 How do the monitors know?

3 ADMINISTRATOR MONROE: It's a switch.

4 MS. GAGNON: Only one person can be live at  
5 a time.

6 MR. KUCMAN: Who controls the switch? You  
7 would be the coordinator?

8 MS. GAGNON: Yes. If you were up there,  
9 whoever is cross-examining or asking questions  
10 would be live. If they wanted to use electronic  
11 technology. So they would be live whether they  
12 use Apple TV, whether they use the ELMO, whether  
13 you use a laptop. You just need to tell me  
14 which one because each one has a different port.  
15 I plug in your port number and you're live. To  
16 disconnect, you just unplug.

17 ADMINISTRATOR MONROE: Only one person at a  
18 time. Thank you. That's a good question.

19 So I guess this has been a learning  
20 experience for me. If you want to use your  
21 Apple products, you don't actually have to come  
22 plug in here.

23 MS. PACIK: Is there a way to get  
24 additional ports for people like us over here

1           where we're trying to look up so that we could  
2           have, if we brought in a monitor or did  
3           something we could have something on this table?

4           ADMINISTRATOR MONROE:   Another monitor?  
5           Well, that was the intent of these right here.  
6           You can't see them?

7           MS. PACIK:   I have a short neck.

8           ADMINISTRATOR MONROE:   Can we move the  
9           tables?   The plan was this is what we have.   So  
10          I don't know if that's possible or not.

11          MS. PACIK:   Okay.

12          ADMINISTRATOR MONROE:   But we certainly  
13          have the ability to reconfigure the -- and you  
14          don't have to sit there.   You could find a more  
15          comfortable spot.   Maureen Quinn?

16          MS. QUINN:   For those of us whose Apple  
17          laptops are not as new perhaps, and we might not  
18          have the capability to use Apple TV, will that  
19          device, that's USB on one end?

20          MS. GAGNON:   It's an HDMI cable, and  
21          there's either a video port to your computer or  
22          a micro.   Like a thunderbolt flash?   You know,  
23          the input to your computer that would connect it  
24          to the HDMI.   So you can test it.   Can actually

1 try it and see if it works.

2 ADMINISTRATOR MONROE: And we can do that  
3 if you're willing to stay, Dawn, and once we go  
4 off the record if folks want to try and plug in  
5 there if you have it with you, Ms. Quinn. We  
6 can try to plug folks in. Yes. Ms. Pacik?

7 MS. PACIK: So when our witnesses are  
8 testifying, as attorneys or spokespeople, we  
9 will be up at the table with them? Is that  
10 correct?

11 MR. IACOPINO: No. Not normally. Usually  
12 your questions are asked from your table or if  
13 you want to move up here because for some reason  
14 you have to take the witness to look at  
15 something.

16 ADMINISTRATOR MONROE: The witnesses can  
17 see on the screen.

18 MR. IACOPINO: The witnesses will be over  
19 here, but the lawyer examining them, if he or  
20 she wishes to be, because they want to use the  
21 technology, can be right up here at this table.  
22 We can bring a chair there, and they can either  
23 show the document on the document projector or  
24 plug in their, whether it's a laptop or iPad or

1           whatever to connect and show the documents that  
2           you want to show to the witness.

3           MS. PACIK:   Okay.   So for both direct  
4           examination of our own witnesses and  
5           cross-examination of others, we will do it from  
6           our table.

7           MR. IACOPINO:   Yes, but let's remember.  
8           Most direct testimony is basically is this your  
9           Prefiled Testimony?   Yes, it is.   Do you swear  
10          that it's true?   Yes, I do.   I mean, your direct  
11          is already done.

12          MS. PACIK:   That's fine.   I just wanted  
13          clarification on that.   Thank you.

14          MR. WHITLEY:   Followup on that question.  
15          So if one of our witnesses is being  
16          cross-examined, the witness is the only one  
17          sitting at those tables.

18          ADMINISTRATOR MONROE:   This is the witness  
19          table.

20          MR. WHITLEY:   In contrast to the technical  
21          session when we were seated up there with our  
22          witnesses and you guys were at the witness  
23          table, in other words, attorneys will not be  
24          present at the table with the witnesses.

1 MR. IACOPINO: Correct.

2 ADMINISTRATOR MONROE: Correct. The  
3 Committee will be here, Subcommittee will be  
4 here and this is for the witnesses. Ms.  
5 Manzelli?

6 MS. MANZELLI: Where will you and SEC  
7 counsel be?

8 MR. IACOPINO: At one end or the other of  
9 this table.

10 ADMINISTRATOR MONROE: I know where he'll  
11 be. I'm not sure where I'll be. I'll probably  
12 be everywhere.

13 MR. IACOPINO: I'll probably be right here.  
14 Usually, well, not always, sometimes, most of  
15 the time the Chair wants counsel next to him.  
16 Generally, Pam has been at one end or the other  
17 of the table so that she can get out there.

18 ADMINISTRATOR MONROE: I can run. Do  
19 whatever I need to do.

20 MR. IACOPINO: But that's generally the way  
21 he wants it.

22 ADMINISTRATOR MONROE: We also have a  
23 scanner over there so if folks want to use the  
24 ELMO, we will have the ability for the, I can

1 scan and then send it out to people afterwards  
2 so that people have the exhibit.

3 MR. IACOPINO: You mean if there's a  
4 document that hasn't been marked?

5 ADMINISTRATOR MONROE: Or if we don't have  
6 enough copies.

7 MR. IACOPINO: Or if some impeachment  
8 evidence?

9 ADMINISTRATOR MONROE: Any other questions?  
10 Okay. I guess we can close the record.

11 (Discussion off-the-record)

12 MR. THOMPSON: Is there audio to go with  
13 this?

14 ADMINISTRATOR MONROE: No. This is the  
15 audio.

16 MR. THOMPSON: How would our video that we  
17 produced --

18 MR. IACOPINO: You put the microphone to  
19 the speaker on your computer.

20 MR. THOMPSON: And that will work?

21 MR. IACOPINO: I'll tell you what. We'll  
22 try it out after we close the record. I might  
23 have a something that's audio on here. Maybe a  
24 little Bruce Springsteen on here or something.

1 ADMINISTRATOR MONROE: Okay. Any other  
2 questions? We also are prepared to, we don't  
3 want to give anybody legal advise, but some of  
4 the pro se folks that are here, if you have  
5 specific questions that Mike and I can possibly  
6 help you with as far as what's going to happen  
7 here, I mean, we've covered a lot of ground  
8 today, but we're happy to help you the best that  
9 we can without giving you legal advice so that  
10 things go as smoothly as possible. So folks  
11 that want to stay, feel free to come up, and if  
12 you have questions, we'll answer them. So that  
13 will close the record. Thank you, Cindy.

14 (Prehearing Conference ended at 3:50 p.m.)  
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