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STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

October 6, 2017 - 9:08 a.m. DAY 44  
49 Donovan Street MORNING Session ONLY  
Concord, New Hampshire

{Electronically filed with SEC on 10-13-17}

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

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

Chrmn. Martin P. Honigberg Public Utilities Comm.  
(Presiding as Presiding Officer)  
Cmsr. Kathryn M. Bailey Public Utilities Comm.  
Dir. Craig Wright, Designee Dept. of Environ. Serv.  
Christopher Way, Designee Dept. of Resources &  
Economic Development  
William Oldenburg, Designee Dept. of Transportation  
Patricia Weathersby Public Member

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq., Counsel to the SEC  
(Brennan, Caron, Lenehan & Iacopino)

Pamela G. Monroe, SEC Administrator  
(No Appearances Taken)

COURT REPORTER: Susan J. Robidas, NH LCR No. 44

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

2 CHAIRMAN HONIGBERG: Good  
3 morning, everyone. Starting Day 44 of the  
4 Northern Pass hearings. I believe the first  
5 witness we're hearing from today is Mr. Otten.  
6 He is already in place. Is there anything we  
7 need to do before he is sworn in?

8 [No verbal response]

9 CHAIRMAN HONIGBERG: Swear in the  
10 witness, please.

11 (WHEREUPON, LESLIE B. OTTEN was duly  
12 sworn and cautioned by the Court  
13 Reporter's.)

14 CHAIRMAN HONIGBERG: Mr.  
15 Beliveau.

16 DIRECT EXAMINATION

17 BY MR. BELIVEAU:

18 Q. Good morning. Mr. Otten, for the record,  
19 could you please state your name and your  
20 position with the Balsams Resort Holdings and  
21 Dixville Capital.

22 A. Leslie Bennett Otten, and I'm the lead  
23 developer at the Balsams.

24 Q. Could you just very briefly describe the

1 business purpose of the Balsams Resort  
2 Holdings and Dixville Capital.

3 A. The Balsams closed in 2011. And along with  
4 a team of people that I've been working with,  
5 we're trying to reopen the resort, redevelop  
6 the property.

7 Q. Thank you. So I have given you two exhibits  
8 this morning, an exhibit that's marked BUS 1  
9 is your prefiled testimony that was submitted  
10 on November 15th, 2016. And the second  
11 exhibit is BUS 2, and that is your  
12 supplemental prefiled testimony submitted on  
13 March 24, 2017. Do you have any changes that  
14 you would like to make to your prefiled  
15 testimony?

16 A. The only change is that we'd indicated  
17 approximately \$18 million of real estate, and  
18 that's grown to almost \$25 million since that  
19 time.

20 Q. Is that in presales?

21 A. In presales of real estate, yes.

22 Q. Thank you.

23 MR. BELIVEAU: Mr. Chairman, Mr.  
24 Otten is ready for cross-examination.

1 CHAIRMAN HONIGBERG: And if you  
2 asked him the same questions, he would give the  
3 same answers, and he adopts that testimony;  
4 correct?

5 MR. BELIVEAU: Yes.

6 WITNESS OTTEN: Yes.

7 CHAIRMAN HONIGBERG: All right.  
8 And according to my list, the municipal groups  
9 are going first. Oh, no, I'm looking at the  
10 wrong list. Mr. Pappas, you are up. Sorry.  
11 I'm looking at the wrong list.

12 MR. PAPPAS: That's okay.

13 CROSS-EXAMINATION

14 BY MR. PAPPAS:

15 Q. Good morning, Mr. Otten. My name is Tom  
16 Pappas. I represent Counsel for the Public  
17 in this proceeding. I want to start by just  
18 asking you a little bit about your  
19 background. You have extensive experience in  
20 ski reports; is that correct?

21 A. Yes.

22 Q. And you have operated several ski resorts in  
23 New England; correct?

24 A. Yes.

1 Q. You operated Sunday River and Sugarloaf over  
2 in Maine?

3 A. Yes.

4 Q. You operated Attitash in New Hampshire?

5 A. Yes.

6 Q. And you operated Killington, Sugarbush and  
7 Mount Snow in Vermont?

8 A. Yes.

9 Q. Would you agree with me that the focal point  
10 of those resorts in New England is the ski  
11 area itself?

12 A. Yes.

13 Q. Would you also agree with me that the primary  
14 reason people go to these ski resorts is to  
15 ski?

16 A. Yes.

17 Q. Okay. Let me ask you some questions about  
18 the Balsams and the redevelopment of the  
19 Balsams. Now, the Balsams is located in  
20 Dixville Notch; correct?

21 A. Yes.

22 Q. And it's surrounded by some mountains; is  
23 that right?

24 A. It is.

1 Q. And you would agree with me, there are some  
2 gorgeous views of Dixville Notch from the  
3 front of the Dix House.

4 A. Yes.

5 Q. And there will be equally gorgeous views of  
6 Dixville Notch and the surrounding mountains  
7 from the new buildings you propose to  
8 construct; correct?

9 A. Yes.

10 Q. Would you agree with me that the setting of  
11 the Balsams and the views from the Balsams  
12 and the buildings there are one of the things  
13 that makes the Balsams Resort special?

14 A. Yes.

15 Q. Would you agree with me, the stunning views  
16 are prominently shown on virtually every page  
17 of your web site?

18 A. Yes, I would hope so.

19 Q. They are. I looked at it yesterday.

20 Now, in your prefiled testimony at  
21 Lines 24 and 25, you testified that the  
22 Northern Pass Transmission Line is  
23 approximately 4 miles from where the majority  
24 of the redevelopment of the Balsams would be

1 constructed. Do you recall that?

2 A. Yes.

3 Q. And when you were referring to the "majority  
4 of the redevelopment of the Balsams," are you  
5 referring to the buildings that either  
6 currently exist or will be added to the  
7 currently existing buildings?

8 A. The first few buildings will be located  
9 adjacent to the existing buildings, and  
10 that's the location that we're discussing.

11 Q. Okay. Mr. Otten, do you see a map on the  
12 screen in front of you?

13 A. Yes.

14 Q. Okay. So what's on the screen in front of  
15 you is Applicant's Exhibit 201, Bates stamp  
16 No. 67785. And that is a page from the  
17 Applicant's August 2017 supplemental project  
18 maps. Have you looked at these maps before?

19 A. I'm not familiar with this map.

20 Q. Okay. Well, what this map shows is the  
21 proposed new transmission line in this area  
22 of the state. And if you look --

23 MR. IACOPINO: Mr. Pappas, we  
24 have a screen out down here. Dawn's on her way.

1 (Pause in proceedings)

2 BY MR. PAPPAS:

3 Q. Mr. Otten, on the screen in front of you is a  
4 page depicting the new transmission line in a  
5 section of Dixville. And are you familiar  
6 that in the Dixville area, the new  
7 transmission line will be a new right-of-way  
8 corridor through the Wagner Forest? Are you  
9 familiar with that?

10 A. Yes.

11 Q. And do you see.

12 Nathan Pond?

13 A. I do.

14 Q. And is the Balsams Resort south of Nathan  
15 Pond?

16 A. I'm sorry. From a geographic standpoint, I'm  
17 not able to tell you -- I'm not -- I don't  
18 think I understand what I'm supposed to be --  
19 or what you're asking me.

20 Q. Okay. Let me do this: Mr. Otten, what's in  
21 front of you now is Counsel for the Public  
22 583. Do you see that?

23 A. I see it, yes.

24 Q. Okay. And if you look at this exhibit, it is

1 a map that includes portions of Dixville. Do  
2 you see Dixville on the right-hand side?

3 A. I do.

4 Q. And if you look up at the top right-hand  
5 portion, first you can see the Nathan Pond  
6 Ridge in black. Do you see that?

7 A. Yes.

8 Q. Next to that do you see Nathan Pond?

9 A. I do.

10 Q. Okay. And then if you go south from Nathan  
11 Pond, all the way down, do you see Dixville  
12 Notch?

13 A. Yes.

14 Q. And the Balsams is located in Dixville Notch;  
15 is that correct?

16 A. That's correct.

17 Q. Do you see Route 26?

18 A. Yes.

19 Q. And the Balsams is off of Route 26 in  
20 Dixville Notch?

21 A. Yes.

22 Q. So if you recall from the prior exhibit, the  
23 new right-of-way was going to go just a  
24 little below Nathan Pond. Do you recall that

1 from the prior exhibit?

2 A. Yes.

3 Q. Okay. So is it your belief that Dixville  
4 Notch and the location of the Balsams is  
5 about 4 miles from where we saw the new  
6 transmission line?

7 A. I don't have a scale, so...

8 Q. You don't need a scale. I'm just wondering  
9 if you can tell me what your understanding is  
10 or if you have an understanding.

11 A. Well, my understanding is -- do you see on  
12 your map where you see Dixville Peak?

13 Q. I do.

14 A. And you see where you see Table Rock? If the  
15 you look in a southeasterly direction from  
16 Dixville Notch, it's about past the  
17 Millsfield line, which I think is  
18 approximately 4 miles away down Route 26 from  
19 where the buildings are going to be being  
20 built at Dixville Notch.

21 Q. So you're saying the new transmission line,  
22 where it goes through Millsfield, is south of  
23 the Balsams Resort?

24 A. Correct. Yes.

1 Q. Okay. All right. So is it your  
2 understanding that the closest it gets, the  
3 new transmission line, the closest it gets to  
4 the buildings in the Balsams Resort is about  
5 4 miles?

6 A. That's my -- from the skiing, it's about  
7 4 miles. But if I'm transposing in my mind  
8 what you were showing me earlier, it looks as  
9 though the direction going north from  
10 Dixville Notch, it may be... yeah, may be  
11 somewhat the same distance or may be a little  
12 bit less.

13 Q. Okay. What's in front of you now is Counsel  
14 for the Exhibit -- Counsel for the Public  
15 Exhibit 584, which is taken from the Balsams  
16 Resort web site. Do you recognize that  
17 picture?

18 A. I do.

19 Q. And the picture shows, on the left-hand side,  
20 if you look at the buildings in the red, are  
21 those existing buildings?

22 A. Yes.

23 Q. And if you look off to the right of the  
24 existing buildings, the sort of the tan

1 color, are those the new proposed buildings?

2 A. Yes.

3 Q. Would you agree with me that, from either the  
4 existing buildings or from the new buildings,  
5 one will not be able to see the Northern Pass  
6 Transmission Line, if it's built, from any of  
7 these buildings?

8 A. That's correct.

9 Q. Okay. And would you also agree with me that  
10 no one would be able to see the new Northern  
11 Pass Transmission Line, if it is built, from  
12 any of the grounds around these buildings,  
13 including the front lawn or behind the  
14 buildings or any of the locations depicted in  
15 this exhibit around the buildings? Is that  
16 right?

17 A. Yes.

18 Q. In your prefiled testimony, at Lines 26  
19 through 29 you were asked the question,  
20 quote, "Do you anticipate that NPT will  
21 impact the Balsams Resort's ability to sell  
22 real estate or attract vacationers?" close  
23 quote. Do you have that in front of you?

24 A. Yes, I do.

1 Q. And you answered that question, quote, "I do  
2 not believe the construction of NPT will  
3 adversely impact tourism or real estate sales  
4 based on the current route configuration,"  
5 close quote. Did I read that correctly?

6 A. Yes.

7 Q. Okay. So would you agree with me that the  
8 current route configuration will not  
9 adversely impact tourism or real estate sales  
10 because you cannot see the transmission line  
11 from the Balsams Resort?

12 A. No, not at all. That's a complete sort of --  
13 I can't agree with that statement at all.  
14 You're assuming that people will never leave  
15 their hotel room. The Balsams Resort is  
16 11,000 acres. Primarily from all of the  
17 skiing area you'll be able to see the  
18 Northern Pass Transmission Line from the top  
19 of the gondola. You'll be able to see it.  
20 You'll be able to see it from I believe Table  
21 Rock. We already have seven large wind  
22 towers on our property that can be seen, and  
23 you'll see the northern transmission line  
24 from the golf course, the Panorama golf

1 course, and from all the future development  
2 and real estate area on the east side of the  
3 mountain.

4 Q. So would you agree with me that the people  
5 going to the ski area are primarily going to  
6 ski, correct, much like the people who went  
7 to the ski areas you testified about earlier?

8 A. No, it's a very different kind of resort  
9 configuration. We're looking for long-term,  
10 week -- long-term-stay guests who will be  
11 using all the facilities, from golf to skiing  
12 to cross-country, snowmobiling,  
13 four-wheeling, hiking, biking. It's  
14 11,000 acres that make up the resort. If  
15 you're buying real estate at the Balsams,  
16 you're not just buying a room in a hotel,  
17 you're buying access to an entire piece of  
18 property. So I have to disagree with your  
19 conclusion.

20 Q. Well, would you agree with me that those  
21 folks that are going to the ski resort, when  
22 they go to the ski resort, they're going to  
23 the ski area to ski? That's why they're  
24 visiting the ski section; correct?

1 A. Again, you're conflating things that  
2 shouldn't be put together.

3 Q. Well, let's --

4 A. A ski resort is an amenity of the resort  
5 rooms. And because of our location and where  
6 we are, we don't expect to attract the same  
7 type of visitors that have gone to the other  
8 resorts that you mentioned earlier. Our  
9 visitors are visitors that are going to be  
10 coming from longer distances, staying for  
11 longer periods of time, and not coming to the  
12 resort just to ski.

13 Q. Would you agree with me that whether or not  
14 the skiers at the ski area at the Balsams can  
15 see the transmission line or can't see it,  
16 it's not going to impact their decision to  
17 either go skiing that day or not go skiing  
18 that day?

19 A. Could you repeat that?

20 Q. Sure.

21 A. Sorry.

22 Q. Would you agree with me that the decision of  
23 whether somebody at the Balsams goes to the  
24 ski resort to ski for a day, that decision is

1 not dependent on whether or not they can see  
2 the transmission line? Correct? That  
3 decision's based on whether they want to go  
4 ski.

5 A. I will assume so. But it's hard for me to  
6 actually know what someone's making a  
7 decision about. But yes.

8 Q. Would you agree with me that whether or not  
9 someone decides to go golf on the Ross course  
10 is not based on whether or not they can see  
11 transmission lines, but rather, they want to  
12 go golfing that day on a very nice golf  
13 course?

14 A. Again, you're asking me to assume what  
15 someone's thinking. I can tell you from my  
16 vantage point, I think it all sort of goes  
17 together. I think the views are important  
18 from the ski resort and from the golf course.  
19 And I think what you see from those points  
20 may be important to you, but I don't know  
21 that I can agree or disagree that that would  
22 be your decision-making point.

23 Q. Okay. So you can't -- what you're telling me  
24 is you really can't assume why somebody

1           either goes to the ski area or goes to the  
2           golf course or, frankly, goes to the other  
3           amenities at the Balsams because you can't  
4           assume what they're thinking. Is that your  
5           testimony?

6        A.    I can't assume what they're thinking. But as  
7           a business person, I made a decision that I  
8           don't believe that either the wind towers or  
9           the Northern Pass Transmission Line will  
10          negatively affect my ability to do tourism  
11          and be in the tourism business and the real  
12          estate business at this location.

13       Q.    Okay. And that's an assumption you've made  
14           as a businessperson.

15       A.    That's a -- yes. That's what I do.

16       Q.    Okay. Now, you also testified that more than  
17           90 individuals have made a 5-percent deposit  
18           to select a future condominium at the  
19           Balsams; is that right?

20       A.    That was in my testimony. That number's  
21           grown now. The gross sales represented by  
22           deposits is about just under \$25 million.

23       Q.    Okay. And are those deposits refundable  
24           deposits?

1 A. They are.

2 Q. Okay. So those individuals, if they chose  
3 to, they could receive their deposit back as  
4 of today; correct?

5 A. That's correct.

6 Q. Okay.

7 A. I should add that they started with a \$1200  
8 deposit, which was less than 1 percent.

9 Q. Mr. Otten --

10 A. -- and increased it to 5 percent.

11 Q. Okay. But nonetheless, they remain  
12 refundable; correct?

13 A. That's correct.

14 Q. Okay. So what I want to do now, Mr. Otten,  
15 is ask you some questions about the Forward  
16 NH Fund which you testified about in your  
17 prefiled testimony.

18 Now, I understand that the Balsams  
19 received a \$2 million loan from the Forward  
20 NH Fund; is that correct?

21 A. Yes.

22 Q. And the Balsams received that loan in  
23 February of 2016; is that correct?

24 A. I believe so, yes.

1 Q. Did that money come from -- to whom -- who  
2 provided that money? Who was the entity that  
3 provided that money?

4 A. Northern Pass.

5 Q. Is that Northern Pass Transmission?

6 A. Yes.

7 Q. Were you personally involved in securing this  
8 loan?

9 A. Yes.

10 Q. Who from Northern Pass Transmission did you  
11 deal with?

12 A. Bill Quinlan.

13 Q. Okay. Did Northern Pass Transmission  
14 approach you about the loan or did you  
15 approach them?

16 A. My involvement with Northern Pass -- in order  
17 to answer that question, I need to go to the  
18 beginning of the -- if that's all right.

19 Q. Well, why don't you answer the question  
20 first, and then if you want to explain it,  
21 that's fine. But it's helpful if you answer  
22 the question first.

23 Did you approach Northern Pass  
24 Transmission or did Northern Pass

1           Transmission approach you?

2    A.    That was not -- I can't answer that in that  
3           context because of the prior history.

4    Q.    Did you ask them for a loan?

5    A.    Again, because of the history leading up to  
6           that, to answering that question, I'd have to  
7           explain how we got to that point to make that  
8           answer make any sense.

9    Q.    Well, you can answer whether or not you asked  
10           them for a loan. Did you ask them for a  
11           loan?

12   A.    Yes, but there was a long lead-up to that  
13           which had nothing to do with the loan to get  
14           to that point.

15   Q.    Okay. Did the Balsams fill out a loan  
16           application in connection with securing this  
17           funding?

18   A.    No.

19   Q.    Did the Balsams submit any documentation to  
20           NPT in connection with obtaining this  
21           financing?

22   A.    Not per se.

23   Q.    Okay. Did the Forward NH Fund or Northern  
24           Pass Transmission provide the Balsams with

1 any documentation other than the loan  
2 documents themselves in connection with this  
3 funding?

4 A. There was general information shared by both  
5 parties about what they were doing, but there  
6 was no specific documentation.

7 Q. Okay. Did Northern Pass Transmission or the  
8 Forward NH Fund provide the Balsams with any  
9 criteria that the Balsams needed to meet in  
10 order to obtain this funding?

11 A. No.

12 Q. From the time that you requested funding from  
13 Northern Pass Transmission until  
14 February 2016 when you obtained funding,  
15 about how long was the process?

16 A. Well, the process actually began without any  
17 discussion of funding or the Northern Pass  
18 Transmission line.

19 Q. Yeah. What I'm interested in, though, is  
20 just the process of the funding. I  
21 understand that --

22 A. I'm sorry, but it's impossible for me to  
23 correctly answer that question without giving  
24 you the history.

1 Q. Well, let me ask you this: Do you remember  
2 about what period of time you first asked for  
3 funding, what month and year?

4 A. Again, you're asking me to answer a question  
5 that does not -- the precursor to the actions  
6 before that were not my -- I did not make a  
7 specific request for funding. And if you  
8 would allow me to explain how we got to that  
9 point, I think it would become clear.

10 Q. What I'm interested in is the date, the month  
11 and year when the issue of funding first came  
12 up. When did you first talk to them about  
13 receiving funds?

14 A. The Northern -- the fund for the future,  
15 Northern Pass fund, first came into  
16 discussion in October of 2015.

17 Q. Okay.

18 A. Approximately.

19 Q. All right. Now, after you received funding  
20 in February of 2016, have you been required  
21 to submit any documentation to Northern Pass  
22 Transmission in connection with the funding?

23 MR. BELIVEAU: Mr. Chairman.

24 CHAIRMAN HONIGBERG: Mr.

1 Beliveau.

2 MR. BELIVEAU: I'm going to  
3 object to that question. This Committee issued  
4 an order on January 19th, 2017, that made it  
5 quite clear that, with regard to any aspects of  
6 the funding, terms and conditions, the only  
7 question that would be relevant is to whether  
8 there was a quid pro quo, a condition that  
9 needed to be met in order to receive the funds.

10 CHAIRMAN HONIGBERG: Mr. Pappas.

11 MR. PAPPAS: This witness  
12 testified in prefiled testimony about the  
13 Forward NH Fund, about its criteria, about its  
14 goals, about the fact that they met them. The  
15 Forward NH Fund is a significant issue in this  
16 case. I'm not asking about specific terms of  
17 the funding. I'm asking about process. I want  
18 to know about the fund itself and how it works.

19 CHAIRMAN HONIGBERG: Overruled.

20 Do you remember the question?

21 WITNESS OTTEN: No, I don't.

22 CHAIRMAN HONIGBERG: Neither do

23 I. Mr. Pappas.

24 BY MR. PAPPAS:

1 Q. Mr. Otten, after you received funding from  
2 the Forward NH Fund, was the Balsams required  
3 to submit any documentation to Northern Pass  
4 Transmission in connection with the funding?

5 A. Not that I remember.

6 Q. The Balsams received funding from the Forward  
7 NH Fund or NPT. Has the Balsams met with  
8 anybody from NPT or the Forward NH Fund to  
9 discuss whether or not the funding has met  
10 the goals of NPT?

11 A. No, sir.

12 Q. Have you had discussions with NPT or anybody  
13 from the Forward NH Fund about additional  
14 funding, receiving additional funding from  
15 them?

16 A. Yes.

17 Q. I just want to ask you about the process of  
18 that. I don't want to ask you about specific  
19 terms and condition, but I'm interested in  
20 the process. Have you been asked to submit  
21 any documentation with respect to requests  
22 for more funds?

23 A. No.

24 Q. Have you been given any documentation that

1 provides criteria or other things that the  
2 Balsams needs to meet or do in order to seek  
3 additional funding?

4 A. The additional funding requirement that we  
5 are -- that you're alluding to and that we're  
6 discussing did have an agreement by me to  
7 testify today about my original testimony and  
8 my supplemental testimony. But it was  
9 limited to that. Otherwise, I'm just  
10 continuing to support Northern Pass, as I  
11 began to support it with Gary Long prior to  
12 the fund for the future being established in  
13 2014, when I was first approached about  
14 supporting the Forward Fund.

15 Q. So would I be correct in saying that as part  
16 of receiving funding from Northern Pass  
17 Transmission or the Forward NH Fund, you were  
18 required to testify in this proceeding?

19 A. Yes, I agreed to testify to my prior  
20 testimony today.

21 Q. Okay. Would I be correct in saying that with  
22 respect to future funding, there have been  
23 discussions but no documentation involved?

24 A. Future funding beyond where we are today?

1 Q. Correct.

2 A. There have not been discussions about future  
3 funding beyond today. Although, the Forward  
4 Fund I think is a marvelous opportunity for  
5 the North Country of New Hampshire, and I'm  
6 pleased to have been able to take part in it.

7 Q. Okay. In your supplemental prefiled  
8 testimony, you state that, quote, "The  
9 Forward NH Fund's investment in our efforts  
10 have been vital," close quote. Do you recall  
11 that?

12 A. Yes.

13 Q. Okay. Was funding from the Forward NH Fund  
14 necessary for the continued development of  
15 the Balsams?

16 A. Yes. I mean, you know, I would say decidedly  
17 yes. I think it's an extraordinary and  
18 important part of the Balsams being able to  
19 redevelop. We're in a very depressed area of  
20 the state, and the Forward Fund has been a  
21 big help to getting development moving.

22 Q. Thank you, Mr. Otten. I have no other  
23 questions.

24 CHAIRMAN HONIGBERG: I have

1           municipal groups next on my list. Who's going  
2           to be asking questions? Ms. Pacik is grabbing a  
3           microphone.

4                       MS. PACIK: We don't have any  
5           questions. Thank you.

6                       CHAIRMAN HONIGBERG: I understand  
7           Ms. Saffo is not here for the Grafton County  
8           Commissioners.

9                               Society for the Protection of  
10          New Hampshire Forests is up next. Mr.  
11          Reimers.

12                               CROSS-EXAMINATION

13          BY MR. REIMERS:

14          Q.     Good morning, Mr. Otten.

15          A.     Good morning.

16          Q.     My name is Jason Reimers, and I represent the  
17                 Society for the Protection of New Hampshire  
18                 Forests. Mr. Pappas asked nearly all of my  
19                 questions, but I want to follow up.

20                       You testified that the Balsams received  
21                 the loan, the \$2 million loan, in  
22                 February 2016?

23          A.     That's correct.

24          Q.     And February 2016 was also when you filed

1           your prefiled testimony?

2       A.    Yes.

3       Q.    You had not, prior to that, spoken publicly  
4           at an SEC public hearing or information  
5           session in favor of the Northern Pass, had  
6           you?

7       A.    I'm not sure if I had or hadn't.  But I don't  
8           have a recollection.

9       Q.    Okay.  And prior to filing your prefiled  
10           testimony, you had not spoken out publicly  
11           otherwise in favor of the Northern Pass, had  
12           you?

13      A.    No, I had spoken on many different occasions  
14           to anyone that was in the audience about the  
15           development of the Balsams and Northern Pass.  
16           It was a continued topic of conversation.  I  
17           think I addressed it with the Chamber or  
18           Commerce prior to that point.

19      Q.    Do you know when that was --

20      A.    Prior to that point.

21      Q.    -- when you addressed it with the Chamber or  
22           Commerce?

23      A.    Prior to 2016, the date that you said  
24           earlier.

1 Q. Right. My question is: Do you recall when  
2 you addressed that with the Chamber of  
3 Commerce?

4 A. Prior to that date because I remember  
5 discussing with the Chamber or Commerce my  
6 position on Northern Pass. Prior to  
7 receiving the loan, my position was well  
8 known. And the local Chamber or Commerce, I  
9 sat down with their board of directors to  
10 discuss my position.

11 Q. And do you remember when you sat down with  
12 them?

13 A. I guess, to the best of my recollection, it  
14 was prior to receiving the loan.

15 Q. But you don't know how far in advance of  
16 receiving the loan that was?

17 A. I know it was prior to that. Several months,  
18 I assume. But I shouldn't be assuming  
19 things. But I can tell you that it was prior  
20 to that date.

21 Q. Okay. So if it was several months, that  
22 would be in the early 2016, late 2015 time  
23 period?

24 A. I believe so, yes.

1 Q. You first started talking with Northern Pass  
2 about a loan in October 2015?

3 A. Well, I started talking to them about a loan  
4 when they brought up the fact to me that they  
5 were looking at the Forward Fund,  
6 establishing it. But my association began  
7 with Gary Long in 2014, when he came to visit  
8 me at my --

9 Q. Let me interrupt. My question specifically  
10 was whether you had testified just a few  
11 minutes ago that the issue -- you started  
12 first talking about funding or a loan in  
13 October 2015. Did I hear that wrong?

14 A. Began to start talking -- well, not -- began  
15 to know of the existence of the Forward Fund  
16 for the future in October of 2015.

17 Q. Okay. And are you aware that --

18 A. I believe your question was had I spoken  
19 publicly prior to receiving a loan. And the  
20 answer to that is correct. So you've got two  
21 different dates. You've got a date in 2016  
22 when we got a loan, and we have a date in  
23 2015 when we began to speak about the Forward  
24 Fund. And what I'm saying is, prior to

1 receiving the loan in 2016, I publicly spoke  
2 about my position with Northern Pass -- about  
3 Northern Pass.

4 Q. Correct. With the Chamber of Commerce.

5 A. That's correct.

6 Q. And that was a few months before you received  
7 the loan.

8 A. Yes.

9 Q. And then I followed up with a question asking  
10 you, just confirming that your testimony was  
11 that you first started talking about funding  
12 or a loan with Northern Pass in October 2015,  
13 and you answered that question.

14 A. Yes, I did.

15 Q. And are you aware that it was October 2015  
16 that the Northern Pass submitted their  
17 application to the SEC?

18 A. I would have no reason to not agree to that.

19 Q. Okay.

20 MR. REIMERS: Dawn, can you turn  
21 on the ELMO, please?

22 BY MR. REIMERS:

23 Q. I'm showing you what has been marked as SPNHF  
24 260. Do you see that?

1 A. I do.

2 Q. Probably too small for you to read. Do you  
3 recall seeing this article in InDepthNh.org?

4 A. No, I don't.

5 Q. Is that you in the photo?

6 A. Yes, it is.

7 Q. Okay. And according to the article, this is  
8 you at a Northern Pass technical session. Do  
9 you recall attending that?

10 A. Yes. I believe that was in this room.

11 Q. Okay. And do you see the highlighted part  
12 here?

13 A. Yes.

14 Q. I want to read that to you. "When pressed by  
15 Attorney Amy Manzelli, who represents the  
16 Society for the Protection of New Hampshire  
17 Forests, if his support of the Project was  
18 necessary to receive the loan, Otten  
19 answered, 'The loan? No.'

20 "Was anything else provided to the  
21 Balsams conditioned upon your support?"  
22 Manzelli asked?

23 "Otten responded, 'There are no other  
24 documents that I'm going to discuss or talk

1           about at this juncture. And I do not feel I  
2           need to support Northern Pass for any reason  
3           other than I believe it's beneficial to me  
4           and my business.'"

5                        So when you were asked about the loan  
6           and whether there were other documents, you  
7           said, "There are no other documents that I'm  
8           going to discuss or talk about at this  
9           juncture." What documents were you referring  
10          to?

11        A.    I assume perhaps I'm talking about the actual  
12          loan documents, which were not part of the  
13          questioning.

14        Q.    If the question was about the loan and you  
15          were referring to "other documents," why  
16          wouldn't you talk about them at that time?

17                        MR. BELIVEAU: Mr. Chairman, I'd  
18          like to object to this line of questioning. An  
19          order has been issued by the Chair with regard  
20          to essentially the conversations that took place  
21          at the technical sessions. And this newspaper  
22          article is allegedly reporting on that session  
23          and is providing quoted remarks. Attorney is  
24          questioning him about those remarks. I'm not

1           sure where he's going with it or what his  
2           purpose is, but I think we need to be mindful  
3           that he's in technical session right now.

4                         CHAIRMAN HONIGBERG: I think we  
5           are all mindful of that. I suspect Attorney  
6           Reimers is mindful of that and is trying to stay  
7           away from violating the terms of the order. I'm  
8           not sure he's close yet.

9                         But Mr. Reimers, what do you  
10          have in mind here?

11                        MR. REIMERS: I'm nearly done.  
12          I wanted to find out if there were other  
13          documents. And I was careful not to use this  
14          for impeachment.

15                        CHAIRMAN HONIGBERG: Yeah, I  
16          think that was the limitation, largely. So you  
17          may continue.

18 BY MR. REIMERS:

19 Q.       So when there were documents that you  
20       wouldn't discuss at that juncture, is it your  
21       testimony that you were simply referring to  
22       loan documents and nothing else?

23 A.       I believe so, yes.

24 Q.       Are there other documents that would have

1           been responsive to that question besides loan  
2           documents?

3       A.    Not in relation to the question.  But there  
4           were drafts of the Forward Fund for the  
5           future that were available at that time that  
6           we were looking at.  But there were no  
7           documents other than our loan documents.  I  
8           believe so.  I believe my answer is correct  
9           and would stand by it.

10                           MR. REIMERS:  That's all I have.  
11           Thank you.

12                           CHAIRMAN HONIGBERG:  Next on my  
13           list are the AMC and CLF, although I don't  
14           see -- Mr. Kimball, is anyone here to ask --

15                           MR. KIMBALL:  We have no  
16           questions.

17                           CHAIRMAN HONIGBERG:  All right.  
18           That's simple enough.

19                           Mr. Baker, I have you next.

20                           MR. BAKER:  Thank you, Mr.  
21           Chairman.

22                           CROSS-EXAMINATION

23       BY MR. BAKER:

24       Q.    Good morning, Mr. Otten.  We've met briefly

1 at a couple of places. It's nice to see you  
2 again.

3 I represent four property owners in the  
4 North Country who are opposed to the Northern  
5 Pass, unlike you. And I have a few  
6 preliminary questions for you.

7 A. Certainly.

8 Q. Your supplemental prefiled testimony states  
9 that you are the "lead developer" behind the  
10 Balsams Resort. What does that term mean?

11 A. The buck stops here.

12 Q. So you're in charge of the operation.

13 A. Correct. That's -- yeah.

14 Q. Are there any other developers other than the  
15 organizations that you own or control?

16 A. No, there are not.

17 Q. Okay. And it states in your supplemental  
18 testimony that you're acting on behalf of two  
19 different entities: One is Dixville Capital,  
20 LLC, a limited liability company, and the  
21 other is Balsams Resort Holdings, LLC, also a  
22 limited liability company. Could you tell us  
23 just briefly what those two entities do in  
24 this operation, as far as their roles in

1           developing the property?

2       A.     Dixville Capital was the conduit in which  
3           money came in, and Resort Holdings is the  
4           entity underneath that that is getting the --  
5           doing and getting the permitting and  
6           marketing and sales and development.

7       Q.     Okay.  So Dixville Capital is on top of  
8           Balsams Resort, as far as the hierarchy of  
9           the structure; is that correct?

10      A.     Yes.

11      Q.     And is it Dixville Capital, LLC that received  
12           the wire transfer from Northern Pass in the  
13           amount of \$2 million in February of 2016?

14      A.     I honestly can't tell you which entity  
15           received the funds, but they're both  
16           controlled by me.  So if you can assume  
17           that -- you can assume that the money came in  
18           to those entities which were operating in  
19           tandem.

20      Q.     So it was one of those two entities?

21      A.     I believe so, yes.

22      Q.     You're looking at someone in the room.  Who  
23           is that?

24      A.     Looking at our chief investment officer.  We

1           have several different companies that are all  
2           under the same umbrella, and I'm not -- I  
3           want to give you the right answer. But  
4           Dixville Capital and Dixville Resort  
5           Holdings, for purposes of the development  
6           take different roles, but they're one in the  
7           same.

8    Q.    You said Dixville Resort Holdings. Your  
9           supplemental prefiled testimony says it's  
10          Balsams Resort Holdings. Is there a  
11          difference?

12   A.    No. I stand corrected. Balsams Resort  
13          Holdings would be correct. Dixville Capital  
14          and Balsams Resort Holdings.

15   Q.    And is Balsams Resort Holdings formed under  
16          the laws of Delaware?

17   A.    I'm not certain of that.

18   Q.    Do you know when it first registered to do  
19          business in New Hampshire?

20   A.    No, I do not.

21   Q.    Would it surprise you to know it was after  
22          you filed your prefiled supplemental  
23          testimony?

24   A.    No.

1 Q. Do either of these two companies own any real  
2 estate in Dixville Notch?

3 A. No, they do not.

4 Q. Do you have any interest in any of the  
5 entities that own the real estate in Dixville  
6 Notch that the Balsams Resort is trying to  
7 develop?

8 A. I do.

9 Q. Which entities do you own that own part of or  
10 own real estate involved in this project?

11 A. I believe the primary is something called  
12 Balsams View.

13 Q. And you own all or a part of that?

14 A. A part of that.

15 Q. And did you acquire that from Mr. -- I'm  
16 going to pronounce his name and I hope I get  
17 it right -- Dagesse?

18 A. Dagesse. But yes, I did.

19 Q. That was relatively recently. That was after  
20 you filed your prefiled supplemental  
21 testimony, wasn't it?

22 A. Yes.

23 Q. When your development entities received the  
24 \$2 million wire transfer in February of 2016,

1           it was not called a loan at that time, was  
2           it?

3       A.    It was a loan.

4       Q.    Well, publicly it was not called a loan, was  
5           it?

6       A.    I'm not sure what it was -- it was an  
7           investment, a loan to our entity. I'm not  
8           sure what --

9       Q.    Well, you testified there were no strings  
10          attached, didn't you?

11      A.    Strings attached to what, sir?

12      Q.    When you testified before the Site Evaluation  
13          Committee in March of 2016 at hearings in  
14          Colebrook and in Concord, did you not state  
15          that there were no strings attached to this  
16          money?

17      A.    That's correct.

18      Q.    And nothing was said at those hearings about  
19          this being a loan; correct?

20      A.    I don't... I'm not -- I have no recollection.  
21          But clearly this was an investment in the  
22          form of a loan, has publicly always been so.  
23          That's just what it was.

24      Q.    Okay. So, whether or not it was stated, it

1 was in fact a loan as far as all parties were  
2 concerned when the wire transfer was made in  
3 February; am I correct?

4 A. It was a loan. And yes.

5 Q. And the expectation was that the entities  
6 that received the money would pay it back  
7 someday; is that correct?

8 A. That's correct.

9 Q. And they would pay it back with interest, or  
10 just the principal?

11 MR. BELIVEAU: Objection, your  
12 Honor. Terms of the loan.

13 MR. BAKER: Well, I think it's  
14 very important for the Committee to understand  
15 how this loan may have some continuing influence  
16 on Mr. Otten and his organization, and therefore  
17 he may be testifying in ways that he hopes will  
18 make the holder of the loan, the obligee --  
19 Northern Pass --

20 CHAIRMAN HONIGBERG: The people  
21 he owes the money to.

22 MR. BAKER: Exactly. So if they  
23 had a string to pull the money back, I think  
24 it's important for the Committee to understand

1           that.

2                           CHAIRMAN HONIGBERG:   Can the  
3           money be pulled back?

4                           WITNESS OTTEN:   No.

5                           CHAIRMAN HONIGBERG:   Next  
6           question.

7   BY MR. BAKER:

8   Q.    So it's not a loan.

9   A.    It's a loan.

10   Q.   And the answer is the money can't be pulled  
11       back?  Is that what you just said?

12   A.    That's correct.

13   Q.    Well, what makes it a loan if the money can't  
14       be pulled back?

15                           CHAIRMAN HONIGBERG:   When you  
16       borrow money to buy a car, you use that money.  
17       You give it to the dealer and then you pay the  
18       people who gave you the loan back.  There's no  
19       pulling of money.  I'm having trouble with the  
20       terminology, and I suspect he is, too.  He has  
21       to pay back a loan I think is what he's saying.

22                           MR. BAKER:   Right.  I think that  
23       the loan terms -- and obviously I disagree with  
24       the ruling the Committee made, but I do

1 understand it. But I think the Committee needs  
2 to understand what the terms are that require  
3 repayment of this loan.

4 CHAIRMAN HONIGBERG: Okay. Let's  
5 talk about the terms that require repayment of  
6 the loan without using phrases that don't mean  
7 anything in the context of a loan. "Pulling  
8 money back" out of a loan is not even a term  
9 that makes any sense.

10 MR. BAKER: I understand the --

11 CHAIRMAN HONIGBERG: So let's use  
12 terms that makes sense in the context of a loan  
13 and see what those terms are.

14 BY MR. BAKER:

15 Q. What are the terms for repayment of this  
16 loan?

17 MR. BELIVEAU: I have to object.  
18 The law of the case is that there will be no  
19 questioning regarding terms and conditions of  
20 the loan. Repayment terms are terms of the  
21 loan.

22 CHAIRMAN HONIGBERG: He has to  
23 repay the loan.

24 MR. BELIVEAU: He's already

1 testified that it's a loan that needs to be  
2 repaid.

3 CHAIRMAN HONIGBERG: What more do  
4 you need to know?

5 MR. BAKER: Well, I thought he  
6 just testified that there is no repayment  
7 obligation on this loan.

8 CHAIRMAN HONIGBERG: No, that's  
9 not what he said. He responded to a meaningless  
10 phrase that you used, and he said that  
11 meaningless phrase doesn't exist. There's no  
12 ability to "pull the money back." That's what  
13 he said.

14 MR. BAKER: I understand now that  
15 the Committee feels the phrase I used was  
16 meaningless. I disagree. But you're making a  
17 ruling, and I understand it.

18 BY MR. BAKER:

19 Q. So the loan does have to be repaid someday;  
20 is that correct?

21 A. Yes.

22 Q. And which entities are obligated to repay the  
23 loan?

24 A. The entity that received the loan.

1 Q. The entities that don't own the real estate;  
2 correct?

3 A. That's correct.

4 Q. Okay. Are there any guarantors of the  
5 repayment of this loan?

6 A. No.

7 MR. BELIVEAU: Same objection.

8 MR. BAKER: Asked and answered.

9 CHAIRMAN HONIGBERG: Okay.

10 Sustained.

11 MR. BAKER: I'll take the answer.

12 BY MR. BAKER:

13 Q. All right. Moving along, I'd just like to go  
14 just through the chronology briefly with you.

15 In early February of 2016, your counsel  
16 filed a motion for permission to allow your  
17 two development companies to intervene in  
18 these proceedings; is that correct?

19 A. Yes.

20 Q. And in that motion there was nothing said  
21 about whether or not you supported or opposed  
22 the Northern Pass through these development  
23 companies; is that correct?

24 A. Yes.

1 Q. On February 10th, approximately, you received  
2 a wire transfer from Northern Pass for  
3 \$2 million; correct?

4 A. Yes.

5 Q. And then subsequently you appeared before  
6 this Committee at two hearings, public  
7 hearings, and testified that you were in  
8 support of the Northern Pass. Both of those  
9 hearings were in early March. The record has  
10 transcripts of those hearings.

11 A. Yes.

12 Q. Okay. So, about a year later, Mr. Quinlan  
13 appears and testifies here and says that it's  
14 not \$2 million, that it's actually  
15 \$5 million; correct?

16 A. If that's what he testified to.

17 Q. Do you dispute his testimony, assuming he  
18 testified to that?

19 A. No.

20 Q. And has the full \$5 million been advanced or  
21 just the \$2 million, or something in between?

22 A. In between.

23 Q. So you've received more than \$2 million, but  
24 not the full five.

1 A. Correct.

2 Q. Okay. And after that, within approximately  
3 six weeks you buy out Mr. Dagesse, who owns  
4 half the real estate involved in this  
5 project; correct?

6 A. Yes. Well, I have to --

7 Q. There's no question pending, sir.

8 A. No, I misspoke. I'm under oath. I misspoke.

9 Q. You want to correct --

10 CHAIRMAN HONIGBERG: Yeah, let's  
11 correct whatever you misspoke.

12 MR. BAKER: I have no problem  
13 with that.

14 A. I am different than the entity. So the LLC  
15 entity that received the \$2 million and part  
16 of the \$3 million is a different entity than  
17 I am. I misspoke in my answer to you. Those  
18 entities did not buy. I personally bought.

19 BY MR. BAKER:

20 Q. I understand. You personally bought out Mr.  
21 Dagesse. In an insider transaction, you paid  
22 him money, and you got the benefit of his  
23 interest in that real estate; correct?

24 A. That's correct.

1 Q. All right. And you haven't guaranteed  
2 repayment of the loan; correct?

3 A. Correct.

4 Q. Now, on your web page --

5 A. Which loan? Okay. Go ahead.

6 Q. Yeah, I did mean personally. You personally  
7 have not guaranteed the loan; correct?

8 A. Correct.

9 Q. All right. So on your web page, the  
10 disclosure statement for the investors in the  
11 condominium project are told that the  
12 developer does not have to build any of this  
13 project out, that it may never get built. Do  
14 you recall that from the disclosure statement  
15 on your web site?

16 A. I'll take your word that it's there. I  
17 haven't refreshed myself with that legal  
18 detail. But I assume there's a disclaimer  
19 there.

20 Q. Yeah, I'll put it slightly differently. The  
21 developers have reserved the rights with the  
22 people who've put these refundable deposits  
23 up not to build anything; correct?

24 A. That's correct.

1 MR. BAKER: I have no further  
2 questions.

3 CHAIRMAN HONIGBERG: Next on my  
4 list is Mr. Palmer. Is anybody here from  
5 Palmer's group? I don't see anyone.

6 Ms. Menard.

7 MS. MENARD: Our questions have  
8 been answered. Thank you.

9 CHAIRMAN HONIGBERG: Ms. Crane.

10 MS. TOWNSEND: Hi, it's Ms.  
11 Townsend today, and our questions also have been  
12 answered.

13 CHAIRMAN HONIGBERG: All right.  
14 Do any of the other intervenor groups -- Mr.  
15 Cunningham.

16 MR. CUNNINGHAM: I have just a  
17 few questions, Mr. Chairman.

18 CHAIRMAN HONIGBERG: You want to  
19 do them from there?

20 MR. CUNNINGHAM: Yeah, I can do  
21 them from here.

22 CROSS-EXAMINATION

23 BY MR. CUNNINGHAM:

24 Q. Art Cunningham. I represent Kevin Spencer

1           and Mark Legasse, who are building the Percy  
2           Lodge and Campground in Stark, New Hampshire.  
3           Are you familiar with those gentlemen?

4    A.    No, sir, I'm not.

5    Q.    Or the Percy Lodge?

6    A.    No, I'm not.

7    Q.    I just have a few questions from Page 84 to  
8           87 or 88 in your prefiled testimony. You  
9           talk about the electricity needs for the  
10          Balsams.

11   A.    Yes, sir.

12   Q.    And before the Balsams closed, where did the  
13          resort obtain its electricity?

14   A.    From the Coos Co-op from Colebrook, the west  
15          side of Dixville.

16   Q.    And does that Co-op have a connection with  
17          the Coos Loop?

18   A.    I believe it does.

19   Q.    And in conjunction with your proposed  
20          development, where do you anticipate --  
21          should the development proceed, where do you  
22          propose to obtain your electricity?

23   A.    That goes back to the conversation that I  
24          had -- the answer to that is, in the spring

1 of 2014 I was approached by Gary Long, who  
2 heard that we were redeveloping at the  
3 Balsams, and he came to my office. I have an  
4 energy company, an alternative energy company  
5 in Bethel, Maine. He came to my office there  
6 to discuss the potential of bringing service  
7 to the Balsams Resort, based on what he had  
8 read in reports that we were considering  
9 doing. At that time we discussed the needs  
10 of the Balsams. And that led to an ongoing  
11 conversation, which then led to an interest  
12 that I had in supporting green energy. And  
13 my support of Northern Pass began in the  
14 spring of 2014. And that history was how I  
15 got involved. And our project initially will  
16 need somewhere around 10-megawatts of power,  
17 and literally we would be sucking twice as  
18 much power from the Coos Loop as possible.  
19 So we began discussions about my being a  
20 customer and Eversource being able to help  
21 provide power. And that's the discussion and  
22 sort of the rest of the story of the Coos  
23 Loop and the Balsams.

24 Q. And I see from Page 87 of your prefiled

1 testimony that you anticipate perhaps using  
2 as much as 25 megawatts of electricity should  
3 the development proceed.

4 A. Yes, that's correct.

5 Q. Well, I think I already know the answer, that  
6 none of that electricity will come from the  
7 Northern Pass transmission lines, will it?

8 A. No, not directly.

9 Q. It'll all come from the Coos Loop.

10 A. It will all come from the Coos Loop. But I  
11 think that's -- to answer that definitively  
12 that way I think is incorrect. When you  
13 shake an electron in Danbury, Connecticut,  
14 the value of shaking that electron in  
15 Danbury, Connecticut may be the lights in the  
16 building this today. So to say that a  
17 1,000-plus megawatts of power coming from  
18 Canada isn't going to be consumed at the  
19 Balsams I think is sort of a short-circuit,  
20 if you will, of how the power grid is built.  
21 My expectation is that all of New Hampshire  
22 residents, as well as the Balsams, will save  
23 5 percent against current power needs by the  
24 decreasing costs, to say nothing of the

1 cleaner atmosphere, giving up the equivalent  
2 coal-fired tonnage of CO2 that would be out  
3 there. So I do think there is direct  
4 linkage. There's direct linkage as well from  
5 power purchase agreements that can be made  
6 not only by my company, but by other  
7 businesses in New Hampshire who can benefit  
8 from sustainable hydropower that's available  
9 24/7. So --

10 Q. Let's look at your immediate deal with  
11 respect to the Coos Loop. Have you been  
12 asked to contribute to the upgrade of the  
13 Coos Loop?

14 A. The discussion about --

15 Q. Just answer my question, please. Have you  
16 been asked to contribute to what I understand  
17 from Bill Quinlan's testimony is the \$50  
18 million upgrade to the Coos Loop?

19 A. As a paying customer, I am anticipating  
20 paying for power. That's what they do --

21 Q. No. Answer my question. Have you been asked  
22 to contribute to the \$50 million upgrade to  
23 the Coos Loop like other business owners in  
24 that area have been asked to do?

1 CHAIRMAN HONIGBERG: Other than  
2 as a ratepayer.

3 A. No.

4 BY MR. CUNNINGHAM:

5 Q. And did Mr. Long or Mr. Quinlan represent  
6 what obligation you would have with respect  
7 to the Coos Loop beyond being an ultimate  
8 ratepayer?

9 A. The expectation was that we would be signing  
10 an agreement with them to buy our power  
11 through their transmission lines.

12 Q. So you have not been asked to make any  
13 capital contribution to that \$50 million  
14 upgrade?

15 A. Well, first of all, I'm not aware that it's a  
16 \$50 million upgrade. I don't believe there  
17 are any final plans yet. And no, I haven't  
18 been asked to do anything specifically other  
19 than to guarantee to be a ratepayer, to pay  
20 my, you know, service.

21 Q. And what, if any, discussions have there been  
22 about you being a ratepayer off of the Coos  
23 Loop should the Coos Loop be completed?

24 A. Discussions about being a ratepayer.

1 Q. Just a couple more questions. What's the  
2 status of the development?

3 A. We're in the final phases of our financing  
4 and meeting our goals with permits, and we're  
5 hopeful of starting the project soon.

6 Q. And I notice in your prefiled testimony that  
7 you were looking to raise some, what, \$124  
8 million?

9 A. The total project cost is a little bit north  
10 of that.

11 Q. Hundred and 43 million I think you said.

12 A. Yeah, it's north of that, and we're in the  
13 process of raising that.

14 Q. And where are you in terms of dollars with  
15 respect to that goal?

16 MR. BELIVEAU: Those type of  
17 details I think are fair to be kept confidential  
18 at this point as it relates to his project, so I  
19 object to the question.

20 CHAIRMAN HONIGBERG: Mr.  
21 Cunningham.

22 MR. CUNNINGHAM: I withdraw the  
23 question. That's all the questions I have, Mr.  
24 Chair.

1 CHAIRMAN HONIGBERG: All right.  
2 Are there any other intervenor groups who had  
3 questions for Mr. Otten?

4 [No verbal response]

5 CHAIRMAN HONIGBERG: All right.  
6 We're ready for questions from the Subcommittee.  
7 We'll start to my right. Ms. Weathersby.

8 QUESTIONS FROM THE SEC COMMITTEE MEMBERS AND SEC  
9 COUNSEL:

10 BY MR. WEATHERSBY:

11 Q. Good morning, Mr. Otten. Patricia  
12 Weathersby. I'm a public member on the Site  
13 Evaluation Committee.

14 A. Good morning.

15 Q. I have just one question for you. In your  
16 testimony there's definitely an emphasis on  
17 the environmental aspects of Northern Pass  
18 and your goal to make the Balsams kind of a  
19 green resort. I'm wondering -- I saw that I  
20 think you're planning on a biomass energy  
21 facility as well at the Balsams; is that  
22 correct?

23 A. Yes, we'd like to supply some of the hot  
24 water using biomass. That's correct.

1 Q. Other than that facility, what other efforts  
2 do you intend to make to have the Balsams  
3 Resort be energy-independent or more green?

4 A. Certainly the biomass for heat will be a  
5 major component of that. The older buildings  
6 are all being re-skinned and insulated and  
7 resealed and with all new window systems put  
8 in them to become more energy-efficient. The  
9 new buildings being designed are being  
10 designed to be heated in the most efficient  
11 way possible. Our business depends on being  
12 able to buy power purchase agreements  
13 whenever possible. We'd like to buy them  
14 from green sources, wind or hydro. We're  
15 trying to arrange our snowmaking systems so  
16 that they can take advantage of low-cost,  
17 easily available power later at night to sort  
18 of change the way they're built so that we  
19 aren't using power during peak periods.  
20 Charging stations, things of that nature,  
21 will be part of the resort.

22 Q. Okay. So what I'm hearing is you're making a  
23 lot of efforts to be more efficient, but not  
24 a lot of generation of power at the resort,

1 solar, wind, et cetera, other than the  
2 biomass facility for heat; is that correct?

3 A. We have 21 megs of wind power visible from  
4 most of our resort on the mountain peaks, and  
5 we are in discussions with Brookfield to be  
6 able to buy some of that power that they  
7 can't ship out. Right now they're  
8 constrained to a degree with the lines that  
9 are available coming up from Berlin to  
10 Dummer. Those lines -- if our project gets  
11 built, those lines get upgraded, and they  
12 actually then have the ability to pump more  
13 of their wind power out. We would like to be  
14 able to buy some of that. Because of our  
15 location, we're not an ideal spot for solar.  
16 It's a very snowy, cloudy place for much of  
17 the year, and it's dark for much of the year,  
18 so solar doesn't really make a lot of sense  
19 for us. Wind is there. And the only thing  
20 that's really left at this point that's  
21 viable economically is thermal biomass. And  
22 I own a thermal biomass company in Maine, and  
23 if I can cross-pollinate that, I will.

24 Q. Thank you.

1 A. You're welcome.

2 CHAIRMAN HONIGBERG: Commissioner  
3 Bailey.

4 CMSR. BAILEY: Thank you.

5 BY COMMISSIONER BAILEY:

6 Q. Good morning.

7 A. Good morning.

8 Q. My name is Kate Bailey, and I'm a  
9 Commissioner at the Public Utilities  
10 Commission.

11 To follow up on Ms. Weathersby's  
12 question about the wind power, if you obtain  
13 wind power from Brookfield, will you have to  
14 build infrastructure to get it to your  
15 resort?

16 A. By their very nature, as I'm sure you know,  
17 the fluctuations and the variations of wind  
18 power make it very difficult to take that  
19 power directly. So that power needs to go  
20 down to Dummer. And then in order for us to  
21 take advantage of it, the line from Dummer  
22 south needs to be rebuilt, and then we would  
23 be hopeful, with Eversource and Coos, that  
24 the northern loop that serves all the

1 businesses in the region would benefit by the  
2 lines being built up through Errol, over  
3 through Dixville and then back down into  
4 Colebrook.

5 Q. So I think what you're saying is that  
6 infrastructure needs to be built to get power  
7 from the wind farm and from Eversource.

8 A. Yes.

9 Q. And when it gets to your property, will it be  
10 buried?

11 A. When it gets to our property, it will go  
12 above ground through the ski land, which is  
13 to the south of Dixville State Park, and go  
14 up over what's known as Dixville Peak,  
15 through that Dixville Peak and the Table Rock  
16 Ridge. That will be an above-ground line.

17 Q. And then does it ever go underground?

18 A. Yeah, you know, at local, once you're --

19 Q. In the village?

20 A. Yeah, once you're in the inside, it's buried.

21 Q. So, the distribution facilities --

22 A. The transmission, the larger transmission  
23 portion is above ground, and then the local  
24 distribution is underground.

1 Q. Okay. Thank you.

2 A. You're welcome.

3 Q. Will your project have to pay for any of the  
4 transmission facilities that have to be built  
5 to get the power you need there?

6 A. That hasn't been determined at this time.  
7 We're hopeful that the overall need of the  
8 community and the new load will support the  
9 transmission work that needs to be done -- or  
10 the distribution work that needs to be done.

11 Q. Okay.

12 CMSR. BAILEY: Sandy, can you  
13 pull up that Counsel for the Public exhibit that  
14 shows the resort from the web page? I don't  
15 remember the number of that exhibit. 580?  
16 Thank you.

17 MS. MERRIGAN: 584.

18 CMSR. BAILEY: 584. Thank you.

19 BY COMMISSIONER BAILEY:

20 Q. Mr. Otten, assume hypothetically that that  
21 red line that comes down the mountain -- do  
22 you see it --

23 A. Yes.

24 Q. -- was the transmission line. Would that

1           have an impact on the real estate value in  
2           the development?

3    A.    If that red line was a transmission line,  
4           that's a very hypothetical --

5    Q.    Very hypothetical.  Totally hypothetical.

6    A.    -- question.  And I can only say at this time  
7           I don't know because it's a hypothetical  
8           and --

9    Q.    I know, but I want you to assume for purposes  
10           of the question that that was a transmission  
11           line.  I'm just trying to see whether you  
12           think visibility of a transmission line would  
13           never have an impact, or it depends on where  
14           it is.  So, assume that that is the  
15           transmission line.

16   A.    If it pleased the Commissioner, this is a  
17           hypothetical, and my initial reaction is that  
18           the answer would be that it would depend.

19   Q.    On what?

20   A.    On placement of towers, size of the cut.  I  
21           mean, that particular line is going to be a  
22           gondola line, which will be probably a  
23           60-foot-wide swath filled with towers and  
24           cables going up and down.  The purpose of

1           that will be very visually mechanical, but  
2           will be pleasing to the user because of what  
3           it's accomplishing.  If that transmission  
4           line that you talk of was there for the  
5           purpose of providing power to the whole  
6           resort and people wanted to be at the resort,  
7           I think that they might not be offended by  
8           seeing that transmission line.

9                     I think it really -- what's really so  
10           interesting to me in this entire proceeding  
11           is when I look at a hydro transmission line.  
12           I see something that I like to see because of  
13           what it represents.  It doesn't offend me.  
14           If I was looking at that, I have -- the  
15           business I've been in for many years was once  
16           taken under question because a ski lift line  
17           was going to be seen from the Appalachian  
18           Trail and that the person walking the  
19           Appalachian Trail didn't want to see that.  
20           But if that person was a skier, they would  
21           want to see it.  So you're asking me  
22           certainly hypothetically what would I see.  
23           But it's the use of what I'm seeing that  
24           would make the difference to me.  And again,

1 my outlook on this is, from being in the  
2 renewable energy business, when I see a  
3 transmission line and you tell me it's moving  
4 green hydropower on it, it's not offensive to  
5 me. If I saw the same line being built to  
6 service a coal plant, it would be. So this  
7 is, to a great degree, in the eye of the user  
8 or the beholder, which is why I don't really  
9 think I'd be offended by seeing that as a  
10 hydro line if it was there to provide the  
11 needed power, green power to run the resort.  
12 I'm going to be looking at that line as a  
13 gondola line with eight or ten towers and  
14 cables and all mechanical devices.

15 Q. So if the gondola line were expanded by  
16 150 feet and we put the Northern Pass towers  
17 next to the gondola line, that wouldn't  
18 offend you?

19 A. No, if you could ski underneath it.

20 Q. Okay. All right. I think your testimony is  
21 that you're really in favor of renewables,  
22 and that's because of the carbon reduction;  
23 is that correct?

24 A. Yeah, part -- yes, in great part.

1 Q. Is that the biggest part?

2 A. No. Actually, my father was born in 1886,  
3 before we used gasoline to run cars. My  
4 perspective on fossil fuels is that our  
5 society has consumed what it took the planet  
6 500 million years to make in the heartbeat of  
7 time between when my father was born and my  
8 grandchild will die, which seems to me to be  
9 an abhorrent use of a resource. Whenever I  
10 see something that is using those things, I  
11 would like to see something different. So  
12 when I look at a hydro power line, wherever  
13 it is, I see something that represents a move  
14 towards a cleaner society, moving away from  
15 using fossil fuels, moving away from CO2.  
16 I'm not a climate denier. I don't run around  
17 every day of the week and tell people to shut  
18 their cars off. But if we have a choice of  
19 how we're going to live, I prioritize green  
20 energy over non-green energy, which means,  
21 again, when I see a hydro line, it's  
22 something that I like to see.

23 Q. So you think that this project will reduce  
24 the carbon footprint of the planet.

1 A. I do, yes.

2 Q. Okay. Would it change your opinion of the  
3 Project if the resource that will be  
4 delivered over this line is currently being  
5 delivered to Ontario or New York, so we've  
6 already gotten the benefit from the carbon  
7 reduction and we're just shifting it?

8 A. Well, I'm not aware of that. There's a --  
9 you're asking me to take what you're saying.

10 Q. Assume just hypothetically if that's the  
11 case. I don't even know if it's true.

12 A. Hypothetically, I would have to know whether  
13 this is a better route, whether this is more  
14 efficient, whether it was going to get the  
15 power closer to the customers, whether it was  
16 going to benefit people. What coal plants  
17 was it going to replace? Hypothetically, if  
18 you're just swapping one line for another  
19 line, hypothetically, you might change my  
20 opinion. But from the knowledge that I have,  
21 this 1090 megawatts is currently not being  
22 consumed by the marketplace, and it will  
23 replace over 1,000 megawatts of power that is  
24 fossil-based. And that's the lens that I'm

1 looking at this in.

2 Q. Okay. Thank you. I have one more area that  
3 I just want to ask you about.

4 In Line 93 in your original prefiled  
5 testimony, you estimated that having access  
6 to this low-cost hydro would save the resort  
7 about \$200,000 a year over current prices.

8 A. That's correct.

9 Q. Do you see that?

10 A. Yes.

11 Q. Can you explain to me how you figured that  
12 out? What were the prices that you assumed  
13 were current, and how much of a reduction did  
14 you believe that this would provide?

15 A. We estimated what we thought our power bill  
16 would look like after we completed the first  
17 phase of the resort.

18 Q. Based on what prices?

19 A. Based on current prices. But with time,  
20 everything seems to be inflating. So, as a  
21 benchmark --

22 Q. Okay. So what prices were current when you  
23 made this calculation?

24 A. I think the average kilowatt was in the 16,

1           16-1/2-cent range.

2       Q.     Okay.

3       A.     I mean, we're one of the, what, third or  
4           fourth highest cost of electricity in the  
5           nation.

6       Q.     But does a big business pay 16-1/2 cents per  
7           kilowatt hour?

8       A.     No, and that's part of the time-of-day usage,  
9           source, power purchase agreements. But as a  
10          baseline, we looked at what our power bill  
11          would be, and I asked my staff to estimate  
12          that to me. And I did take at face value,  
13          without questioning very deeply, Eversource's  
14          prediction that this would save the average  
15          customer 5 percent.

16      Q.     Okay. So you just took 5 percent off  
17          whatever your staff believed you would have  
18          to pay for energy.

19      A.     That's correct.

20      Q.     So it may not be 16-1/2 cents a kilowatt  
21          hour. It would be whatever the commercial  
22          rate that they thought they were going to --

23      A.     Correct.

24      Q.     -- achieve and then reduced it by 5 percent.

1 A. Yes.

2 Q. Okay. Thank you.

3 A. And then the other piece of that was, in all  
4 the time that I've been in business, in the  
5 resort business, we had the ability to work  
6 with power purchase agreements. And we  
7 assumed, I hope correctly, that Hydro-Quebec  
8 would be an entity that we would be able to  
9 do business with and buy directly from them  
10 and that that would additionally get our  
11 costs down. But that was -- there was no  
12 definitive agreement. There was discussion  
13 that led me to that opinion.

14 Q. Has there been any further discussion about  
15 that?

16 A. No, there has not.

17 Q. Okay. Thank you. That's all I have.

18 A. You're welcome.

19 CHAIRMAN HONIGBERG: Mr. Wright.

20 BY DIR. WRIGHT:

21 Q. Good morning, Mr. Otten. Craig Wright with  
22 the Department of Environmental Services.  
23 You mentioned a personal belief that moving  
24 to a clean energy future is important to you;

1 is that correct?

2 A. Yes, it is.

3 Q. Do you believe that electric vehicles  
4 represent a cleaner energy future?

5 A. I think it depends on the source of the  
6 electricity. So there's an efficiency gain  
7 against fossil fuel using electricity that's  
8 created with fossil fuel. My company now is  
9 introducing a mini CHP pellet boiler that's  
10 90-percent efficient, that can produce 12 to  
11 15 kilowatts of heat and 1 kilowatt of  
12 electricity at the same time. That's from  
13 trees. So that would mean that you could  
14 drive your car the equivalent of  
15 40-cent-a-gallon gas if you took the  
16 electricity that came from that unit as you  
17 bring in your house. So, in that instance, I  
18 would say an electric car is great because it  
19 can take advantage of electricity produced in  
20 your own back yard. If the electricity is  
21 produced inefficiently with biomass -- and  
22 again I'm kind of getting my old-line  
23 politics about this out on the table. But if  
24 it's biomass and it's electricity and it's

1 produced at the source with a 30-percent  
2 efficiency -- in order words, 70 percent of  
3 the biomass isn't used to create the  
4 electricity, and that's the electricity  
5 you're using to put in your car, well, now  
6 you really haven't gained anything. So this  
7 is hopefully going to be a system of two  
8 steps forward and only one step back. But as  
9 we move to electric-powered vehicles at the  
10 same time if we're moving to solar, thermal  
11 biomass, anything that's produced with high  
12 efficiency, then we're going to be gaining on  
13 the CO2 problem.

14 Q. Okay. Let's assume for a minute that --  
15 we've definitely seen a "greening" of the  
16 power grid in New England with the phaseout  
17 of coal-fired power plants in New England;  
18 correct?

19 A. Yes, but we have replaced a lot of it with  
20 gas, which also, your definition -- of  
21 course, the definition of "clean" comes into  
22 play. So, natural gas doesn't produce the  
23 sulfurs and the atmospheric problems that,  
24 you know, ruin the finish on your car, but

1           they're still a CO2, still a carbon-based  
2           fuel and has a limited future. It's been  
3           talked as a "transition fuel" in many of the  
4           things that I've read. And in that instance  
5           it's great. What are we transitioning to?  
6           We need to transition to something that's  
7           truly renewable.

8    Q.    I would agree with that statement.

9                    Do you plan on investing in EV charging  
10           at your resort?

11   A.    Yes. Absolutely. Absolutely.

12   Q.    Okay. You mentioned that part of your  
13           business model is to attract a wide variety  
14           of people to your resort, including  
15           snowmobilers and ATVs; is that correct?

16   A.    Yes.

17   Q.    Is there currently a network of trails at the  
18           Balsams Resort?

19   A.    Yeah, there are two networks, actually.  
20           There's a network of snowmobile trails that  
21           crosses the property and ATV trails that  
22           crosses the property.

23   Q.    And they connect to parcels of land outside  
24           of the property as well?

1 A. They connect, from what I understand, I  
2 haven't spent much time on them, they connect  
3 to 1,000 miles of trails that takes you up  
4 and down New Hampshire, into Quebec, and as  
5 far up as Montreal.

6 Q. Okay. Thank you. I assume that would be  
7 important if you're trying to attract those  
8 type of people, that you have that network  
9 available to them.

10 A. And I recently read a blurb that Bombardier  
11 was having an EV-powered four-wheeler instead  
12 of gasoline-powered. So I think that a whole  
13 bunch of people are thinking about getting  
14 green.

15 Q. I can say as an ice fisherman, I switched a  
16 couple years ago to a battery-powered auger  
17 versus gasoline-powered, and I would never go  
18 back. So batteries do work.

19 Just one more area of questioning. In  
20 your prefiled testimony, you tout the carbon  
21 benefits of this project. And you throw out  
22 a number of 3.3 million tons, and that would  
23 be the equivalent of removing 690,000 cars  
24 from the highways in the region. Those are

1 numbers we've heard before. Are those  
2 numbers you got from Julia Frayer?

3 A. No, I didn't. Actually, those numbers -- I'm  
4 part owner of a company called Future  
5 Metrics, and we deal globally with thermal  
6 biomass and benefits of carbon reduction.  
7 And we work for DREX and Sumitomo and Hancock  
8 around the world providing and collecting  
9 data for them.

10 That prefiled testimony, my supplemental  
11 testimony, actually, corrected what I said.  
12 I missed it by about 50 percent. So the  
13 impact was closer to \$1.2 million cars a year  
14 coming off the road by switching to  
15 hydropower from coal.

16 Q. Okay. I'm glad you went there, 'cause that's  
17 where I was going to go next. In your  
18 supplemental testimony, you mentioned, or you  
19 kind of upped those numbers by making the  
20 assumption that you're displacing -- the  
21 1,000 megawatts from this line would displace  
22 1,000 megawatts of coal. Is that how you  
23 basically came up with that?

24 A. Yes. Yes, it is.

1 Q. Is that a realistic scenario in New England,  
2 do you know?

3 A. Well, I think it's honest to say that if this  
4 1,000 megawatts doesn't come in, that it's  
5 either going to be produced with undefined  
6 natural gas or the continuation of coal. So  
7 I don't think I can definitively say that  
8 this line will take 1.2 million cars off the  
9 road. What I can say is, if those 1.2  
10 million cars were to run on coal, they would  
11 produce that tonnage which would support 1.2  
12 million cars. So I did make the assumption  
13 that the hydropower was replacing coal power.

14 Q. Okay. I read that in your testimony. Thank  
15 you.

16 A. You're welcome.

17 CHAIRMAN HONIGBERG: Mr.  
18 Oldenburg.

19 BY MR. OLDENBURG:

20 Q. Good morning, Mr. Otten. My name's Bill  
21 Oldenburg, and I work for the Department of  
22 Transportation.

23 My questions basically revolve around  
24 the resort and your expertise with tourism.

1 We heard a lot about the possible negative  
2 impacts on tourism that the line would have.  
3 And as a resort owner, and I notice the list  
4 of especially ski resorts that you own, did  
5 you ever start any of those from scratch, or  
6 did you buy them already in operation?

7 A. I bought them in operation with the following  
8 caveat, that when I bought Sunday River, it  
9 was doing 30,000 skier visits a year and it  
10 grew to 550,000; and when I bought the  
11 Canyons, it was doing about 15,000 skier  
12 visits a year, and it's now grown to  
13 approximately half a million now. So I've  
14 done both buying existing and basically  
15 starting things from scratch. But I've  
16 never -- to your point, this is the first  
17 time, with the Balsams, that I've ever  
18 attempted to do something that -- there was a  
19 ski area at the Balsams that was basically  
20 closed, where there was nothing.

21 Q. So when you start or maybe an expansion of an  
22 existing ski area or starting one, what are  
23 the typical complaints that you might get  
24 from abutters of the community? I'm thinking

1 of things probably like traffic.

2 A. Traffic, yeah.

3 Q. Do you get complaints maybe about water use,  
4 like for snowmaking?

5 A. There have been -- yes. Actually, I believe  
6 that I can give you a large list of things  
7 that people complain about, because it seems  
8 there's always somebody that wants to  
9 complain about something. But noise from  
10 snowmaking, snow cats belching diesel fuel,  
11 loud concerts, water resources. Back in  
12 1973, we were, with the oil embargo, we were  
13 accused of being a luxury item that no one  
14 would want, and everybody that needed a  
15 gallon of gas that couldn't get one was  
16 against having tourists come up and try to  
17 buy gasoline. So there's a litany of things  
18 that people complain about.

19 Q. So that's the community around. But the  
20 folks that you get, that want to come to your  
21 resort, you probably have to do some sort of  
22 benefit-cost ratio type of thing of will they  
23 like this or will it detract from them  
24 coming. So, you know, I think of, you know,

1 the Balsams as going to have these great  
2 views, it's going to have a ski area in the  
3 back, probably going to have night skiing.  
4 So are the lights from the night skiing going  
5 to detract from the scenic view from the  
6 resort? Obviously, a lot of resorts have  
7 skiing and things like that. So there's an  
8 analysis that you would go through for the  
9 target base of people, whether that amenity  
10 is going to draw people or detract people  
11 from going to your resort, I would assume;  
12 right?

13 A. Yeah. So if I can take your statement and  
14 sort of put a question and answer behind it,  
15 we have -- one of the criteria that we have  
16 to develop the Balsams is to see whether or  
17 not people would actually buy what we were  
18 selling, which is the whole process of  
19 preselling real estate, planning the resort  
20 out, find out what the customer base would  
21 look like.

22 So, every customer -- not every  
23 customer. Ninety percent of the customers  
24 that have come up to work with us drive up

1 through Colebrook, drive up Route 3 until  
2 they turn right on 26, and they all see the  
3 same signs that say, "Kiss my ass, Northern  
4 Pass." And if you live in our neck of the  
5 woods, that's the billboard that you see.  
6 One guy has kind of a green and a blue sign  
7 that says, "I like renewable power." But  
8 that's the predominance of it.

9 So my answers to you are based on the  
10 guests' reactions that we've had. And that's  
11 one of the first things that the guests say  
12 when they come up, "What's the deal with  
13 Northern Pass?" And we explain what it is,  
14 and we explain that you can see the wind  
15 towers from the ski area and be able to see  
16 the Northern Pass line from the golf course.  
17 It will be out there. You'll see that. And  
18 it has not affected in any way that we can  
19 see, it hasn't negatively affected people's  
20 interest being on the property.

21 So I was previously questioned by a  
22 gentleman that was trying to sort of confine  
23 my answer to the people that were staying in  
24 hotel rooms or just in that one piece of

1 space, and no, they can't see it. But if you  
2 took the tour that we take people on, we tour  
3 them through the golf course, through the ski  
4 area, through everything so they get a  
5 feeling, and we point out to them where  
6 Northern Pass would be. So it's not  
7 something that's being buried or shoveled  
8 under the table. But in our judgment, it  
9 hasn't affected those people who are  
10 interested in our product.

11 Q. And I think you see it at least to some  
12 degree. So the Mount Washington Resort,  
13 right across the street is Bretton Woods. So  
14 you can see that. I'm assuming that if that  
15 was a distraction from the folks staying at  
16 Mount Washington, that would be an issue and  
17 you would hear of that. So there seems to be  
18 a co-mingling of uses that don't detract.

19 But one of the things we talked about a  
20 little bit with the aesthetics -- and I'm not  
21 sure. I can't remember who it was now. All  
22 these days are going together. We were at  
23 Coleman State Park, and we were talking about  
24 the uses that go on there. And there's

1 similar uses that I think are going to go on  
2 at your resort. You have people who are  
3 going to go to hike and people who are going  
4 to go to stay and people who are going to go  
5 to ATV and people who are going to go visit,  
6 fishing and boating and things like that.  
7 And there's different levels of impact that  
8 those folks would have; like an ATVer might  
9 not recognize the line, a utility line or a  
10 transmission line being a negative, but the  
11 hiker might. So there's an assessment, I'm  
12 assuming, you make as the owner that is the  
13 give and take of whether or not a use is  
14 going to detract from visitors coming.

15 So, like an example is we were up at the  
16 Mountain View Grand Resort, which is very  
17 old, has the golf course, has everything  
18 else. But right next to it is a windmill.  
19 Here you've got this historic building and a  
20 modern windmill right next to it. I'm sure  
21 somebody, an owner like yourself, went  
22 through and said, Is that going to detract?  
23 Is somebody not going to come to the hotel or  
24 my resort because of that windmill? Is that

1 reasonable to assume that that happens?

2 A. I think this is the interesting thing about  
3 this proceeding. "In the eye of the  
4 beholder" I think is the question you're  
5 really asking, if I can put words in your  
6 mouth.

7 Q. Right.

8 A. So if you're at Vail in Colorado and you look  
9 into the valley, you see giant transmission  
10 lines and you see a six-lane highway which  
11 doesn't detract at all from the resort at  
12 Vail, because it couldn't exist without that  
13 being there. If you're at Okemo and you look  
14 out across the valley, you see a transmission  
15 line. If you live in South Pond Shore in  
16 Greenwood, Maine, a mile down the lake from  
17 my dock is the transmission line that serves  
18 Sunday River ski area, that incidentally got  
19 built after my house was there. Now, that  
20 transmission line was serving my business.

21 So I think it's important in all these  
22 proceedings, for me, if I'm being asked,  
23 you're getting my opinion. I'm one man, and  
24 I have a goal for the state of New Hampshire,

1 to try to build an extraordinary resort.  
2 Will I succeed? I can't sit in front of you  
3 and tell you that I'll succeed. What I can  
4 tell you, in my opinion, is that the Northern  
5 Pass Line is not the impediment to my  
6 success. And that's all I can testify to. I  
7 can't go beyond that, because beyond that  
8 doesn't really involve me.

9 So, the impact of the initially 600 jobs  
10 and 400 construction jobs and potentially  
11 2,000 jobs from my project are not being put  
12 in jeopardy. There are a lot of other things  
13 that we have to conquer to be successful.  
14 But the Northern Pass line is not, in my  
15 opinion, objectionable.

16 Q. Okay.

17 MR. OLDENBURG: That's all the  
18 questions I have.

19 CHAIRMAN HONIGBERG: Mr. Way.

20 BY MR. WAY:

21 Q. Good morning, Mr. Otten. So, just to pick up  
22 on what Mr. Oldenburg said, the one thing  
23 I've learned about ski areas, or at least ski  
24 trails, is that they're somewhat fluid in

1           their development, that as you go along,  
2           whether it be the permitting process, the  
3           design stage, there's going to be tweaking  
4           one way or another; correct?

5    A.    When you build the ski trail?

6    Q.    Yes.

7    A.    You try to -- ski trails are like building a  
8           ride. You want to make it as adventurous and  
9           as fun as you can. So you do the best you  
10          can to use the terrain to make the trail as  
11          good as you can make it.

12   Q.    But if you hit a wetland or the potential of  
13          a wetland over here, you say, well, can we go  
14          over here to avoid the wetland?

15   A.    Unless you can get the Army Corps to agree  
16          with you. But actually, Mr. Way, in that  
17          particular case, a ski lift trail that goes  
18          across a wetland, as long as the trail  
19          remains, the wetland remains on the trail.  
20          As long as you don't fill it, as long as  
21          you're skiing over it, it's not an  
22          unacceptable use. So you can ski over a  
23          wetland.

24   Q.    But my point is there's factors that come

1           into account that may cause you to tweak or  
2           nudge or to design things a little bit  
3           differently as the process goes.

4    A.    You mean like is there a ledge outcropping  
5           that you avoid?

6    Q.    Right.  So I guess my question is:  As you're  
7           designing this.  And you know that deep in  
8           the distance or close in the distance that  
9           you may see a power line or a transmission  
10          line, did that impact whether you would put  
11          the trail this way or that you could go over  
12          here and avoid seeing that altogether?  Did  
13          that play any -- was that --

14   A.    No.

15   Q.    -- a factor?

16   A.    No, it did not factor.

17   Q.    And the wind turbines that are up there, and  
18          I've seen the wind turbines, are you having  
19          ski trails within sight of those wind  
20          turbines?

21   A.    Oh, yes.

22   Q.    Did you try to design it -- I would imagine  
23          you designed your trails obviously for safety  
24          and safety concerns.  But did you design the

1 trails to minimize the view of those  
2 turbines, or was that a factor?

3 A. No.

4 Q. In terms of people that are coming here that  
5 you say they learn about the Northern Pass,  
6 and you talk to them about the Northern Pass,  
7 and maybe they put a deposit down and then  
8 they go back and they may think about it, has  
9 anyone asked for their deposit back after  
10 thinking about it and then stated that maybe  
11 there was some concerns?

12 A. Because of Northern Pass?

13 Q. Yeah. Right.

14 A. There was one gentleman and his wife, who was  
15 a teacher in the Londonderry area, who came  
16 up, and after seeing the signs were dismayed,  
17 briefly withdrew their deposit, went home,  
18 called back a couple days later and changed  
19 their mind and went ahead with their deposit.

20 So, as I said, there are hundreds of  
21 these people that are seeing this. And, you  
22 know, they're more attuned to the controversy  
23 than they are to the actual power line. So I  
24 can't say with a hundred percent certainty

1           that the \$25 million worth of deposits that  
2           we have wouldn't be greater. I'll never  
3           know. But there's only been one instance  
4           when it was brought to our attention. And in  
5           that particular instance, we showed them and  
6           talked about it, and they decided that they  
7           were fine.

8    Q.    Thank you.

9                                   MR. WAY:  No further questions.

10                                  CHAIRMAN HONIGBERG:  Mr.  
11           Iacopino.

12                                  MR. IACOPINO:  Thank you.

13   BY MR. IACOPINO:

14   Q.    I just have one set of questions, just  
15           jumping off what Mr. Way asked you.

16                                  On the mountain itself, okay, not down  
17           where the buildings are, but up on the  
18           mountain, I assume that there are summer uses  
19           up there that you're going to be using for  
20           non-skiing season uses beyond just the ATV  
21           trails; is that correct?

22   A.    Yes, sir.

23   Q.    And that's all sold as part of the package to  
24           the folks buying your units?

1 A. Yes.

2 Q. And these deposits that you're talking about,  
3 are you taking those deposits under  
4 regulation of the Attorney General's Office?  
5 Is that correct?

6 A. That's correct.

7 Q. Okay. And do you disclose to your buyers the  
8 fact that the Northern Pass may be visible  
9 from parts of the property?

10 A. Yes, we talk about it. It's general  
11 conversation.

12 Q. Okay.

13 MR. IACOPINO: I have no other  
14 questions.

15 CHAIRMAN HONIGBERG: My questions  
16 have been answered.

17 Do you have any further  
18 questions for your witness?

19 MR. BELIVEAU: No.

20 CHAIRMAN HONIGBERG: All right.  
21 I think we are done with you, Mr. Otten. Thank  
22 you very much.

23 We will take a ten-minute  
24 break.

1 (Recess was taken at 10:53 a.m.  
2 and the hearing resumed at 11:10 a.m.)

3 CHAIRMAN HONIGBERG: Mr. Pappas,  
4 you ready to call your first witnesses?

5 MR. PAPPAS: We are, Mr.  
6 Chairman.

7 CHAIRMAN HONIGBERG: I see  
8 they're in place.

9 (WHEREUPON, THOMAS KAVET AND NICOLAS  
10 ROCKLER were duly sworn and cautioned  
11 by the Court Reporter.)

12 MR. PAPPAS: Thank you, Mr.  
13 Chairman.

14 DIRECT EXAMINATION

15 BY MR. PAPPAS:

16 Q. Gentlemen, please introduce yourselves for  
17 the Committee.

18 A. (Kavet) My name is Tom Kavet. I'm President  
19 of Kavet, Rockler & Associates.

20 A. (Rockler) And my name is Nicolas Rockler, and  
21 I'm CEO of Kavet, Rockler & Associates.

22 Q. Mr. Kavet, let me start with you. You filed  
23 testimony this morning marked as Counsel for  
24 the Public's Exhibit 146. Do you have that

1 in front of you?

2 A. (Kavet) I do.

3 Q. And attached to your December 30, 2016  
4 prefiled testimony is your report, also dated  
5 December 30, 2016. Do you have that in front  
6 of you?

7 A. (Kavet) I do.

8 Q. And you also filed supplemental testimony  
9 dated April 17, 2017, which was marked as  
10 Counsel for the Public's Exhibit 148. Is  
11 that in front of you?

12 A. (Kavet) Yes, it is.

13 Q. Exhibit B to your supplement testimony is  
14 your supplemental report dated April 17, 2017.  
15 Do you have that in front of you?

16 A. (Kavet) I do.

17 Q. And finally, you also -- we also marked as  
18 Counsel for the Public Exhibit 148A, which  
19 consists of three pages that make corrections  
20 to the corresponding pages in your April 17,  
21 2017 supplement report. Do you have that in  
22 front of you?

23 A. (Kavet) Yes, I do.

24 Q. Mr. Kavet, do you swear by, adopt and affirm

1           your prefiled testimony dated December 30,  
2           2016; your original report dated December 30,  
3           2016; your supplemental testimony dated  
4           April 17, 2017; your supplemental report, the  
5           same date, and the corrections that are in  
6           Counsel for the Public Exhibit 148A?

7    A.    (Kavet) I do.

8    Q.    Thank you.

9                        Dr. Rockler, do you have in front of you  
10           your December 30, 2016 prefiled testimony?

11   A.    (Rockler) I do.

12   Q.    Do you have in front of you your December 30,  
13           2016 initial report?

14   A.    (Rockler) I do as well.

15   Q.    Do you have in front of you your April 17,  
16           2017 supplemental testimony?

17   A.    (Rockler) Yes.

18   Q.    Do you have in front of you your April 17,  
19           2017 supplemental report?

20   A.    (Rockler) Yes.

21   Q.    And do you have with you Counsel for the  
22           Public Exhibit 148A containing corrections to  
23           your supplemental report?

24   A.    (Rockler) Yes.

1 Q. Do you swear by, adopt and affirm these five  
2 documents?

3 A. (Rockler) I do.

4 Q. Okay. Now, Mr. Kavet and Dr. Rockler, does  
5 your supplemental testimony and your  
6 supplemental report consist of corrections to  
7 your original report?

8 A. (Kavet) Yes.

9 Q. And does Counsel for the Public's Exhibit  
10 148A contain a few additional corrections?

11 A. (Kavet) Yes.

12 Q. So would I be correct in saying that your  
13 supplemental report in Exhibit 148A contains  
14 all of your analysis and opinions in this  
15 matter?

16 A. (Kavet) Yes.

17 A. (Rockler) Yes.

18 Q. Mr. Kavet and Dr. Rockler, since the time  
19 that you filed your supplemental testimony  
20 and produced your supplemental report, have  
21 the Applicants provided additional  
22 information and additional analysis regarding  
23 this project?

24 A. (Kavet) They have.

1 Q. And have you reviewed some of this new  
2 information and new analysis about the  
3 Project?

4 A. (Kavet) We have reviewed some of it. We were  
5 not tasked with reviewing everything, and  
6 some are still in process.

7 Q. Have your opinions in your testimony and  
8 reports changed as a result of your review of  
9 any new information or new analysis produced  
10 by the Applicants?

11 A. (Rockler) No.

12 A. (Kavet) Not significantly, no.

13 Q. During your testimony in this proceeding, are  
14 you prepared to address any questions  
15 regarding the new information and new  
16 analysis that you've had the opportunity to  
17 review?

18 A. (Kavet) Yes, to the extent we've had the  
19 opportunity to review it.

20 A. (Rockler) Yes.

21 Q. And same for you, Dr. Rockler?

22 A. (Rockler) Yes.

23 Q. Thank you.

24 MR. PAPPAS: These witnesses are

1 available for cross-examination.

2 CHAIRMAN HONIGBERG: All right.

3 First on my list is the municipal group. Who is  
4 going to be -- oh, he's approaching the lecturn.  
5 Mr. Whitley.

6 CROSS-EXAMINATION

7 BY MR. WHITLEY:

8 Q. Good morning, gentlemen.

9 A. (Kavet) Good morning.

10 Q. My name is Steven Whitley. I'm counsel for  
11 several municipalities that are along the  
12 route, Deerfield, Pembroke, New Hampton,  
13 Littleton, and the Water and Sewer Department  
14 of the Town of Ashland.

15 I want to start and look at each of your  
16 backgrounds for a second before we get into  
17 some of your opinions. And I wanted to start  
18 with you, Mr. Kavet.

19 I understand from your CV that was  
20 attached to your report that you trained as  
21 an economist at Columbia University; correct?

22 A. (Kavet) That's correct.

23 Q. And you hold a B.A. in that field; is that  
24 correct?

1 A. (Kavet) That's correct.

2 Q. Okay. Did you start grad school and not  
3 finish? Because there's a mention in your CV  
4 of a couple semesters of grad school work  
5 and --

6 A. (Kavet) Yeah, I did graduate work and then  
7 worked for a professor who was starting a  
8 company that was using technology and  
9 organizing data into some of the first  
10 economic data bases and found that more  
11 compelling than the academic work I was  
12 doing.

13 Q. Okay. So you -- and I didn't mean to  
14 interrupt you if you were going to keep  
15 going.

16 A. (Kavet) No, that's it.

17 Q. So instead of continuing on in that graduate  
18 studies program, you went to the private  
19 sector.

20 A. (Kavet) That's right.

21 Q. Okay. And those two semesters of grad school  
22 work, what was the focus of your studies?

23 A. (Kavet) Economics.

24 Q. So was that a master's program or a Ph.D.

1 program or something?

2 A. (Kavet) What it was, was as an undergraduate  
3 you could take graduate-level courses. And  
4 so that's what it was. So there were two  
5 semesters of all graduate-level courses.

6 Q. Got it. Okay. Thank you.

7 Your CV also mentions some experience or  
8 work at McGraw-Hill. I have that correct;  
9 right?

10 A. (Kavet) That's correct.

11 Q. And that's a company and not a university or  
12 college; right?

13 A. (Kavet) That's a company. That's right.

14 Q. Okay. And it said that you went to a  
15 management school there.

16 A. (Kavet) Uh-huh.

17 Q. And can you describe what that management  
18 school is?

19 A. (Kavet) It was sort of like a set of business  
20 school courses that the company provided.  
21 Employees had to be chosen to be part of it,  
22 and they would basically go through business  
23 school sort of course work.

24 Q. How long was that program? How many years?

1 A. (Kavet) It was two years, but it was not  
2 every day. So it was, you know, periodic.  
3 And it was more like an executive training  
4 type of focus rather than --

5 Q. Okay. I take it there was no degree awarded  
6 upon completion --

7 A. (Kavet) No, no.

8 Q. -- of that program?

9 A. (Kavet) No, it was just a completion of it,  
10 yeah.

11 Q. And I see the stenographer there. We have to  
12 be careful not to talk over one another so  
13 that she can take down an accurate record --

14 A. (Kavet) Okay.

15 Q. -- so wait a half a beat before you answer.

16 A. (Kavet) Okay.

17 Q. And those courses there, what were the focus  
18 of those courses at McGraw-Hill Company?

19 A. (Kavet) They'd be business school-type  
20 courses. So, accounting and marketing and  
21 business management and operational stuff.  
22 So it was designed to sort of provide  
23 background for executives and future  
24 executives, and that was its purpose.

1 Q. Okay. It sounds to me similar to an MBA  
2 program. Is that a fair --

3 A. (Kavet) It had many of the same components,  
4 but it wasn't as long or academically  
5 oriented. It had very practical, immediate  
6 applications.

7 Q. Okay. And what does the McGraw-Hill Company  
8 do?

9 A. (Kavet) Well, McGraw-Hill's primarily a  
10 publisher. But at the time I was with the  
11 company, and still, they have a tremendous  
12 amount of business information products. So,  
13 in a lot of different industries they would  
14 have trade publications and also businesses  
15 that would be involved in collecting  
16 information and selling information. And  
17 they bought a company that specialized in  
18 economic analysis that I ended up working  
19 with and was involved with in integrating  
20 that with McGraw-Hill. So that was a  
21 computerized, some of the early work in  
22 applying computer technology to economic  
23 analysis. So, organizing databases with  
24 computer technology and then doing analysis

1 using computers, building computer models,  
2 things like that. That was based in  
3 Lexington, Massachusetts. So that division  
4 was doing -- it was all economics, and it  
5 was -- you know, we were doing lots of  
6 studies and analyses and developing the  
7 information. We specialized in the  
8 construction of real estate information and  
9 developed that into various types of economic  
10 analysis and then products that would flow  
11 from that.

12 Q. Okay. But it sounds like your role for the  
13 company, while you were there, was akin to an  
14 economist.

15 A. (Kavet) Well, I started as an economist and  
16 became a senior economist, a managing  
17 economist, and then I ran a group with more  
18 than a hundred economists in it. And so,  
19 yeah, I was working with a bunch of  
20 economists doing economic forecasting,  
21 developing economic models and working with  
22 economic applications of various data sets,  
23 and then applying new technology to all this.  
24 And they would make a lot more money with

1           those products when they could do them that  
2           way.

3    Q.    And was there a particular focus?  And by  
4           "focus," I mean an industry type, a field  
5           that you focused on while at the company.

6    A.    (Kavet) Construction and real estate  
7           economics were the initial area that we were  
8           focusing on.  And McGraw-Hill owned a company  
9           that had a unique data base in the area.  It  
10          was the F.W. Dodge Division.  And they  
11          collect information on construction projects,  
12          individual projects.  We then organized that  
13          into economic models that would help people  
14          investing in real estate understand where  
15          markets were underserved and overserved and  
16          where they could make more or less money in.  
17          So it involved clients that were in building  
18          products, manufacturing and construction, in  
19          real estate from the investment side.  
20          Anything to do with a building going up, you  
21          know, potentially had some application.  And  
22          then we forecast that activity at a regional  
23          level.  So the data base was every single  
24          building that was contracted for on an

1 architect's drawing board and then built, and  
2 so the flow of inputs to that became many  
3 different products.

4 Q. As part of that forecasting, did you look at  
5 the potential local economic benefits of  
6 investment in a particular area?

7 A. (Kavet) Occasionally there were clients that  
8 were interested in construction from that  
9 angle, and so we did. We had -- we developed  
10 some of the early regional input/output  
11 models that were used. So this model that's  
12 REMI you'll hear about, the regional economic  
13 modeling, was started around the same time  
14 that I was working at McGraw-Hill. And so it  
15 was a similar kind of exercise.

16 Q. Okay. And you said "input/output." Can you  
17 -- were some of the outputs that you were  
18 asked to develop, is there a comparable to  
19 what you did for your opinion before the SEC  
20 of looking at local economic impact?

21 A. (Kavet) Yeah. I mean, at the core of this  
22 REMI model that everybody's using for this  
23 analysis -- DOE used it and the Applicant  
24 used it, and we did as well -- are these

1 relationships between, you know, what goes  
2 into various sectors and, you know, what's  
3 needed to produce output. And so when you  
4 change something in the economy, it ripples  
5 through using that construct. Now, that's  
6 not the only construct. There are lots of  
7 other things, behavioral things that go on,  
8 too. But that's kind of at the core of this  
9 modeling approach that's used with this.

10 Q. I think you mentioned a question or two ago  
11 that that sort of modeling maybe wasn't the  
12 typical scope of your work. Did I remember  
13 that correctly?

14 A. (Kavet) Well, economic impact modeling was  
15 something that some clients would request and  
16 so we'd do. But we were -- I would say the  
17 thrust of it was looking at what was  
18 happening with construction activity and how  
19 that related to the demand for various  
20 products that are used in construction, and  
21 also in the profitability of people investing  
22 in those buildings.

23 Q. Okay, okay. While you were there at the  
24 company, did you have any opportunity to

1 evaluate utility projects?

2 A. (Kavet) We worked with a utility group that  
3 specialized in utilities the way we  
4 specialized in construction and real estate,  
5 and so there was a little bit of overlap.  
6 They were doing, again, primarily forecasting  
7 of demand for electricity and change,  
8 structural changes in electricity markets.  
9 And so we would interact with them sometimes  
10 on a project basis. But we weren't doing  
11 just an economic impact analysis then of a  
12 particular project. I don't recall any.  
13 Maybe Nick would. We were both at  
14 McGraw-Hill for --

15 A. (Rockler) We did a number of projects that  
16 related to estimated stock of commercial  
17 building space, and utilities used that as a  
18 means of estimating demand.

19 CHAIRMAN HONIGBERG: Mr. Whitley,  
20 what are we doing here? Are we polishing their  
21 resumes?

22 MR. WHITLEY: No, just trying to  
23 get a sense of what their experience is in  
24 relation to the opinion that they've rendered.

1 CHAIRMAN HONIGBERG: We have  
2 their background and experience in their CVs,  
3 and the party that put them on chose to put  
4 whatever information is in there.

5 MR. WHITLEY: I understand that,  
6 Mr. Chair. But the CVs don't go into the same  
7 level of detail about what kind of experience  
8 they have with relation to the opinion that they  
9 rendered, so that's what I'm trying to get at.

10 CHAIRMAN HONIGBERG: You're  
11 trying to make their opinions better? Counsel  
12 for the Public had the opportunity to put in  
13 whatever information they wanted about their  
14 witnesses' backgrounds and experience.

15 MR. WHITLEY: I'll move on, Mr.  
16 Chair.

17 CHAIRMAN HONIGBERG: Thank you.

18 BY MR. WHITLEY:

19 Q. Mr. Rockler -- or Dr. Rockler, I want to ask  
20 you a couple questions. You are a regional  
21 scientist, and I wanted to know what that is.

22 A. (Rockler) That is a field which evolved in  
23 the 1950s, I would say. And it's one that is  
24 an amalgam of largely economics, but some

1 geography, some elements of sociology.  
2 People would develop interests that were  
3 usually more focused than just the broad  
4 definition of regional science. And my  
5 choice was to go into regional economics.  
6 And that's -- it was in that department that  
7 I could pursue regional economics and  
8 regional economic geography.

9 Q. Okay. Thank you.

10 And the company that you gentlemen work  
11 for has been working for the Vermont State  
12 Government for 20 years, I think it was?

13 A. (Kavet) Vermont State Government has been a  
14 client of ours for a little more than 20  
15 years, and we've been the state economists  
16 and principal economic advisor to the Vermont  
17 Legislature for that period.

18 Q. So you're working for the legislature or the  
19 Governor's Office?

20 A. (Kavet) The legislature and then various  
21 agencies at different times, but primarily  
22 for the legislature through the Joint Fiscal  
23 Office.

24 Q. And in your time working for the Vermont

1           Legislature, have you done any work on linear  
2           utility projects?

3    A.    (Kavet) What do you mean by "linear utility  
4           projects"? You mean transmission line?

5    Q.    Something, yes --

6    A.    (Kavet) Yeah. No, we have not done a lot of  
7           work with utilities. We were involved in the  
8           Vermont Yankee proceedings and case, looking  
9           at the demand from that. The Public Service  
10          Board and Public Service Department in  
11          Vermont has an economic staff and does most  
12          of the utility-related work. Occasionally  
13          there will be an issue like Vermont Yankee  
14          that rises above their capabilities and we'll  
15          be involved with some of that. We provide  
16          them input and forecasts and other things, so  
17          we work closely with them.

18   Q.    And I take it that, because you worked for  
19          the Vermont Legislature, that your experience  
20          didn't focus exclusively on New Hampshire  
21          markets. Would that be correct?

22   A.    (Kavet) That's correct.

23   Q.    So do you have any experience focusing on New  
24          Hampshire markets then?

1 A. (Kavet) Not with electricity projects, any  
2 other projects. I mean, occasionally there's  
3 regional New England-wide analysis. There  
4 are forecasting activities done sometimes  
5 with and for New Hampshire, but not a great  
6 deal of work in New Hampshire.

7 Q. In your opinion, is there a difference  
8 between a market in Vermont and a market in  
9 New Hampshire?

10 A. (Kavet) Well, sure. I mean, any two  
11 places -- there are similarities between the  
12 states and there are differences.

13 Q. And during your 20 years working for the  
14 legislature, I presume there's been a change  
15 in leadership --

16 A. (Kavet) Many.

17 Q. -- a time or two?

18 A. (Kavet) Yeah, many changes.

19 Q. And you guys have retained your role as chief  
20 economists to the legislature?

21 A. (Kavet) That's right.

22 Q. I want to turn now to the opinion that you  
23 rendered in this proceeding. And just to  
24 start off, your April 2017 report, which is

1 the supplement that you provided, the date on  
2 Page 1 still says December 30th, but I assume  
3 that that's a typo.

4 A. (Kavet) That certainly is.

5 Q. Okay. Because your report has certainly  
6 changed since that date, since that December  
7 30th date.

8 A. (Kavet) There have been some changes. The  
9 bulk of it's the same, but there are some  
10 changes.

11 Q. So, very broadly, when you rendered your  
12 opinion, you evaluated the work of a number  
13 of Northern Pass's experts, and you did two  
14 things: You evaluated the work that they  
15 did, and then for some of them you offered  
16 your own independent methodology and approach  
17 on the same general subject matter. Is that  
18 a fair characterization?

19 A. (Kavet) For the most part. With respect to  
20 electricity markets, we used Counsel for  
21 Public's electricity expert, which was  
22 Brattle Group. So we had input from them on  
23 that, and that's a crucial and fairly large  
24 component.

1 Q. And that actually leads me to my next  
2 question. I wanted to ask you what kind of  
3 expertise you had to render an independent  
4 opinion on the electricity markets. And it  
5 sounds like your answer is that you relied on  
6 the Brattle Group for that analysis.

7 A. (Kavet) Well, there are two parts of it. One  
8 is what's going to happen with prices and  
9 markets and things like that, and that's not  
10 something that we do. But there are a number  
11 of times that we've done analyses where  
12 somebody else will do that, and we'll  
13 incorporate it into a larger economic  
14 analysis. So, in terms of how that then  
15 plays through in terms of economic benefits  
16 and enters into a model like REMI to generate  
17 local economic impacts, that we have done.

18 Q. And I understand that you may not have the  
19 expertise to do that sort of work on the  
20 electricity markets. But you do have  
21 expertise in use of the REMI model.

22 A. (Kavet) Yes, that's correct.

23 Q. So that portion of the Frayer opinion, her  
24 local economic benefit, you did your own

1 independent analysis on how to -- on how you  
2 would use the REMI model?

3 A. (Kavet) Yeah. The REMI model can kind of be  
4 thought of as sort of a big score card where  
5 you're saying let's put all the stuff in that  
6 might be happening and then see what kind of  
7 economic impacts there would be from that.  
8 And so that's -- you know, there could be a  
9 lot of things that you would test and really  
10 put parameters around. And it should be  
11 thought of as sort of an order-of-magnitude  
12 estimate of what might occur given certain  
13 assumptions.

14 Q. And in your report, you critiqued Mr.  
15 Chalmers and his impact on -- or his opinion  
16 on the potential impact to property values.  
17 But neither of you are real estate experts;  
18 correct?

19 A. (Kavet) Well, we've done lots of work in real  
20 estate. As I've said, the whole division  
21 that we ran at McGraw-Hill was construction  
22 and real estate. So, in terms of real estate  
23 investment, real estate data, real estate  
24 economics, we've done lots of it. Has it

1           been property valuation analysis with respect  
2           to transmission lines? Not necessarily. But  
3           we read the literature on that. It's not  
4           rocket science.

5    Q.    In your report, you criticized --

6                           CHAIRMAN HONIGBERG:  Mr. Whitley,  
7           this doesn't sound anything like a  
8           cross-examination of these witnesses.  It sounds  
9           like you are asking them about the work that  
10          they've done, the way a direct examination would  
11          go, which repeats what's in their report that  
12          Mr. Pappas has already gotten into evidence.  
13          Their background, their experience, the work  
14          they did, their reliance on the Brattle Group's  
15          work, to the extent they relied on others, they  
16          did their own work in some ways, this sounds  
17          like a repeat of their report.  What are you  
18          planning on doing that is cross-examination that  
19          is new or different that is within the scope of  
20          their testimony, but not repeating their  
21          testimony, that is necessary for this Committee  
22          to hear?

23                           MR. WHITLEY:  I can move on, Mr.  
24          Chair.

1                   CHAIRMAN HONIGBERG: I'm happy to  
2                   hear an offer of proof as to what you think you  
3                   anticipate getting from these witnesses if  
4                   you're allowed to continue, because I haven't  
5                   heard anything that sounds like a  
6                   cross-examination yet that's necessary for the  
7                   Committee.

8                   MR. WHITLEY: I guess, Mr. Chair,  
9                   my questions I think are getting at information  
10                  that was not included in their supplemental or  
11                  prefiled testimonies and goes to their -- what  
12                  kind of experience they have to render an  
13                  opinion on this project.

14                  CHAIRMAN HONIGBERG: Well, I hear  
15                  a lot of things that were in their report. But  
16                  the sponsor of the testimony put in what they  
17                  felt, Counsel for the Public felt was important.  
18                  And if it's not within their testimony, it's too  
19                  late to put it in now. And I think Counsel for  
20                  the Public understands that. But the other  
21                  parties aren't going to be allowed to do that.

22                  So what do you want to do with  
23                  these -- so far what I've heard is you want  
24                  to supplement their testimony with things

1           that's not in the supplemental testimony. I  
2           don't think you're going to be allowed to do  
3           that. What else would you like to do with  
4           these guys?

5                           MR. WHITLEY: I have other  
6           subjects that I can cover.

7                           CHAIRMAN HONIGBERG: And those  
8           would be?

9                           MR. WHITLEY: I'm going to ask  
10          them about the corrected table that they just  
11          introduced.

12                          CHAIRMAN HONIGBERG: Okay.

13                          MR. WHITLEY: And I'm going to  
14          ask them, go into some depth about Mr. Chalmers'  
15          analysis and their opinion, and Mr. Chalmers'  
16          response of their analysis --

17                          CHAIRMAN HONIGBERG: Mr.  
18          Chalmers' response, I don't understand why that  
19          wasn't done by Counsel for the Public in  
20          asking -- let me ask you, Mr. Pappas.

21                          I mean, this came up in the  
22          Antrim Wind case. You know, if the Applicant  
23          chose -- I mean, you have a lot of other  
24          intervenors here. But, you know, the

1 Applicant put in a case. Everybody else  
2 responded to it. The Applicant rebutted and  
3 then testified. You know, in Antrim Wind,  
4 Counsel for the Public ran into a problem by  
5 not having their expert witnesses do whatever  
6 rebuttal they wanted to do during their  
7 direct examination, which would have been  
8 allowed. I think Mr. Needleman argued in  
9 Antrim Wind, or his analogue argued in Antrim  
10 Wind, that that was the only time that they  
11 should have done it. And if the Applicant  
12 didn't ask any questions about it, there was  
13 no opportunity to provide that rebuttal.  
14 That's a problem. And we don't want the  
15 other intervenors doing the work that Counsel  
16 for the Public should be doing, or anyone's  
17 witnesses. If a witness wants to respond to  
18 something that was in the Applicant's  
19 rebuttal testimony or something that happened  
20 on the stand or information that's happened,  
21 the time to do it is during their direct  
22 examination, whatever supplemental direct  
23 needs to be done, not through questioning by  
24 intervenors. So, is there a reason why you

1 chose not to do it, Mr. Pappas?

2 MR. PAPPAS: Yes. That was not  
3 my understanding. And I thought it seemed to me  
4 to be more efficient, rather than me do  
5 essentially a direct, that if an intervenor  
6 wanted to delve into an area, they would, and to  
7 the extent they did, I wouldn't do it on  
8 redirect. If there was an area I thought that  
9 needed true redirect, then I would do it. But I  
10 wouldn't go back in and do a direct, because I  
11 thought that this was direct. Direct is  
12 prefiled, and this is cross.

13 CHAIRMAN HONIGBERG: Well, I  
14 mean, I wasn't in the Antrim Wind hearings, but  
15 I'm familiar at some level with what happened.  
16 And that specific issue came up. And if there  
17 were no intervenors here and you chose not to do  
18 a supplemental direct testimony -- it's not a  
19 redirect. It's really a supplemental direct  
20 based on responding to rebuttal testimony put in  
21 by the Applicant and things that happened during  
22 the hearing and information that is new or  
23 information that's changed. The time to do it  
24 is in a supplemental direct before everyone

1 cross-examines.

2 Mr. Needleman, you were in  
3 Antrim Wind; right?

4 MR. NEEDLEMAN: I was, yes.

5 CHAIRMAN HONIGBERG: And have I  
6 recounted that roughly correctly?

7 MR. NEEDLEMAN: I would say  
8 almost perfectly. If I could add one thing?

9 CHAIRMAN HONIGBERG: And that  
10 would be?

11 MR. NEEDLEMAN: This arose when  
12 Counsel for the Public in Antrim Wind tried to  
13 do redirect and introduce new information. I  
14 objected, and the Committee sustained that  
15 objection. There was some discussion at that  
16 point that, if Counsel for the Public wanted to  
17 do that, they should have tried to do it on  
18 initial direct, as you're talking about. I  
19 didn't concede that that would be appropriate.  
20 But that was the extent of the discussion. But  
21 certainly that additional testimony is something  
22 that we would not think would be appropriate  
23 during the course of this proceeding.

24 CHAIRMAN HONIGBERG: Let me make

1           sure I understand what you just said.

2                         So, if Mr. Pappas had wanted  
3           to ask these witnesses to respond to  
4           something Mr. Chalmers said during his  
5           testimony, live testimony that happened here,  
6           you would have objected to that?

7                         MR. NEEDLEMAN: I would have a  
8           concern about that, Mr. Chair. And it's the  
9           same reason I expressed in Antrim Wind, which is  
10          we're the party with the burden of proof. And  
11          there comes a point where somebody has to have  
12          the last word, and I would think that the party  
13          with the burden of proof should have the last  
14          word. And if, after our witnesses have all  
15          testified, we now have other witnesses coming on  
16          and trying to rebut that testimony, I'm not sure  
17          that's fair.

18                        CHAIRMAN HONIGBERG: Well, but is  
19          there any other way to do it? I mean, there's  
20          no other way for the witnesses who have been put  
21          forward by Counsel for the Public and the  
22          intervenors to respond to the changes that your  
23          witnesses identified in their reports or their  
24          testimony or new information that they brought

1 to the table after they testified. Is the  
2 record for the intervenors and Counsel for the  
3 Public fixed as of the moment that they submit  
4 their prefiled testimony?

5 MR. NEEDLEMAN: Well, I guess I  
6 would distinguish between "changes" and  
7 "additional information." But at some point the  
8 record has got to be fixed, I think, yes. I  
9 mean, would we be entitled, if they were to  
10 respond, to recall witnesses to address those  
11 responses? I mean, I would think not. It has  
12 to end at some point.

13 CHAIRMAN HONIGBERG: That is no  
14 doubt true. But if there is information that's  
15 come in since the intervenors filed their  
16 testimony, so they're done. They can't respond.  
17 Is that what -- is your position they can't  
18 respond to new information?

19 MR. NEEDLEMAN: I think it's  
20 situational. If my witnesses, for example,  
21 provided rebuttal testimony to what they said,  
22 and it was nothing new, it was simply them  
23 rebutting what these witnesses said, are they  
24 now entitled to rebut the rebuttal? I think

1           that's different from introducing new  
2           information that was never part of the case.

3                           CHAIRMAN HONIGBERG:  It is  
4           different.  I agree with that.  Those two things  
5           are different.  And I think you could probably  
6           make a distinction along those lines and treat  
7           those two differently.  But it's fairly clear to  
8           me that the time to try and do it is -- and we  
9           have discussion about this specific question.  
10          But the time to try to do it is when the sponsor  
11          of that witness is putting that witness forward  
12          because -- and you would agree with that.

13                           MR. NEEDLEMAN:  I would  
14          absolutely agree with that.

15                           CHAIRMAN HONIGBERG:  Mr. Pappas,  
16          let me come back to you.  And I'll open the  
17          floor to other intervenors on this in a moment.

18                           But why is -- putting aside  
19          the potential disagreement about rebuttal  
20          versus responding to new information, when is  
21          the right time to do this?  How can this  
22          possibly work in any coherent fashion?

23                           Mr. Aslin, you want to address  
24          this?

1 MR. ASLIN: Yes. Thank you, Mr.  
2 Chairman. I think the distinction in our minds,  
3 as Counsel for the Public, is between Counsel  
4 for the Public attempting to present a direct  
5 rebuttal to previous rebuttal testimony that was  
6 submitted, which we have not chosen to do with  
7 this witness, and appropriate cross-examination  
8 questions, which we're not directing the  
9 cross-examination of our witnesses, obviously.  
10 But if this were a different set of witnesses  
11 and we were cross-examining them, another  
12 party's witness, I think it's fair to ask a  
13 witness if they have an opinion about new  
14 information that has been brought in by the  
15 Applicant since the witness's final testimony  
16 and --

17 CHAIRMAN HONIGBERG: Who should  
18 be doing that, though? Shouldn't it be the  
19 party that sponsors the witness?

20 MR. ASLIN: It depends. The  
21 party sponsoring the witness may do that if they  
22 feel that it's important to directly rebut  
23 something. But if I have a witness that I'm  
24 cross-examining and they've addressed an issue

1           that's important to me that wasn't specifically  
2           rebutted by them in their direct exam, I don't  
3           see that that would be inappropriate for me to  
4           ask, just as I'm sure the Committee might want  
5           to ask questions of a witness about how they see  
6           prior testimony in this case.

7                           CHAIRMAN HONIGBERG:   That seems  
8           like an uncontrolled system, Mr. Aslin.  There's  
9           no limit then on any intervenor's or your  
10          ability to expand a witness's testimony beyond  
11          what they filed and beyond what they said on the  
12          stand.

13                          Mr. Pappas, you have a -- you  
14          want to add something here?

15                          MR. PAPPAS:  I do.  Two things.  
16          One, I think the control is they have to be  
17          asking about the new things that were presented.  
18          For instance, if there's new analysis in the  
19          Applicant's supplemental testimony, or if there  
20          was new analysis on the witness stand, and there  
21          have been both in many areas, the supplemental  
22          testimony presented new analysis for the first  
23          time came in in April, and a number of witnesses  
24          have presented new things.  We just heard last

1 week the construction folks, a lot of new things  
2 that came in. So I think those things are  
3 appropriate to be addressed through  
4 cross-examination.

5 What we -- the second point is  
6 this is not a two-party case. This is a  
7 multi-party case with a lot of people asking  
8 questions. And we thought that the more  
9 efficient way to do it, and maybe we were  
10 wrong, but we thought it would be efficient  
11 to, rather than us spend an hour or two doing  
12 that and then everybody following us, picking  
13 up on those things and doing it as well, we  
14 would allow the intervenors who have  
15 different interests -- the municipalities are  
16 interested in their specific municipalities,  
17 different areas have different interests,  
18 whether environmental groups and so forth --  
19 we thought perhaps the more efficient way was  
20 to allow those parties to delve into the  
21 areas of which they've been doing throughout  
22 the proceeding.

23 CHAIRMAN HONIGBERG: You want to  
24 say something, Mr. Needleman?

1                   MR. NEEDLEMAN: I do. I would  
2 disagree with Mr. Pappas. I don't think there's  
3 anything efficient about that. I think if it's  
4 going to happen, if it's going to happen, and  
5 it's truly going to relate to new information  
6 and not rebuttal information, it should happen  
7 once up front. If every person is going to get  
8 to do that throughout the course of the  
9 proceeding, I think that's terribly inefficient.

10                   CHAIRMAN HONIGBERG: Yeah, I had  
11 the same reaction to one of the things you said,  
12 Mr. Pappas, and that was for everyone else to do  
13 it as well. It seems that if there's a table  
14 that's been put forward, Mr. Whitley asked  
15 questions about that. I'm not sure anybody else  
16 should be asking questions about it. It should  
17 be done one time, and one time only. And now  
18 maybe that's going to require the intervenors to  
19 get together and decide who wants to ask  
20 questions about the new information. But we're  
21 not going to have Mr. Reimers then do a series  
22 of questions about it and then Mr. Baker do a  
23 series of questions about it and then Mr.  
24 Cunningham do a series of questions about it.

1 Now, I think the municipal group working  
2 together has been pretty good about not  
3 duplicating efforts. So I wouldn't have  
4 expected Ms. Pacik or Ms. Fillmore to duplicate  
5 questions. But I could imagine others doing it.  
6 And that's not a criticism, because the system  
7 was -- the situation with the Applicant's  
8 witnesses was different. You are all adverse to  
9 the Applicant's witnesses. And while there was  
10 some level of adversity among the intervenor  
11 group, bury, not bury, certain more subtle  
12 differences in certain other areas, for the most  
13 part, you're all on the same side. You're all  
14 trying to do the same thing. And we're not  
15 going to have multiple people doing the same  
16 thing with each panel of witnesses. That's not  
17 going to happen.

18 MR. PAPPAS: I guess I envisioned  
19 that one person would, for instance, tackle the  
20 real estate, and perhaps one person would tackle  
21 the tourism and along those lines. I didn't  
22 envision that all 25 people after us would plow  
23 the same thing, one after each other. And maybe  
24 I was mistaken in that.

1 CHAIRMAN HONIGBERG: Well, having  
2 read the cross-examination notices filed by many  
3 of the parties, it's apparent that everybody  
4 intends to ask about everything that each  
5 witness testified about. That's the notices  
6 that the overwhelming majority of the  
7 intervenors filed. If you've had a chance to  
8 look at them, you will see.

9 I'm going to open the floor to  
10 some others. Ms. Pacik, you look like you  
11 want to say something.

12 MS. PACIK: I think everyone, at  
13 least from what I've seen in terms of the  
14 intervenors and how they've presented their  
15 cases, have tried to comply with the rule, which  
16 is that questions should not be unduly  
17 repetitive. So I do think, for the most part,  
18 intervenors are trying to focus on one area and  
19 not repeat others. And you've mentioned the  
20 Joint Municipal Groups have been working to try  
21 to avoid that. And I know that other intervenor  
22 groups have also tried to do that. And we had  
23 anticipated doing the same thing with the  
24 witnesses for Counsel for the Public. And I

1 recognize the notices for friendly  
2 cross-examination were repetitive. And I think  
3 that was just to reserve the right to ask  
4 certain questions. But I don't think there was  
5 any intent to be repetitive when it comes to any  
6 of the upcoming witnesses.

7 CHAIRMAN HONIGBERG: Ms. Pacik, I  
8 have some opinions about the work that was done  
9 with respect to those notices, but it's not  
10 really relevant as we sit here right now.

11 The fact that the Deerfield  
12 people want to talk about Deerfield and the  
13 Bridgewater people want to talk about  
14 Bridgewater and the people in Plymouth want  
15 to talk about Plymouth and the people up  
16 further north want to talk about their  
17 particular communities, this testimony is  
18 this testimony, and it's broad and it's  
19 general about the Project. I have a hard  
20 time envisioning useful questions that are  
21 specifically relevant to each of the  
22 geographic areas coming out differently from  
23 these witnesses. So I'm even surprised that  
24 some people claim to have 20 or 30 minutes

1 for these witnesses. But I'm prepared to  
2 listen to people and have them tell me what  
3 it is they want to do. I heard Mr. Whitley  
4 say he wanted to talk about the new exhibit.  
5 I then got into it with Mr. Pappas and others  
6 about why Mr. Pappas didn't do that, and I  
7 understand his answer. And maybe we can  
8 control this cross-examination process by  
9 having one questioner deal with a particular  
10 issue for witnesses who are testifying about  
11 the entire project like these. The answers  
12 aren't going to be any different for the  
13 different geographic areas for these  
14 witnesses. There may be others for whom  
15 their testimony is going to be different, but  
16 that's not this situation here. And the  
17 general proposition here is that the party  
18 putting on the witness is responsible for  
19 getting that witness in a position so that  
20 they can be cross-examined by the people who  
21 are adverse to them. And polishing their  
22 resumes, having them go beyond their direct  
23 examination is not what's contemplated by the  
24 administrative rules generally in this state,

1 the processes of the SEC historically and  
2 currently. So I'm very concerned about how  
3 long this is going to take if people go on  
4 doing what they've been doing in this part of  
5 the case.

6 Ms. Pacik.

7 MS. PACIK: I mean, just to  
8 comment on that, for this particular witness, I  
9 agree that probably geographic differences  
10 aren't going to really be helpful. But still,  
11 the rule that you can't be unduly repetitive I  
12 think we've all kept in mind. So, whether or  
13 not it may relate to a specific area of the  
14 state, I know that we are going to try not to  
15 repeat topical areas in these individuals'  
16 testimony.

17 And in terms of the rules, my  
18 understanding was that it wasn't just for  
19 adverse questions, but if it was information  
20 to clarify a particular topic or something  
21 that was helpful for the true and full  
22 disclosure of facts for the Committee, that  
23 that was an area that we could talk about.  
24 And certainly if there's been, for example, a

1 rebuttal report from Ms. Frayer criticizing  
2 Kavet Rockler's original report, we thought  
3 that was something that we could raise during  
4 our examination of those witnesses.

5 CHAIRMAN HONIGBERG: Well, in the  
6 passive voice, yes, someone should be given --  
7 they should be given the opportunity to respond  
8 to what Ms. Frayer said. I agree with that  
9 proposition. Maybe Mr. Needleman doesn't. But  
10 it doesn't seem inappropriate to me to have that  
11 happen. Maybe we're going to get an objection  
12 to that when it happens. It just seems to me  
13 that, for the most part, that should have been  
14 Mr. Pappas doing that. And I guess if up front  
15 we know Mr. Pappas would say I'm not going to do  
16 that, I'm going to have Mr. Whitley do that or  
17 I'm going to have Ms. Pacik do that or have Mr.  
18 Cunningham do that, we'll know it's going to get  
19 done, and it's going to get done once and we  
20 won't have to hear it over and over.

21 Now, circling back to Mr.  
22 Whitley's examination that's been going on,  
23 this has 98 percent so far been things from  
24 the report, from their backgrounds, from

1           their resumes, which isn't advancing his case  
2           in any way that's different from what Counsel  
3           for the Public has put forward. So, whether  
4           those are long scene setters or not, I don't  
5           know. I did hear you say you want to talk  
6           about the new exhibit. Mr. Pappas didn't do  
7           it. I'm going to let you do it. But I think  
8           that we may need to have another conversation  
9           about this. And the intervenors are going to  
10          have to plan out some, quote, unquote,  
11          cross-examination of future witnesses.

12                         MR. WHITLEY: Mr. Chair. Thank  
13           you. I just want to start off and say that I  
14           misunderstood as well kind of the ground rules  
15           for these experts. So I apologize for kind of  
16           going at it like this --

17                         CHAIRMAN HONIGBERG: Don't  
18           apologize, Mr. Whitley. It's apparent to me  
19           that no one really had a clear understanding  
20           among the intervenor groups, Counsel for the  
21           Public. It's apparent that the Applicant didn't  
22           fully -- wasn't fully on the same page as  
23           anybody. And I think Mr. Iacopino and Ms.  
24           Monroe, in the various prehearing conferences,

1 the conference reports, then the response to  
2 someone's motion about friendly cross, were  
3 trying to bring some order to this so that it  
4 will be done efficiently, that people can make  
5 the cases that they need to make and have a  
6 right to make without repeating themselves,  
7 "gilding the lily" unnecessarily, and making  
8 this a longer process than it needs to be for  
9 people to do what they need to do. And it is at  
10 least my view that you don't need to embellish  
11 these witnesses' resumes because their resumes  
12 are their resumes. And Counsel for the Public  
13 put them in. They have qualifications, whatever  
14 they are on paper and whatever they've put in  
15 their testimony. It's there. You can do  
16 substance with them that's relevant to your case  
17 that will help us understand what it is that we  
18 need to know and move on. But you do not need  
19 to apologize.

20 MR. WHITLEY: I appreciate that.  
21 I just wanted to, while we're on this kind of  
22 larger procedural discussion -- you know, I had  
23 a quick side bar with the other municipal  
24 counsel, and I think that, you know, in terms of

1           how to go forward, you know, I think we're  
2           probably more comfortable having an opportunity  
3           to do some sort of a direct on our witnesses  
4           that we're putting up and then let the parties  
5           that follow fill in the gaps or do cross or do  
6           whatever they need to do. I think to us, that  
7           seems to be the more efficient way to handle  
8           this proceeding. So I just want to put that out  
9           there.

10                           And my next question was, I  
11           think, you know, before I continue, I'd like  
12           to get a little clarity about what the  
13           expectation is for my questioning of these  
14           witnesses right now, because clearly I had a  
15           different one when I put this together. So I  
16           don't want to stumble along. You know, I  
17           want to avoid that if I can.

18                           CHAIRMAN HONIGBERG: And that's  
19           why I asked you to tell me what it is you're  
20           planning on doing with these witnesses, and that  
21           will help focus us all.

22                           MR. WHITLEY: Okay. Well, I  
23           mentioned that they've corrected their table  
24           which is at the end of their report.

1 CHAIRMAN HONIGBERG: Good. And  
2 Mr. Pappas didn't do it. You should do it.  
3 What else you got?

4 MR. WHITLEY: In addition to  
5 that, I was going to discuss Mr. Chalmers'  
6 response to some of the concerns that were  
7 raised by intervenors to his analysis with  
8 respect to his subdivision analysis, which they  
9 have rendered an opinion on. So I was going to  
10 ask them to --

11 CHAIRMAN HONIGBERG: All right.  
12 We'll see when you get to that one. Okay.

13 MR. WHITLEY: Okay. And the  
14 other thing I was going to do, Mr. Chair, was  
15 put up for them some exhibits that our witness  
16 put in, Mr. Sansoucy, related to the literature  
17 cited by Mr. Chalmers in his subdivision studies  
18 and ask some questions of the panel based on  
19 those exhibits.

20 CHAIRMAN HONIGBERG: All right.  
21 We'll see how that comes out when you get to it.  
22 But it seems like your safest one is the first  
23 one you mentioned. Let's talk about the new  
24 exhibit.

1 MR. WHITLEY: And I understand  
2 that, Mr. Chair.

3 Dawn, can I have the ELMO,  
4 please?

5 BY MR. WHITLEY:

6 Q. Gentlemen, I'm going to put up on the screen  
7 here shortly the corrected tables that were  
8 at the very end of your supplemental report.  
9 And so I'm talking about Table 24 and 25.  
10 And just for the record, this is Counsel for  
11 the Public 148A, and it's correcting Page 76  
12 of your supplemental report. Is that up on  
13 your screen, gentlemen?

14 A. (Kavet) It is.

15 A. (Rockler) Yes.

16 Q. So you testified when Attorney Pappas was  
17 doing your direct that you made some changes  
18 to your testimony. Can you tell us what  
19 those changes were?

20 A. (Kavet) They were corrections. There was a  
21 transposition of a model input line that we  
22 corrected, and that changed the construction  
23 phase. Employment estimates didn't change  
24 materially in terms of our conclusions. But

1           it was an input error, and so it's correcting  
2           that input error.

3    Q.    And did that correction carry through on both  
4           Table 24 and Table 25?

5    A.    (Kavet) Yes, it did. And it starts with  
6           Table 7, where, you know, it just has  
7           construction impacts and then it flows  
8           through to that.

9    Q.    Okay. And I don't have Table 7. Well, I  
10           guess it's probably on that exhibit earlier.

11   A.    (Kavet) It's one of the pages.

12   Q.    Okay. One second --

13   A.    (Kavet) Page 42.

14   Q.    -- and I'll turn to that. This table here?

15   A.    (Kavet) That's correct.

16   Q.    And what was the correction on this table  
17           that was carried through to Tables 24 and 25?

18   A.    (Kavet) Well, it would have been all the  
19           figures on the KRA --

20   A.    (Rockler) All the KRA columns.

21   A.    (Kavet) -- would have changed. I could read  
22           the old ones if you want or --

23   Q.    No, that's okay. I mean, it's in the record.  
24           But I just wanted to understand what you

1 corrected here and what the cause of that  
2 correction was. It sounds like it was an  
3 input error to the REMI model.

4 A. (Kavet) That's correct.

5 Q. Okay.

6 A. (Kavet) And it served to raise the estimate  
7 of the economic impacts associated with  
8 construction slightly.

9 Q. And what was the error? So, before you had  
10 one input and you learned it was incorrect?

11 A. (Kavet) Yeah, there are a listing of states,  
12 and they're sometimes alphabetized in  
13 different ways. And so it just had -- it  
14 mixed up those inputs by state, and this  
15 corrected it.

16 Q. Okay.

17 A. (Kavet) So it was just one component of  
18 professional and scientific employment inputs  
19 as a direct input. And it had the state  
20 order wrong, so it corrects that. And then  
21 that flows through to the total construction,  
22 total project.

23 Q. Okay. So, safe to say that the numbers as a  
24 result of this correction went up both for

1 employment and for the GSP dollar figure.

2 A. (Kavet) Personal income, disposable income,  
3 GSP, all those went up slightly.

4 Q. Okay. So, other than that change that you  
5 just described, these tables -- and other  
6 than that change that you just described and  
7 how those changes, you know, carry throughout  
8 the calculations of these tables, there is  
9 nothing else different about these tables  
10 than was in your supplemental report.

11 A. (Kavet) That's correct.

12 Q. Okay. I believe you mentioned in your  
13 testimonies that some of these "forecasts" --  
14 and I use that term very loosely -- but some  
15 of these forecasts have a more narrow range  
16 of outcomes and others have a wider range; is  
17 that correct?

18 A. (Kavet) Yes, but I would not characterize  
19 them as "forecasts." I really think that's  
20 kind of an important distinction, just to  
21 understand what's -- how this modeling  
22 approach is used and how it could be useful  
23 to a group that's trying to make a decision  
24 around this. The REMI is basically a

1 simulation model. So you're not using it to  
2 do a forecast. You're using it to tell,  
3 well, what would a difference relative to  
4 some baseline be? And especially in these  
5 sorts of, you know, these last couple tables,  
6 we're not saying this is what's going to  
7 happen in these areas. We're saying, if you  
8 put in these sort of assumptions, if you  
9 believe this about it, here's the order of  
10 magnitude of what could occur. So it's a way  
11 of understanding risk. It's not really  
12 saying this is what we think is going to  
13 happen. That's a forecast. That's really a  
14 different sort of thing. And we never use  
15 REMI for forecasting purposes.

16 A. (Rockler) Embedded in the model you will see  
17 in the long run, a trend-based forecast, but  
18 it's really not a critical part of the  
19 analysis. It really is a trend-based thing  
20 when you go out past three or four years. So  
21 it has no major assumption, changes or  
22 anything that's made explicit in the use of  
23 the model.

24 Q. And am I correct in saying that the changes

1           that you made to these two tables doesn't  
2           alter the answers that you just provided  
3           about how you would characterize these tables  
4           and them not being a forecast?

5    A.    (Kavet) No, that doesn't have anything to do  
6           with it.

7    Q.    Okay.

8    A.    (Kavet) It's like changing an assumption and  
9           saying, oh, you know, there's a little bit  
10          different alignment of what we're describing  
11          is going to be happening associated with the  
12          construction, and so then the impact would  
13          change a little bit.

14   Q.    Okay. At the bottom of this page,  
15          Footnote 70, you mention intentionally  
16          including overlapping years. Do you see  
17          that?

18   A.    (Kavet) Yeah.

19   Q.    So do I understand that one of the years in  
20          your construction phase is combined with or  
21          bleeds over into the operational period, for  
22          instance?

23   A.    (Kavet) It's the rounding -- yeah. So, 2020  
24          shows up both in the first part and then the

1 second part for averaging purposes.

2 Q. You've included here some negative impacts  
3 from the Project in both tables there. And  
4 I'm looking at the tourism effects and then  
5 the electricity market effects in the later  
6 phases of the Project. And that goes for  
7 both of those tables; correct?

8 A. (Kavet) That's correct. I would describe  
9 them as "potential negative effects."

10 Q. Thank you. Yeah, potential negative effects.  
11 But that's an approach that Northern Pass and  
12 its experts didn't utilize.

13 A. (Kavet) I don't know that there were any  
14 negative externalities or negative impacts  
15 that were considered. I don't recall if  
16 there were any. But I don't think there  
17 were. I think they should be thought of more  
18 in terms of risk, you know, downside risks  
19 that exist in association with this.

20 Q. One second. Apologies.

21 (Pause).

22 Q. I want to turn now to Dr. Chalmers and his  
23 literature review. And I believe, very  
24 generally, that one of your critiques of his

1 methodology was that he used proximity to the  
2 right-of-way as the main measurable as  
3 opposed to visibility. Do I have that  
4 roughly correct?

5 A. (Kavet) Yeah, that's one aspect of it.

6 Q. Okay. And are you familiar with Dr.  
7 Chalmers' response to that criticism? Did  
8 you gentlemen review his supplemental  
9 testimony, his April supplemental testimony?

10 A. (Kavet) We read that. We didn't do anything  
11 analytic around it or do any response, but  
12 we're aware of it.

13 Q. What I'm going to put before you now on the  
14 screen is an exhibit from Mr. Sansoucy's  
15 December 2016 testimony. It's been marked  
16 and provided already as Sansoucy 18 for the  
17 record. Are you familiar with this exhibit,  
18 either of you?

19 A. (Kavet) No, but I can see it here on the  
20 screen, so I'm happy to...

21 Q. Okay. Take a look for one second, and then  
22 I'm going to ask you some questions about it.

23 (Witnesses reviews document.)

24 A. (Kavet) Okay.

1 Q. So, this exhibit, I'll represent to you,  
2 looks at the studies referenced by Dr.  
3 Chalmers. And then you see in the rows  
4 there -- excuse me -- the columns, it  
5 classifies various characteristics of each of  
6 those studies. And I want to draw your  
7 attention to Columns D and E.

8 A. (Kavet) Okay.

9 Q. You see that nearly all of those fall outside  
10 of the New England area; correct?

11 A. (Kavet) Hmm-hmm. Yes.

12 Q. I'm sorry. I didn't mean to interrupt.

13 And you also see from Column A that some  
14 of these studies are quite old, beyond 40  
15 years; correct?

16 A. (Kavet) That's correct.

17 Q. Would you agree that valuation is a very  
18 local issue, and it can be quite different  
19 from state to state in terms of how it is  
20 defined and arrived at?

21 A. (Kavet) Absolutely.

22 Q. So these cited studies from Dr. Chalmers  
23 could be from places that do not value  
24 property and potential impacts from a

1 transmission line in a way comparable to New  
2 Hampshire; correct?

3 A. (Kavet) That's correct.

4 Q. And without knowing how those states value  
5 property -- excuse me. Strike that.

6 Without knowing whether those states  
7 value property in a manner similar to New  
8 Hampshire, that could cast doubt on Dr.  
9 Chalmers' reliance on these studies as they  
10 support his opinion in New Hampshire.

11 MR. NEEDLEMAN: Objection. This  
12 exhibit I'm reading says it's from the prefiled  
13 direct testimony of Mr. Sansoucy. So this  
14 exhibit was available to these witnesses, and  
15 they could have commented on it. So the only  
16 thing we're seeing here is eliciting additional  
17 direct testimony.

18 CHAIRMAN HONIGBERG: Mr. Whitley.

19 MR. WHITLEY: I think this is new  
20 testimony, Mr. Chair, in that they have  
21 criticized Dr. Chalmers and his literature  
22 studies, but I don't know if they have done so  
23 on the same basis as what I'm putting up here.

24 CHAIRMAN HONIGBERG: I'm not sure

1           that helped. I'm going to sustain the  
2           objection.

3                           MR. WHITLEY: I'll move on.

4   A.   (Kavet) The only thing I would add about  
5           that --

6                           CHAIRMAN HONIGBERG: You don't  
7           have to answer.

8   BY MR. WHITLEY:

9   Q.   I'm going to put up another exhibit for you  
10           gentlemen. And this one is from Mr.  
11           Sansoucy's April 2017 testimony. And let me  
12           just put it up on the screen here first.

13                          MR. WHITLEY: Dawn, can you  
14           switch over to the hardwire, please?

15   BY MR. WHITLEY:

16   Q.   Let me know when it pops up on your screen.

17   A.   (Kavet) Okay.

18   Q.   So this has been marked already as Sansoucy,  
19           SAN 37. And as I just mentioned, it's an  
20           exhibit to his April 2017 testimony. And  
21           it's very difficult to read. I have a hard  
22           copy which I'm going to hand you in the hopes  
23           it may help you. So, one second.

24   A.   (Rockler) I'm not sure that made it easier.

1 Q. I tried. For the record, it's SAN 37.

2 A. (Kavet) Okay.

3 Q. Have either of you seen this exhibit?

4 A. (Kavet) I have not.

5 A. (Rockler) I haven't.

6 Q. Again, each of these rows is a different  
7 exhibit that was -- or excuse me -- a  
8 different study that was cited by Dr.  
9 Chalmers in his report. And I don't know if  
10 you can tell from what's on the screen or  
11 with the hard copy there, but I'll represent  
12 to you that, similar to the last exhibit,  
13 each row is a different study, and the  
14 columns are various characteristics or  
15 information that was pulled from those  
16 studies. Do you see that on the handout or  
17 on the screen there?

18 A. (Kavet) Yeah.

19 A. (Rockler) Yes.

20 Q. And I'll represent to you that Column E,  
21 which on the screen is the biggest one, the  
22 widest one, that column lists the internally  
23 cited studies of the study that Mr. Chalmers  
24 referred to. Does that make sense?

1 A. (Kavet) Yes.

2 A. (Rockler) Hmm-hmm. Yes.

3 Q. Okay. And in addition, I'll represent to you  
4 that Mr. Sansoucy -- the reason there are red  
5 text in the handout and on the screen before  
6 you is that those particular studies were  
7 subsequently cited by other authors and  
8 studies that Mr. Chalmers relied on.

9 A. (Kavet) Hmm-hmm.

10 Q. Does that make sense?

11 A. (Kavet) Yes, it does.

12 Q. Okay. So as you -- I'm going to scroll down  
13 here, and I'm going to ask you to flip the  
14 pages, or just watch on the screen as I do  
15 so. But you're going to see that as we go  
16 down this list of studies reviewed or relied  
17 on by Dr. Chalmers, that the text in red is  
18 going to increase as we continue to go down  
19 through this list. I'm just going to...

20 A. (Kavet) We can see that.

21 Q. And it's probably easier for you to see that  
22 on the handout by flipping the pages.

23 A. (Kavet) I'm doing that.

24 Q. I apologize that I don't have more copies for

1 the other parties.

2 You see the amount of red generally  
3 increases as the studies get more recent in  
4 time?

5 So, would it be fair to say that Dr.  
6 Chalmers relied on the same core sources of  
7 information to support his opinion?

8 MR. NEEDLEMAN: Mr. Chair, I'm  
9 going to object for several reasons. First of  
10 all, it's the same issue. And the fact that  
11 this came in the April 2017 testimony instead of  
12 initial testimony doesn't matter. Under the  
13 Antrim Order, the Committee said that if people  
14 want to go into this sort of stuff, that they  
15 should have given notice by filing a motion.

16 Second of all, this sounds to  
17 me like an effort by Mr. Whitley to bolster  
18 his witness's testimony by using these  
19 witnesses. Now, I don't think that's  
20 appropriate either.

21 CHAIRMAN HONIGBERG: Mr. Whitley.

22 MR. WHITLEY: Honestly, Mr.  
23 Chair, I'm not aware of the Antrim Order prior  
24 to the discussion earlier today of what it laid

1 out. And I'm further not aware of its  
2 applicability to this proceeding, short of  
3 something else being issued after today.

4 In relation to what I'm doing  
5 now, I believe it's fair game to ask them to  
6 look at an exhibit that came out, that was  
7 submitted after they submitted their  
8 testimony, and ask them their opinion on it.  
9 And I think that my understanding of the kind  
10 of scope of what we're doing here is that,  
11 you know, we're trying to get to a full and  
12 true disclosure of the facts.

13 CHAIRMAN HONIGBERG: It sounds  
14 like you want them to give a new opinion here;  
15 is that right?

16 MR. WHITLEY: I wouldn't  
17 characterize it as a "new opinion." I think it  
18 is based on what I understand their opinion to  
19 be. I think it's pretty consistent. I think it  
20 is. I don't know. That's why I'm asking. I  
21 think it's consistent with what their opinion  
22 is.

23 CHAIRMAN HONIGBERG: But it's one  
24 they haven't given yet. You think they -- you

1 want them to -- well, I want to know exactly  
2 where you want to end up.

3 MR. WHITLEY: They haven't given  
4 it yet because they haven't --

5 CHAIRMAN HONIGBERG: I'm sorry.  
6 Can you refresh my memory of what the specific  
7 pending question is?

8 MR. WHITLEY: I asked them --  
9 well, I just went over what the exhibit shows  
10 and asked them --

11 CHAIRMAN HONIGBERG: And what's  
12 the specific spending question?

13 MR. WHITLEY: I asked them to  
14 agree or not that Dr. Chalmers relied upon a  
15 very small source of information to support his  
16 opinion.

17 CHAIRMAN HONIGBERG: I think the  
18 phrase you used was "four sources."

19 MR. WHITLEY: "Sources" I think I  
20 said, plural.

21 CHAIRMAN HONIGBERG: Yeah, four  
22 sources.

23 MR. WHITLEY: I don't know if I  
24 put a number on it. I don't recall putting a

1 number on it.

2 CHAIRMAN HONIGBERG: And I recall  
3 them answering that question. Or I thought they  
4 did, and I thought you were on your next  
5 question.

6 MR. WHITLEY: I don't think they  
7 answered. I think Mr. Needleman --

8 CHAIRMAN HONIGBERG: All right.  
9 I'm going to overrule the objection for that  
10 question and allow and have the witnesses  
11 answer.

12 A. (Kavet) I think I'm understanding the  
13 question. If not, then you can correct me.  
14 But I mean, our opinion was, and this is  
15 consistent with that, is that it was  
16 difficult to find relevant studies in the  
17 existing literature that were applicable to  
18 this project. And that made it difficult to  
19 rely on any of those as being relevant. The  
20 thing that is missing from these is who paid  
21 for the studies. We found that also to be an  
22 issue because there was a 19 -- Edison  
23 Electric review of studies and found that  
24 80 percent of them were paid for by industry

1 groups, and so that then cedes the whole  
2 academic literature. Sometimes you don't  
3 even know who paid for them. When the  
4 Department of Energy did their analysis of  
5 property valuation impacts, they excluded all  
6 studies that had been paid for by parties  
7 with a financial interest in the outcome. So  
8 that made it difficult to find unbiased  
9 studies that were appropriate to the areas  
10 under analysis with which to rely on.

11 MR. IACOPINO: Which federal  
12 agency did you say?

13 WITNESS KAVET: It was Edison  
14 Electric Institute did the surveys. Oh,  
15 Department of Energy, the DOE study.

16 MR. IACOPINO: DOE? Okay.

17 WITNESS KAVET: Yeah, updated in  
18 August.

19 BY MR. WHITLEY:

20 Q. I want to put up for you now Dr. Chalmers'  
21 supplemental testimony from April 2017. I've  
22 highlighted here on Page 14 -- and just for  
23 the record, this is Applicant's Exhibit 104.  
24 We're looking at Page 14 of that testimony.

1           And I've highlighted a section there at the  
2           top of the page. I'll give you a second to  
3           read that.

4                       (Witnesses reviews document.)

5    A.   (Rockler) I think Mr. Chalmers has some  
6           elements of what he said here are actually  
7           correct. I think they're --

8    Q.   You're assuming the question, but --

9    A.   (Rockler) Oh, I'm sorry. I thought the  
10           question was -- I thought I heard the  
11           question.

12   Q.   No, I just wanted you to look at it and tell  
13           me when you had a chance to read it.

14   A.   (Rockler) Right. Okay.

15   Q.   The question, though, is: Do you agree with  
16           Dr. Chalmers that it's the only valid  
17           approach, as he says at the end?

18   A.   (Rockler) I wouldn't say that, no.

19   Q.   And what other approach might there be?

20   A.   I think there are other approaches, depending  
21           on the circumstance. If you have a situation  
22           in which there are a large number of property  
23           transactions that will allow you to get the  
24           necessary characteristics of different

1           properties into the sample or into the  
2           population, preferably, that's a reasonable  
3           way of doing a statistical analysis. But in  
4           cases where you don't, where you have to rely  
5           on either reasonable or well-informed opinion  
6           as to what the effects might be, you may have  
7           to fall back on something like that. I mean,  
8           there are three techniques we've seen  
9           presented in the Applicant's data. There are  
10          case studies, there are opinion-related  
11          appraisal studies, and there are statistical  
12          studies. And all three have their merits.  
13          It depends on what you have as data available  
14          to you. And I think when you have a large  
15          statistical data base in an area that has  
16          lots of observations, and you have the  
17          characteristics of the property well  
18          documented, then I think you have a basis for  
19          doing a statistical analysis. And so in the  
20          case of Northern Pass, the difficulty is that  
21          you're dealing with an area which has  
22          sometimes very few observations or  
23          transactions in a short period of time, and  
24          so you'll want to be doing something over a

1 very long period of time. And then you get  
2 into the problem of having relevant data, if  
3 you're going back for a long period, whether  
4 or not it actually is measuring what you're  
5 looking for, or whether it can even measure  
6 what you're looking for.

7 A. (Kavet) Yeah, I would just add that it  
8 takes -- it's an unusual data base that has  
9 the kind of detail with respect to property  
10 characteristics that really allow the best  
11 possible analysis. And in the case of this  
12 issue, we'd be saying, is there a view of  
13 this, and from what part of the house and in  
14 what season and things like that. You know,  
15 I've not seen data bases like that in any of  
16 this literature. In the wind farm area,  
17 there's a data base that the Berkeley Lab has  
18 that is robust in the way you might need to  
19 do the best possible analysis.

20 Q. And by "best," you mean a statistical  
21 analysis.

22 A. Yes, a statistical analysis that has a large  
23 data set with the right -- with enough detail  
24 about the characteristics of each property so

1           that you can test for the things that are  
2           relevant.  And one of those things would be,  
3           you know, a view encumbrance.  And it would  
4           probably not just be a "yes" or "no."  It  
5           would be on a scale.  And then you could, you  
6           know, start -- you could get some meaningful  
7           statistical data back on how important that  
8           variable was compared to others.

9    Q.    Thank you, gentlemen.  That's all I have.

10                           CHAIRMAN HONIGBERG:  All right.  
11           I think it makes sense for us to break for  
12           lunch, and we'll be back at 1:30.

13                           (Discussion off the record)

14                           CHAIRMAN HONIGBERG:  Let's go  
15           back on the record.  We're back on the record,  
16           Mr. Cunningham.

17                           MR. CUNNINGHAM:  Let me pose what  
18           I thought I would do with witnesses for the  
19           Counsel for the Public.  And I think I can make  
20           it clear.  There were two general areas and two  
21           specific areas.  One, I figure it would be  
22           perfectly appropriate for intervenors like my  
23           clients to ask the CFP witnesses to expand  
24           points that are unclear, and I plan to do that.

1                   The other area in that area  
2                   would be if a CFP witness does not cover  
3                   something I think they should have covered  
4                   vis-a-vis the Applicant's witnesses -- in  
5                   other words, did they miss something I think  
6                   that is critical to understanding the issues.  
7                   That's the first general area.

8                   The second general area is if  
9                   Mr. Needleman conducts cross-examination of  
10                  CFP witnesses and opens the door to new  
11                  matter -- and this is based on my courtroom  
12                  experience -- opens the door to new matter, I  
13                  think intervenors should have the opportunity  
14                  to follow-up on Mr. Needleman's  
15                  cross-examination questions that open the  
16                  door.

17                  So I think it's pretty simple,  
18                  from my point of view. One, can intervenors  
19                  expand on points of the CFP witnesses that  
20                  are not clear; two, can intervenors ask  
21                  questions that the CFP witnesses did not  
22                  cover that's critical to the consideration of  
23                  this Committee; and again, repeating myself,  
24                  if Needleman asks questions that open the

1 door, can intervenors follow-up with further  
2 examination?

3 CHAIRMAN HONIGBERG: I'll give  
4 you a chance in a second, Mr. Needleman. But I  
5 think my answer to those questions are "Yes, No  
6 and No," respectively. If there's a part of the  
7 testimony that is unclear and you want  
8 clarification, that seems to me to be the type  
9 of thing you can ask. If you want Counsel for  
10 the Public or any other witness to go on to a  
11 topic that they didn't address, I don't think  
12 you're allowed to do that. I think their  
13 testimony is their testimony. Their prefiled  
14 testimony defines the scope of their prefiled  
15 testimony. The topics that they covered are the  
16 topics that they covered. And that's why we do  
17 prefiled testimony in administrative hearings,  
18 so we know what witnesses are going to testify  
19 about.

20 And as to the third one, I  
21 don't know what courtrooms you practiced in,  
22 but the only person who would be doing  
23 redirect of those witnesses would be Mr.  
24 Pappas, of the CFP witnesses, or Mr. Aslin,

1           whoever presented the witness.  Other  
2           parties, friendly or unfriendly, once they're  
3           done, there's no -- I mean, it would be a  
4           rare, rare situation where someone other than  
5           the party sponsoring the witness would be  
6           doing any redirect of a witness who's  
7           testified.

8                               Mr. Needleman.

9                               MR. NEEDLEMAN:  I agree with you  
10           on Points 2 and 3, and I generally agree on  
11           Point 1.  What I heard Mr. Cunningham say was,  
12           with respect to Point 1, at one point he said  
13           "expand" and at one point he said "clarify."  
14           Certainly clarifying is fair game.  I would say  
15           expanding is not.

16                              CHAIRMAN HONIGBERG:  Yeah, I  
17           think expanding moved into Point 2.  I think  
18           Point 1 was clarify, Point 2 was expand and  
19           Point 3 was redirect.

20                              Mr. Pappas, you wanted to --  
21           it looked like you wanted to say something.  
22           Or maybe it was Mr. Aslin.  I saw one of you  
23           reach for the mic.  Mr. Aslin.

24                              MR. ASLIN:  Yes.  Thank you, Mr.

1 Chairman. I think, just to get a little more  
2 clarity on No. 2, I tend to agree with you that  
3 asking about new testimony that wasn't part of  
4 the direct testimony is inappropriate. But I  
5 believe you could properly ask whether and why a  
6 witness did not address a certain issue in their  
7 testimony, not to get into what is their  
8 response necessarily, but why didn't they go  
9 there.

10 CHAIRMAN HONIGBERG: I tend to  
11 agree with you. I think it would probably come  
12 up as a question-by-question situation. But I  
13 believe you're probably right.

14 Mr. Reimers, you look like you  
15 wanted to say something. Maybe I  
16 misunderstood your body language.

17 MR. REIMERS: You misunderstood.

18 CHAIRMAN HONIGBERG: Not the  
19 first time, won't be the last.

20 Mr. Baker.

21 MR. BAKER: I'll preface my  
22 comments by saying I have no questions of this  
23 panel. It seems to me that there's been an  
24 awful lot of new material introduced in this

1 case as it's moved forward. Part of that is  
2 because of the iterative process -- for  
3 instance, the construction schedule has gone to  
4 30 percent and now I understand 60 percent  
5 complete. But these are introducing new  
6 elements into the case. I simply want to note  
7 that it may be, and I can't be sure at this  
8 point, but it may be that these elements affect  
9 the position of our individual clients and that  
10 the witnesses that we'd like to ask about these  
11 new elements that have been introduced by the  
12 Applicants are coming before us and they may be  
13 deemed friendly or they may be deemed  
14 informative, I'm not sure. But it seems to me  
15 that there is a limited area of questioning that  
16 could be helpful to the SEC, as well as  
17 protecting the interests of our clients.

18 CHAIRMAN HONIGBERG: I think I  
19 agree with you. And I think when Mr. Needleman  
20 was speaking earlier, he articulated a new  
21 information provision where he felt -- I think  
22 he agreed. I think we would take it up on an  
23 issue-by-issue, question-by-question basis.

24 Ms. Fillmore.

1 MS. FILLMORE: Thank you, Mr.  
2 Chairman. I'd like to clarify whether -- well,  
3 one of the areas that I had planned to cover was  
4 responses that Dr. Chalmers had given to  
5 questioning here in response to  
6 cross-examination questions that includes  
7 statements that were not part of his prefiled  
8 testimony or report and to ask this panel about  
9 that.

10 CHAIRMAN HONIGBERG: I think Mr.  
11 Needleman may have objections to that. We're  
12 going to take them up on a question-by-question  
13 basis. But as a general proposition, I think my  
14 view is that that's fair game. If it happened  
15 here live and is not part of the prefiled  
16 testimony or clarified or supplemented prefiled  
17 testimony, that's something that can be asked  
18 about. But again, it may be a  
19 question-by-question, issue-by-issue, and it may  
20 be different for different things. But as a  
21 general rule, you're not going to be stopped for  
22 answering those questions in the first instance.  
23 They may draw objections. Those objections will  
24 get ruled on as they come.

1 MS. FILLMORE: Thank you.

2 CHAIRMAN HONIGBERG: Mr.

3 Needleman.

4 MR. NEEDLEMAN: I was just going  
5 to say, Mr. Chair, I agree it's probably  
6 situational. But I think it's still guided by  
7 the same point I made before; it's the  
8 difference between rebut and rebuttal versus  
9 addressing new information.

10 CHAIRMAN HONIGBERG: Understood.  
11 Anyone else on this topic?

12 [No verbal response]

13 CHAIRMAN HONIGBERG: All right.  
14 Thank you. We will now break for lunch and be  
15 back more like twenty minutes to two.

16

17 (Lunch recess taken at 12:37 p.m. and  
18 concludes the Day 44 Morning Session.  
19 The hearing continues under separate  
20 cover in the transcript noted as Day 44  
21 Afternoon Session.)

22

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