

1 STATE OF NEW HAMPSHIRE  
2 SITE EVALUATION COMMITTEE

3 January 30, 2018 - 1:16 p.m. DELIBERATIONS  
4 49 Donovan Street DAY 1  
5 Concord, New Hampshire Afternoon Session Only

6 {Electronically filed with SEC 02-07-18}

7 IN RE: SEC DOCKET NO. 2015-06  
8 Joint Application of Northern  
9 Pass Transmission, LLC, and  
10 Public Service Company of  
11 New Hampshire d/b/a Eversource  
12 Energy for a Certificate  
13 of Site and Facility.  
14 (Deliberations)

15 PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:  
16 Chrmn. Martin P. Honigberg Public Utilities Comm.  
17 (Presiding as Presiding Officer)

18 Cmsr. Kathryn M. Bailey Public Utilities Comm.  
19 Dir. Craig Wright, Designee Dept. of Environ. Serv.  
20 Christopher Way, Designee Dept. of Resources &  
21 Economic Development  
22 William Oldenburg, Designee Dept. of Transportation  
23 Patricia Weathersby Public Member  
24 Rachel Dandeneau Public Member

ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq., Counsel to the SEC  
Iryna Dore, Esq.  
(Brennan, Lenehan, Iacopino & Hickey)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

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

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

(Hearing resumed at 1:16 p.m.)

CHAIRMAN HONIGBERG: Mr. Oldenburg, want to pick up where you left off?

MR. OLDENBURG: Sure. That was a lot of information, I'll admit. So I thought maybe we could go sort of topic by topic as it was presented by the different groups and sort of get impressions on, you know, what we had heard and, you know, what our thoughts are on the actual impacts.

So what I tried to do was, without repeating, sort of highlight some of the issues. And the first part I thought I'd try to do is go back to the rule because I'm going to need some help with some of this. And if you take out everything except for the construction part, the rule says that when determining whether the Project will unduly interfere with the orderly development of the region, the Subcommittee is required to consider the following: The extent which construction of the proposed facility will

1           affect land use, employment and the economy  
2           of the region. So I think that's what we're  
3           looking for. Some of that I'll need help  
4           with. But we sort of touched on this.

5                         So, the Counsel for the  
6           Public, the outstanding information that they  
7           had listed, and I had sort of gone over -- it  
8           is sort of a chicken and the egg thing. You  
9           have to have the survey, which is  
10          outstanding, to be able to determine where  
11          the line goes. And once you figure that out,  
12          there's going to be some need for the  
13          exception reports. Some have been filed and  
14          approved, some haven't. And then the final  
15          design is done. And there's some other stuff  
16          that needs to go in, like the laydown areas  
17          and review of that, blasting information,  
18          concrete batch plants. But that sort of  
19          makes sense that that information is  
20          outstanding. But I think in the normal  
21          course of a project, some of that information  
22          you don't know until you're ready to build  
23          it. So I'm not sure if -- we know it's going  
24          to go down the road. We know where it's

1 going to be. And if the Applicant can  
2 address certain issues like traffic, you  
3 know, knowing exactly where that splice vault  
4 is, whether it's there, you know, it's here  
5 or 10 feet in a different location, I'm not  
6 sure if it matters as a point of contention  
7 of approving that portion of the Project.  
8 But I think some of it is, is that going to  
9 unduly affect a business and cause, you know,  
10 an economic impact to someone if that's --  
11 you know, the line disrupts a business for a  
12 month or, you know, something like that.

13 So, from a plan standpoint,  
14 what they've asked to do is have the DOT  
15 delegate -- or not delegate -- have the DOT  
16 be the approval person of the exception  
17 reports. And those exception reports talked  
18 about -- we saw some of them that said, you  
19 know, you're in the middle of someone's  
20 driveway. That's not a good place to be.  
21 You need to move the splice vault. So, even  
22 though I'm not sure that that would be sort  
23 of a condition I would assume of approval of  
24 final construction plans, is that they limit

1 impacts to driveways and businesses as much  
2 as feasible. Whether we agree with that, I  
3 guess that's up to debate whether that's a  
4 condition, is that point is added to the DOT  
5 responsibility. That is not one of the  
6 conditions of approval that the DOT listed,  
7 but one of the conditions was approving  
8 exception reports. But not impacting  
9 driveways and things like that was not part  
10 of something that they said was going to be  
11 part of the review. So I don't know if  
12 that's something we want to -- so I don't  
13 know if you want to make a note of that and  
14 say that's something worthwhile and do we  
15 want someone to check before the final plans  
16 are approved.

17 COMMISSIONER BAILEY: I don't  
18 know if you can answer this question because  
19 this is sort of an unprecedented project.  
20 But usually when there's a project that would  
21 be buried in a road, does the builder of the  
22 Project generally know that DOT doesn't allow  
23 the facilities to be built under the road,  
24 but that the Utility Accommodation Manual

1 says it should be built on the edge of the  
2 road?

3 MR. OLDENBURG: I would think  
4 if I was a utility and I wanted to be in a  
5 state highway, that's the first place I'd  
6 look. Because all of them know the Utility  
7 Accommodation Manual exists. They all know  
8 it. They all review it. They all live by it  
9 because that's how all the utilities exist in  
10 the road rights-of-way is by that manual.

11 COMMISSIONER BAILEY: And it's  
12 not unusual? I mean, I don't understand why  
13 it was such a surprise that it couldn't be  
14 built under the road.

15 CHAIRMAN HONIGBERG: But it  
16 wasn't a surprise. Mark Hodgdon wrote a  
17 letter to DOT saying it would be horrible --

18 COMMISSIONER BAILEY: That's  
19 right.

20 CHAIRMAN HONIGBERG: -- if we  
21 had to do it on the sides of the road, so  
22 please let us go in the middle of the road.

23 COMMISSIONER BAILEY: Okay.  
24 And then DOT said no.



1                   CHAIRMAN HONIGBERG: Basically  
2                   you and I shorthanded seven meetings and five  
3                   letters I think, but yeah.

4                   MS. WEATHERSBY: The Mark  
5                   Hodgdon letter was early on, right? Don't  
6                   remember approximately when. But that was  
7                   not too long after they decided to change the  
8                   route?

9                   CHAIRMAN HONIGBERG: Yes. I  
10                  think early in the process they recognized  
11                  that they wanted to go under the pavement,  
12                  and they had someone with experience, an  
13                  attorney, write a letter that said for a  
14                  bunch of reasons you should let us do this.  
15                  That was the essence of that exchange I  
16                  think.

17                  COMMISSIONER BAILEY: Can we  
18                  pull that up? Anybody know where that is?

19                  CHAIRMAN HONIGBERG: We're  
20                  going to go off the record for a second.

21                  (Discussion off the record.)

22                  (Committee members review document -  
23                  Applicant's Exhibit 1, Appendix 9,  
24                  Bates 12235-12245)

1 CHAIRMAN HONIGBERG: All  
2 right. Mr. Oldenburg, you wanted to say  
3 something? 'Cause we weren't ready to get  
4 back on the record.

5 MR. OLDENBURG: Just saying,  
6 if I'm reading that correct, that page just  
7 talks about their right to be in the roadway.  
8 Not under the roadway, but in the roadway. I  
9 don't think that helped either.

10 CHAIRMAN HONIGBERG: Keep  
11 going. This is about a eight- or nine-page  
12 letter, isn't it? I'm informed this is an  
13 11-page letter.

14 What page number is this,  
15 Dawn?

16 MS. GAGNON: Five.

17 CHAIRMAN HONIGBERG: This is  
18 five? Go to the next page, please?

19 (Committee members continue to review  
20 document.)

21 CHAIRMAN HONIGBERG: All  
22 right. Mr. Oldenburg.

23 MR. OLDENBURG: "While the  
24 alignments vary slightly due to technical

1 constraints, the underground sections propose  
2 to make extensive use of the previously  
3 disturbed areas within the traveled way,  
4 ditches and shoulder of the roads." So the  
5 traveled way is the paved area. So I guess  
6 your question of --

7 CHAIRMAN HONIGBERG: Well,  
8 there's more to this letter --

9 MR. OLDENBURG: I'm sorry.

10 CHAIRMAN HONIGBERG: --  
11 because I think Page 8 has relevant  
12 information. But I think we should get  
13 there.

14 MR. OLDENBURG: So is that  
15 second paragraph down...

16 (Pause)

17 So, I guess to answer one of  
18 your questions, they know about the Utility  
19 Accommodation Manual because they're quoting  
20 it. So they knew what it said, and that was  
21 their explanation of why they wanted to be  
22 where they wanted to be in 2015.

23 I think if you looked at the  
24 design of the original plans that were

1 submitted, I think one of their issues was  
2 that in some cases they're right down the  
3 center of the road, and it would have been  
4 extremely difficult to maintain a lane of  
5 traffic down the center of the road. There  
6 wouldn't have been room on either side to  
7 maintain travel, so they would have either  
8 temporarily widened the road or do something  
9 else. So I'm not sure what came first, their  
10 realization that they needed to be off the  
11 pavement or whether or not they could  
12 actually construct it. I'm not sure. But  
13 obviously they knew of the UAM existence in  
14 this letter.

15 COMMISSIONER BAILEY: And  
16 rather than DOT -- I mean, could DOT have  
17 said, well, maybe not down the center of the  
18 road, but in the southbound or the northbound  
19 travel lane only, not all the way as close to  
20 the right-of-way as possible, the  
21 right-of-way boundary?

22 MR. OLDENBURG: Correct. And  
23 I think the November, December plans of 2016  
24 showed that. They tried to basically go down

1 the edge of the road. They were straddling  
2 the edge of the pavement more or less.

3 COMMISSIONER BAILEY: And DOT  
4 said no to that as well?

5 MR. OLDENBURG: Correct.

6 COMMISSIONER BAILEY: Okay.

7 MR. OLDENBURG: But of the  
8 exception requests that have been approved,  
9 most of them are for going under the pavement  
10 or to avoid drainage structures, probably  
11 bridges or culverts or things like that. But  
12 when they cross from one side of the road to  
13 the other, you know, because they don't stay  
14 on one side of the road, they actually have  
15 to cross because of curves in the road, et  
16 cetera, and basically they're trying to stay  
17 in straight lines. They have to go under the  
18 road, so they need an exception request to go  
19 under the road. And those have been granted  
20 to cross from one side of the road to the  
21 other.

22 COMMISSIONER BAILEY: But then  
23 there are exception requests put on hold or  
24 something until they determine the boundaries

1 of the right-of-way?

2 MR. OLDENBURG: I know there  
3 were a number that are listed. And if you  
4 looked at the web site --

5 COMMISSIONER BAILEY: Like  
6 185.

7 MR. OLDENBURG: And most of  
8 them were rescinded.

9 COMMISSIONER BAILEY: What  
10 does that mean?

11 MR. OLDENBURG: Withdrawn I  
12 should say.

13 COMMISSIONER BAILEY: So the  
14 Applicant withdrew them?

15 MR. OLDENBURG: Withdrew them  
16 until I think they could figure out where the  
17 right-of-way was. So it's sort of a  
18 iterative process. But I think if we go back  
19 to the rules, knowing where the final survey  
20 is isn't going to affect -- I mean, just  
21 knowing where that line is and having a set  
22 line isn't going to affect land use,  
23 employment or the economy.

24 COMMISSIONER BAILEY: What

1 about private property?

2 MR. OLDENBURG: Well, yes.

3 COMMISSIONER BAILEY: Isn't  
4 private property part of orderly development,  
5 Mr. Iacopino? I mean, where do we consider  
6 private impact on private property? I  
7 thought that was under Orderly Development.  
8 Chris?

9 MS. WEATHERSBY: Commissioner  
10 Bailey?

11 COMMISSIONER BAILEY: Yes.

12 MS. WEATHERSBY: I think it  
13 depends a little bit if you're talking about  
14 interference with private property, like, oh,  
15 you need to take down my tree in order to get  
16 the line in versus do they need private  
17 property to construct -- do they need to  
18 acquire private property to put the line in.  
19 I mean, there are certain instances where the  
20 width of the right-of-way is in dispute.  
21 They were three rods instead of four rods by,  
22 say, Mr. Ahern's house. So if DOT says you  
23 got to be off the road, there may not be  
24 enough room; so, therefore, they need to

1           acquire private property to put the -- to  
2           accommodate DOT and the Project. So we don't  
3           even know if that's the case, and we don't  
4           even know if it is, whether or not those  
5           private property rights can be acquired since  
6           there's no right of eminent domain. So it  
7           just all comes back to that we don't have a  
8           survey of the actual width of the  
9           right-of-way and where the pavement, the  
10          disturbed area of the right-of-way is and so  
11          therefore whether the Project can fit.

12                       MR. OLDENBURG: So my take on  
13          that is a little different, is that all the  
14          right-of-way -- all that survey is going to  
15          do is confirm where they can't go. So I  
16          don't think, at least my opinion is I don't  
17          think they're going to go out there and try  
18          to acquire private property if the line is  
19          two feet over the road. They're going to  
20          actually move the line so they don't go  
21          outside private -- go outside the state's  
22          right-of-way. So I think they're just using  
23          that line to set where they can't go. So  
24          they know where the line is. They can't



1 cross that line because that's private  
2 property. So they need to stay on the inside  
3 of that, and they're going to set their line  
4 according to where the right-of-way is so  
5 they don't cross it. And if they need an  
6 exception request to put it where they want  
7 to put it, they're going to request it. And  
8 I cannot see the DOT saying, no, you need to  
9 go on private property and acquire those  
10 rights. I do not see that happening. They  
11 would grant an exception request to say I  
12 need to avoid this private property.

13 COMMISSIONER BAILEY: What  
14 about if there's a tree or a stone wall in  
15 the actual right-of-way? Will DOT, do you  
16 think, grant an exception request to avoid  
17 those things?

18 MR. OLDENBURG: I would assume  
19 they would if there was a historic stone wall  
20 or something, that they wouldn't make the  
21 Applicant go through that wall. Signs and  
22 things like that, I know we saw some exhibits  
23 of signs that were close to the right-of-way,  
24 and I would think those would be situations

1           where the DOT would have quite a lot of  
2           lenience and wouldn't want the private  
3           property impacted.

4                           COMMISSIONER BAILEY:  And  
5           right now we're just talking about state  
6           roads; right?

7                           MR. OLDENBURG:  Correct.

8                           COMMISSIONER BAILEY:  What  
9           about the local town roads?  How is that  
10          different?

11                          MR. OLDENBURG:  So that's a  
12          whole other topic.  And I think we saw some  
13          exhibits for that.  For the local roads, like  
14          in the Clarksville, Stewartstown area -- and  
15          a lot of the aerial crossings, more than 80  
16          of the aerial crossings are over local  
17          roads -- the DOT has no authority to approve  
18          and will claim they do not want the authority  
19          to approve or review any of the work that's  
20          done on local roads.  In fact, one of the  
21          things in their last letter was that it may  
22          be actually against state law for them to do  
23          that because the folks that are out there  
24          that are doing this are paid with the state

1 highway fund, and it says you can only use  
2 state highway funds on state roads. So, for  
3 paying them with state highway funds to work  
4 on a local road may actually be against state  
5 law. So, you know, that's, you know, one of  
6 the claims that they make. So it goes into  
7 not only approving the underground line and  
8 the splice vaults and everything else that's  
9 in the northern section, but it's also the  
10 traffic control and the access permitting on  
11 the local roads for the overhead lines, too.  
12 I mean, there's 80 access points. And I  
13 think we heard City of Concord, the city  
14 engineer, talk about them coming to the city  
15 and getting an access permit to gain access  
16 to the right-of-way. If the DOT doesn't  
17 grant that, and they don't have to go to the  
18 towns, then who grants that? To me, that's  
19 the legal document you have that says I have  
20 a right to access from that road. You know,  
21 it's the permit that says I have the ability  
22 to be there. And as I think the City of  
23 Concord city engineer said, you know, without  
24 that, who's liable if something happens, if

1           there's, you know...

2                               So I guess from a local road  
3           standpoint, I don't think that DOT wants  
4           anything to do with approving the work on the  
5           local roads. And one of the conditions -- I  
6           mean one of the proposals in the Applicant's  
7           brief at the very back, if you read the  
8           conditions, their proposed conditions did not  
9           ask to delegate the responsibility to the  
10          DOT. It asked, if I can sort of quote it  
11          more accurately under the DOT section...

12                              It's No. 15. This is what  
13          they wrote: "Further Ordered, that with  
14          respect to the underground installation and  
15          locally maintained roads, a properly  
16          qualified consultant selected by and subject  
17          to the supervision of the SEC Administrator,  
18          and paid for by the Applicant, is authorized  
19          to monitor the construction of the Project  
20          and locally maintained highways and enforce  
21          the relevant requirements of the DOT Utility  
22          Accommodation Manual to the Applicant's  
23          request to install lines underground in the  
24          towns of Stewartstown and Clarksville." I'm

1 not sure about the aerial crossings.

2 COMMISSIONER BAILEY: So let's  
3 just talk about the details of that. Monitor  
4 the construction of the Project. So we hire  
5 a consultant that's going to do -- that's  
6 going to satisfy this condition. Would the  
7 first part of that be to verify that an  
8 adequate survey was conducted and then the  
9 second part be to make sure the plans are all  
10 adequate? I mean --

11 MR. OLDENBURG: I guess I  
12 don't know. I'm under the assumption the DOT  
13 is not going to certify or review that the  
14 right-of-way plans on the local roads are  
15 done correctly.

16 COMMISSIONER BAILEY: No, no,  
17 no. I'm talking about if we went along with  
18 this condition, there would be a consultant  
19 that would sort of act -- they're proposing  
20 that a consultant would sort of act like DOT.  
21 And I'm just trying to figure out what DOT  
22 would do and whether there's anything that  
23 would be missed.

24 MR. OLDENBURG: I mean, DOT is

1           checking on the state section. They're  
2           checking to make sure the rights-of-way are  
3           adequately located and that the plans meet  
4           the Utility Accommodation requirements.

5                         COMMISSIONER BAILEY: And  
6           where they don't, there's an exception  
7           report -- an exception requested?

8                         MR. OLDENBURG: Correct.

9                         MR. WAY: Mr. Oldenburg, the  
10          Utility Accommodation Manual, its  
11          applicability to local roads as opposed to  
12          state roads -- sorry. My mic is having a  
13          hard time over here. They would follow the  
14          UAM on the local roads?

15                        MR. OLDENBURG: That's a finer  
16          detail. I'm not sure --

17                        DIR. WRIGHT: I guess they  
18          would follow whatever we told them to follow;  
19          right? It would be up to us to come up with  
20          what they would have to do.

21                        MR. OLDENBURG: There are  
22          state laws that say the utilities have the  
23          right to be in road rights-of-way. I don't  
24          know the nuances of state versus local and

1           whether the UAM also covers local road usage.  
2           I know in a lot of cases the local municipal  
3           bodies will say "in accordance with DOT  
4           measures" or whatever. So I'm assuming that  
5           if they had nothing else, they would say,  
6           yes, they need to follow the Utility  
7           Accommodation Manual. But it wasn't written  
8           for local roads, it was written for state  
9           highways. So I'm not really sure of your  
10          answer. That's something I'd have to look  
11          at.

12                         MR. WAY: And the condition  
13                         that you mentioned -- do you have the  
14                         condition right in front of you?

15                         MR. OLDENBURG: The  
16                         Applicant's condition?

17                         MR. WAY: Yes. Could you read  
18                         it just one more time?

19                         MR. OLDENBURG: It's No. 15.  
20                         "Further Ordered, with respect to the  
21                         underground installation in locally  
22                         maintained roads, a properly qualified  
23                         consultant selected by and subject to the  
24                         supervision of the SEC Administrator, and

1           paid for by the Applicants, is authorized to  
2           monitor the construction of the Project and  
3           locally maintained highways and enforce the  
4           relevant requirements of the DOT Utility  
5           Accommodation Manual to the Applicant's  
6           request to install lines underground in the  
7           towns of Stewartstown and Clarksville."

8                       MR. WAY: All right. So  
9           they're not participating in design and  
10          survey. That seems to suggest they're  
11          monitoring --

12                      MR. OLDENBURG: The  
13          construction.

14                      MR. WAY: Right. They'd  
15          report to the SEC, notably Pam.

16                      Enforcement, their authority  
17          to enforce. Are we giving them the authority  
18          from our body?

19                      MR. OLDENBURG: I would --

20                      MR. WAY: Because enforcement  
21          falls to DOT. That's something we can't  
22          delegate. But because this is a local road,  
23          which is something different, I believe --

24                      MR. OLDENBURG: If all they're



1           doing is monitoring the construction without  
2           being able to enforce it, I don't know why  
3           you'd hire someone to do that, because all  
4           they're doing is -- you have to have the  
5           authority to enforce the rules, right. So  
6           maybe just monitor maybe isn't the correct  
7           language. "Monitor and approve."

8                         MR. WAY: I think this has  
9           maybe been discussed before. But our ability  
10          to delegate monitoring is one thing. Our  
11          ability to delegate enforcement is a whole  
12          different kettle of fish. But I don't know  
13          if that discussion is changed by the fact  
14          that we're talking about local roads versus  
15          state roads. Can we delegate enforcement  
16          with local roads, or are we bound by the fact  
17          that we can only delegate monitoring?

18                        MS. WEATHERSBY: It doesn't  
19          seem like we're delegating here. They've  
20          asked us to hire a consultant that reports to  
21          the SEC, to Pam --

22                        MR. WAY: Okay.

23                        MS. WEATHERSBY: -- to monitor  
24          the construction. If they find an issue, the

1 SEC can then enforce the condition.

2 MR. WAY: So the authority is  
3 from the SEC.

4 CHAIRMAN HONIGBERG: That's  
5 the option they want to take on the town  
6 roads. You may recall, I think it was  
7 actually Mr. Iacopino asking Mr. Bowes a line  
8 of questions about the options the SEC might  
9 have with respect to the town roads. And  
10 there were maybe five or six options, from  
11 asking DOT to do it, having the SEC do it  
12 itself, having the SEC hire someone to do it,  
13 which is what we're talking about right now.  
14 That's the options. And one of the options  
15 they discussed, which was Mr. Bowes' least  
16 favorite idea, was to ask the towns to do it.  
17 There may have been others. I don't remember  
18 the specific details. But that was the  
19 exchange. And based on that, I'm pretty sure  
20 the Applicant came up with this proposal --  
21 grabbed that suggestion, the one that said  
22 SEC you do it through someone you hire that  
23 we'll pay for.

24 MR. WAY: So under this

1 option, DOT is not involved at all; is that  
2 correct?

3 MR. OLDENBURG: Correct.

4 CHAIRMAN HONIGBERG: Correct.

5 MS. WEATHERSBY: As I heard  
6 what you read for that condition, and I  
7 haven't pulled it up, it pertained only to  
8 the underground portion in Stewartstown and  
9 Clarksville, and there's no condition being  
10 proposed for a transmission line going above  
11 ground through various municipalities on town  
12 or city roads. Actually, does it in Concord?  
13 No? The Class VI roads in Pembroke?

14 CHAIRMAN HONIGBERG: I think  
15 it --

16 (Court Reporter interrupts.)

17 MS. WEATHERSBY: Right. I  
18 think it just crosses those roads rather than  
19 parallel.

20 MR. OLDENBURG: So if I keep  
21 going, No. 16, that condition deals with  
22 archeological surveys under the local roads  
23 in Stewartstown and Clarksville.

24 No. 17, the underground

1 installation of the locally maintained roads  
2 in Stewartstown and Clarksville. "A properly  
3 qualified consultant selected by and subject  
4 to the supervision of the SEC Administrator  
5 and paid for by the Applicants is authorized  
6 to review and approve all requests relative  
7 to curb cuts, driveways, detours, et cetera,  
8 involving locally maintained highways in the  
9 towns of Stewartstown and Clarksville" in the  
10 same manner that it reviews and approves  
11 comparable requests for state-maintained  
12 highways.

13 So I would take that to mean  
14 there goes your enforcement part because that  
15 allows them to review and approve the work  
16 done in those locally maintained roads. I  
17 haven't quite got to the aerial crossings,  
18 but...

19 So the next one, No. 18, I  
20 won't read the whole thing, but it's  
21 basically the same thing. The SEC  
22 Administrator would... there would be a  
23 consultant properly, "a qualified consultant  
24 selected and paid for by the Applicant is

1 authorized to review and approve traffic  
2 control measures and a traffic management  
3 plan for the underground installation in the  
4 locally maintained roads in Stewartstown and  
5 Clarksville."

6 MR. WAY: And that would come  
7 back to us.

8 MR. OLDENBURG: I'm not sure  
9 how that would work. If there was an issue,  
10 I would think they would deal with it, I  
11 mean, if it was an obvious issue. If it was  
12 a traffic control issue, signs were  
13 inappropriately in place, I would expect that  
14 they would take immediate action to correct  
15 that because that's a life safety issue. But  
16 if it's something that isn't a life safety  
17 issue, if this is, and I've seen this  
18 repeatedly, they're leaving litter on the  
19 ground or something like that, that might  
20 come back to the SEC. But I'm not sure  
21 exactly where the dividing line would be is  
22 what they have the authority to approve  
23 versus come back to us for.

24 MR. WAY: So, I mean, the

1 challenge is, in the local roads, the DOT is  
2 not involved. There's someone that we hire  
3 that addresses the issues and reports back to  
4 us, and we do the enforcement. How are we  
5 going to be evaluating without going back to  
6 DOT if DOT isn't involved? It's almost like  
7 we have two DOTs here. How is that going to  
8 work, particularly if we have to make a  
9 decision?

10 MR. OLDENBURG: That's a good  
11 question. You know, if they come back with  
12 an issue, are we technically qualified? Is  
13 Pam technically qualified to answer it? I  
14 don't know.

15 CHAIRMAN HONIGBERG: I think  
16 we would go with someone who has experience  
17 dealing with DOT requirements. There's  
18 probably a raft of former DOT engineers here  
19 or from other states, or high-priced  
20 consultants who do this stuff. I don't see  
21 this as an insurmountable problem.

22 MR. WAY: I don't think it's  
23 insurmountable. But I'm trying to figure out  
24 in my own mind the logistics of it,

1 particularly if we're going to be doing the  
2 enforcement. I would think we're going to  
3 have or someone is going to have to have an  
4 appreciation of what they're going to be able  
5 to enforce. Now, getting the right person on  
6 that end is going to take care of 90 percent  
7 of the issue. But there might be issues  
8 where we have to make decisions, and then if  
9 we go back to DOT, is DOT going to say, "Hey,  
10 not us?"

11 CHAIRMAN HONIGBERG: Yes,  
12 that's exactly what they're going to say  
13 because they will have disclaimed  
14 responsibility for those roads and say you  
15 took responsibility for these roads, you  
16 figure it out.

17 COMMISSIONER BAILEY: I'm not  
18 really sure about what decisions you're  
19 talking about. So as I understand it, the  
20 proposal that the Applicant is making is, for  
21 local roads, we hire a substitute DOT that  
22 has the authority to make sure that things  
23 are done according to plan, that there's a  
24 good plan in place and that things are done

1 according to plan. And if they deviate from  
2 conditions that we establish, then I think  
3 that DOT 2 would come to us and say, just  
4 like the regular DOT would come to us I think  
5 if it happened on a state road, that they  
6 were deviating or failing to meet one of our  
7 conditions. And then DOT would report to the  
8 Committee, and that would be -- we would  
9 decide what the enforcement of -- how to  
10 enforce that condition.

11 Are you talking about another  
12 decision? Are you talking about the decision  
13 we're trying to make here or --

14 MR. WAY: Yes. I'm trying to  
15 get a sense, in terms of if we're hiring  
16 someone on local roads and you said make sure  
17 it's occurring in the proper manner, which is  
18 sometimes different to me than monitoring --

19 COMMISSIONER BAILEY: Yeah.

20 MR. WAY: -- and they're going  
21 to identify if there's any issues. And  
22 there's a responsibility back to us to maybe  
23 make a decision on enforcement if there is a  
24 problem, and we don't have DOT as an



1 expertise. I'm trying to think of how our  
2 role is going to be ongoing in this process.

3 COMMISSIONER BAILEY: I don't  
4 think our role is going to be ongoing unless  
5 there's a significant deviation from what  
6 they're expected to do.

7 MR. OLDENBURG: I would expect  
8 that consultant to say there's an issue and  
9 this is my recommendation to fix it.

10 MR. WAY: And we would just  
11 say okay.

12 MR. OLDENBURG: Yes or no.

13 CHAIRMAN HONIGBERG: Well, we  
14 would consider what that person said.  
15 Presumably the Applicant, who is in the  
16 middle of the construction, would have an  
17 opinion as well. And we would have to --  
18 basically, we'd have to adjudicate that at  
19 some level.

20 MR. OLDENBURG: So while that  
21 discussion's been going on, I've been trying  
22 to look through the conditions. And granted,  
23 these are the DOT conditions. I couldn't  
24 find anything related to approving the

1 access, any access permits or anything  
2 dealing with the aerial crossings access to  
3 the right-of-way from the local roads. So  
4 the aerial, the 80 aerial crossings where the  
5 road is going to have to be at least  
6 temporarily closed while they string the  
7 wires across, I don't see where those local  
8 roads -- a statement about who's going to  
9 monitor, review and approve those crossings  
10 and the requirements of any of the traffic  
11 control issues related to those aerial  
12 crossings. So that might be one part that's  
13 missing.

14 COMMISSIONER BAILEY: Yeah.

15 And I think the Applicant -- I asked a  
16 question about whether they were asking us to  
17 just approve those crossings. And the  
18 Applicant's response was, yes, that if we  
19 issue the certificate, they would expect us  
20 to be approving the crossings, like DOT would  
21 approve the crossings on state roads. But I  
22 think we need a little bit more work on what  
23 DOT does when they're doing those approvals  
24 to understand what we would be approving.

1                   MR. OLDENBURG: Well, my  
2 vision when we approve something like that is  
3 there's going to be access points off of the  
4 roads. There's going to be erosion and  
5 sediment control issues that are going to  
6 have to be addressed at each crossing to get  
7 their equipment in and out. And then there's  
8 going to be traffic control sign packages  
9 that go with that. And then if they're  
10 stringing the lines aerially across the road,  
11 when that operation happens, I would have to  
12 believe they're going to close the road for,  
13 you know, however long that takes to get the  
14 line across and secure. So there's going to  
15 be a traffic control package that goes with  
16 that. Some of these roads it's going to be  
17 insignificant and some others it may not.  
18 When they cross, you know, some of the Class  
19 VI roads that we heard about, there probably  
20 isn't going to be any issue. But when they  
21 cross Loudon Road in Concord, there's going  
22 to be an issue. Somebody's going to have to  
23 approve that package, that traffic control  
24 package.

1 DIR. WRIGHT: So you're saying  
2 they're going to have to approve everything.  
3 It's not just the construction, the UAM.  
4 It's the traffic control, it's the signage  
5 and everything.

6 MR. OLDENBURG: I would say  
7 yes.

8 MS. WEATHERSBY: And I would  
9 think some of these issues extend beyond the  
10 construction time. Even though the Project's  
11 complete, if they're using road crossings as  
12 part of their access way, which we've seen  
13 certain towns want the driveway permits, et  
14 cetera, that there's going to be kind of an  
15 ongoing municipal issue with the road  
16 crossings.

17 MR. OLDENBURG: You know, just  
18 think of the construction to get to the  
19 aerial lines. So some of it's going to  
20 involve the clearing. So they're going to  
21 have tree cutting, so you're going to have  
22 logging operations in and out. And then  
23 you're going to have access to build the  
24 access roads themselves. So you're going to

1 have, it was explained, bulldozers, going to  
2 have trucks laying down gravel. You're going  
3 to have the crane pads that have to be built.  
4 And all that's material in and out off of a  
5 road, and that's going to be -- you know, all  
6 that equipment, there's going to have to be  
7 someone out on the road making sure that it's  
8 safe for them to access the road. You know,  
9 the cranes coming in, the pieces, the towers  
10 that are -- parts and pieces coming in, all  
11 of that comes off a road. So somebody needs  
12 to make sure that access is appropriate, safe  
13 and secure.

14 COMMISSIONER BAILEY: And is  
15 there also a component of the wear and tear  
16 on the road, and does DOT worry about that  
17 aspect of it in the state roads?

18 MR. OLDENBURG: Yes.

19 COMMISSIONER BAILEY: So  
20 that's another thing we'd have to cover with  
21 DOT, too.

22 MR. OLDENBURG: So, usually  
23 you have an access pad. So they would put in  
24 like bigger stone, something along the edge

1 of the road, so when trucks come and go they  
2 don't destroy the edges of the road. And it  
3 also helps get like mud and stuff like that  
4 off the tires so they're not tracking dirt  
5 and debris and everything else all over the  
6 road. So that's usually a component that  
7 you'd want to make sure is in place, and that  
8 leads to erosion control measures. And then  
9 signing and flagging, you're going to need  
10 somebody to make sure these vehicles coming  
11 and going have access. So I would -- someone  
12 needs to approve that. And if they're on  
13 non-DOT roads, I'm assuming it's going to be  
14 this consultant that's going to have to  
15 approve all that.

16 CHAIRMAN HONIGBERG: Is there  
17 a difference where there's not an existing  
18 right-of-way versus where there is an  
19 existing right-of-way today? Because there's  
20 a fair length of this in an existing  
21 right-of-way where there's already a crossing  
22 over these town roads. In those  
23 circumstances, the relevant utility whose  
24 line it is works with the town; right? If

1           they need to do something across Loudon Road  
2           today, they work with the City.

3                         MR. OLDENBURG: Correct.

4                         COMMISSIONER BAILEY: Is  
5           Loudon Road not a state road?

6                         MR. OLDENBURG: No, it's a  
7           city road. It's in an urban compact, so the  
8           city --

9                         COMMISSIONER BAILEY: Oh, so  
10          we're talking about Loudon Road, too, not  
11          just North Hill Road that DOT's not going to  
12          have authority over?

13                        MR. OLDENBURG: Correct.

14                        COMMISSIONER BAILEY: What  
15          else are we talking about?

16                                 [Laughter]

17                        MR. OLDENBURG: There's 80  
18          other aerial crossings over town roads that  
19          the DOT is not going to review.

20                        COMMISSIONER BAILEY: Hmm.

21                        MS. WEATHERSBY: It just seems  
22          as though the affected municipalities should  
23          somehow be involved. I mean, they need to  
24          know that this road, you know, is going to be

1 temporarily closed while something goes over,  
2 or there's a new driveway, new access road  
3 being put in. It's just -- you know, I'm  
4 warming up to the idea of requiring driveway  
5 permits and whatever other municipal permits  
6 are needed on a municipal level if this were  
7 not -- if this were any other transmission  
8 project.

9 MR. OLDENBURG: There's  
10 something else I think that goes with that is  
11 emergency response. If a worker gets hurt,  
12 you know, you'd hope that the town knows how  
13 to access the right-of-way and have been  
14 involved in knowing where to go. I'm  
15 assuming that's going to happen, anyway. But  
16 if they had to issue a permit how they access  
17 the right-of-way, you would think part of  
18 that permit would be checking with the  
19 emergency response people to know where that  
20 access is. But...

21 Do we want to move on to a  
22 different topic?

23 CHAIRMAN HONIGBERG: I want to  
24 say one more thing. But if there's an



1 existing right-of-way there today, they know  
2 what the access is. The only stretch where  
3 there's a new right-of-way is in the North  
4 Country.

5 MR. OLDENBURG: True.

6 CHAIRMAN HONIGBERG: Once you  
7 get past the North Country, it's all existing  
8 right-of-way with existing crossings; is it  
9 not?

10 COMMISSIONER BAILEY: Well, we  
11 need to look into the record on this. But I  
12 got the impression that they were going to be  
13 building new access roads on the existing  
14 right-of-way. So that was going to require  
15 access points that have been sort of grown  
16 over for years and years to be reopened up.

17 MR. OLDENBURG: Yes.

18 CHAIRMAN HONIGBERG: That may  
19 be true. I think there was a series of  
20 questions we had about bell-shaped --

21 COMMISSIONER BAILEY: Aprons.

22 CHAIRMAN HONIGBERG: -- aprons  
23 versus the ones that hit just at the  
24 90-degree angle and are the width of the

1 right-of-way once you get inside. So there  
2 may be work that needs to be done on them,  
3 but they exist. Those things are in place  
4 today. They're not new.

5 MR. OLDENBURG: I think it's  
6 more of an awareness that there's activity  
7 going on.

8 CHAIRMAN HONIGBERG: Yeah,  
9 clearly there needs to be awareness of  
10 activity that's going on and coordination and  
11 information provided. I would -- I don't  
12 think that the Applicant expects that if it  
13 got a certificate from this body that it  
14 would not be informing the local communities  
15 of its plans and working with the city  
16 engineer or whatever town road agents are  
17 relevant to the discussions so that they  
18 would do it in a way that would not interfere  
19 with what the town needs to do and coordinate  
20 with the town. That's never been my  
21 understanding of what they intend to do here.  
22 They want to be able to work with the towns.  
23 The towns are stiff-arming them, which I  
24 perfectly understand, so they're not able to

1           make any kind of agreements right now. But  
2           their expectation and hope is if a  
3           certificate is granted, then they're going to  
4           the towns and saying let's talk about how  
5           we're going to get this done because we have  
6           a right to do it now. That's how this would  
7           work. We can -- if we write that in as a  
8           condition of some sort, that would work. But  
9           that doesn't deal with the North Country,  
10          where there's new rights-of-way and new  
11          crossings that are required. And it doesn't  
12          fully answer the question about how they're  
13          having to reconfigure some of those existing  
14          access points, which is an issue for them.  
15          But am I wrong about that?

16                       MR. OLDENBURG: No, I think  
17          you're right. I'm assuming a worst-case  
18          scenario is where they want to go in and do  
19          something and the town said don't talk to me,  
20          I don't want anything to do with it. But I  
21          would assume that you're right. You know, if  
22          they get a certificate to go and do this  
23          work, they would be talking to the  
24          communities and, you know, making sure

1 emergency responders and public works  
2 directors and road agents all knew what was  
3 going on so that, you know, none of it was a  
4 surprise and everybody knew what was going  
5 on. So...

6 COMMISSIONER BAILEY: Does  
7 anybody know where in the record the -- I  
8 know it's in the Application somewhere -- but  
9 where the crossings that we, the Site  
10 Evaluation Committee, are going to -- or have  
11 been asked to approve that aren't under DOT  
12 jurisdiction? Did you say there were 89 --

13 CHAIRMAN HONIGBERG: Eighty.

14 MR. OLDENBURG: I can only  
15 tell you that that's what the DOT said in  
16 their letter, that there was 109 -- let's  
17 see. There were 109 aerial roadway  
18 crossings, 29 of which are over state roads  
19 and 80 are over local roads. Now, if I  
20 remember, swinging at the fence here, it's  
21 Appendix 9 is the aerial crossings.

22 CHAIRMAN HONIGBERG: Well,  
23 there's a flurry of activity going on to our  
24 left over there with Ms. Gagnon and Mr. Getz

1           trying to figure out the answer to this  
2           question.

3                         MR. OLDENBURG:   Which is  
4           several hundreds pages long, with pictures or  
5           a sketch at each crossing.

6                         MR. IACOPINO:   It's  
7           Exhibit 9, 679 pages.

8                         CHAIRMAN HONIGBERG:   It's  
9           Exhibit 10?

10                        MS. GAGNON:   Appendix 10.

11                        CHAIRMAN HONIGBERG:   Appendix  
12           10.   Sorry.

13                        MR. OLDENBURG:   I was close.

14                                 (SEC members reviewing document -  
15                                 Applicant Exhibit 1, Appendix 10.)

16                        COMMISSIONER BAILEY:   Okay.  
17           So we're on Exhibit 1, Appendix 10.  It  
18           starts out with a list.  And the fifth one  
19           down, Mr. Oldenburg, says "State of New  
20           Hampshire, Diamond Pond Road."  So the State  
21           of New Hampshire owns Diamond Pond Road, but  
22           that's locally maintained, so that wouldn't  
23           be under DOT?

24                        MR. OLDENBURG:   That's a good

1 question. There are state roads that are  
2 locally maintained, but there's a lot of  
3 different configurations.

4 CHAIRMAN HONIGBERG: The title  
5 of this appendix is a clue, "Locally  
6 Maintained Roads."

7 MR. OLDENBURG: So I can tell  
8 you one thing. The State of New Hampshire --  
9 Christine Lake Road is a state-maintained  
10 road. It's a road to public waters. It's  
11 their driveway up to the beach. But I don't  
12 think it crosses there, does it? Oh, yes, it  
13 does. Yes. So I'm not quite sure why that's  
14 shown as a local road because that is  
15 state-maintained.

16 CHAIRMAN HONIGBERG: This  
17 table looks like every crossing. Every road  
18 crossing's here 'cause it's got 3, 93, 132 --

19 MR. OLDENBURG: Oh, it does.

20 COMMISSIONER BAILEY: So could  
21 we ask somebody to show us where the locally  
22 maintained roads are? I agree it looks like  
23 this is a larger list.

24 CHAIRMAN HONIGBERG: We're

1 going to take a ten-minute break and see if  
2 we can get some clarity here.

3 (Recess was taken at 2:16 p.m.  
4 and the hearing resumed at 2:28 p.m.)

5 CHAIRMAN HONIGBERG: Mr.  
6 Iacopino, I understand you have some  
7 information for us?

8 MR. IACOPINO: Yes. I just  
9 wanted to explain what occurred during the  
10 break. Myself and staff for the Committee  
11 reviewed Appendix 9 and 10 of Exhibit 1.  
12 There's a table at the beginning of each of  
13 those. And although they're titled  
14 differently, "State-Maintained Roads" and  
15 "Locally Maintained Roads," those tables  
16 appeared to be identical to each other and  
17 contained all of the road crossings. The  
18 only way that I can see to delineate them is  
19 by the title column in the spreadsheets in  
20 each exhibit or in each appendix. And then  
21 following each of those tables is a series of  
22 plans, which each plan on the first page has  
23 a number, and you can compare the table to  
24 the plan. So that's what occurred over the

1 break and that's what I have to report to the  
2 Committee. So, Appendix 10 is not just the  
3 locally maintained roads.

4 CHAIRMAN HONIGBERG: Thank  
5 you.

6 COMMISSIONER BAILEY: And just  
7 quickly counting, there's more than 20 "State  
8 of New Hampshire" indications. How many did  
9 the DOT say there were?

10 MR. OLDENBURG: Twenty-nine.

11 COMMISSIONER BAILEY: Oh,  
12 okay. Let me see. Let me keep going.

13 MR. OLDENBURG: But I think if  
14 you go to the plans after the local roads,  
15 you'll see --

16 COMMISSIONER BAILEY: Yeah,  
17 there's more than 29 that say "State of New  
18 Hampshire."

19 MR. OLDENBURG: But if you go  
20 to the plans, the first one's crossing over  
21 Halls Stream Road, then the second one is  
22 over Wiswell Road, third one is Holden Hill  
23 Road. So it just shows sort of a roadway  
24 alignment and a crossing of each of those



1 roads. So I'm assuming in that area that's  
2 all new right-of-way, so that right-of-way is  
3 going to have to be cleared. That  
4 right-of-way is going to have to be --  
5 there's towers and access roads that are all  
6 going to have to be built, and they're all  
7 going to be accessed off of those local  
8 roads.

9 COMMISSIONER BAILEY: And I'm  
10 stuck trying to figure out which ones are  
11 local and which ones DOT is going to handle.  
12 Well, do we need to figure this out right  
13 now? We should mark it because we absolutely  
14 have to know, if we get to the point where  
15 we're going to grant a certificate, where we  
16 are granting the crossings and where we  
17 expect DOT to be granting the crossings. But  
18 maybe we find out -- if we get that far, then  
19 we can figure it out then.

20 MR. OLDENBURG: Okay.

21 CHAIRMAN HONIGBERG: I'd say  
22 consider it marked, but I don't know who's  
23 going to do that.

24 Ms. Monroe and Mr. Iacopino,

1 can you, between the two of you, keep track  
2 of things we say we need to mark and circle  
3 back to?

4 MS. MONROE: Yeah.

5 MR. IACOPINO: We can do  
6 that.

7 COMMISSIONER BAILEY: Is there  
8 a good way, Mr. Iacopino, for somebody to  
9 tell us which ones are state and which ones  
10 are local?

11 MR. IACOPINO: I suppose  
12 Iryna and I can go through the list and let  
13 you know what the list says. I don't have  
14 any independent knowledge that anything is a  
15 state road or local road other than what's in  
16 the document itself.

17 MR. OLDENBURG: And it may be  
18 harder to figure out. Like we mentioned,  
19 Loudon Road is Route 9, which you would think  
20 is a state road, but it's actually an urban  
21 compact, where the town -- it's a state road  
22 where the town has the authority -- or has  
23 the right to maintain it. And there's other  
24 roads out there, too, that may be labeled as

1 a "State of New Hampshire" roadway, but the  
2 state doesn't maintain it, like Christine  
3 Road. It's a Class III, a road to public  
4 waters. But the state doesn't -- I mean,  
5 it's a driveway. So the state doesn't put  
6 any money into it, doesn't plow it.

7 COMMISSIONER BAILEY: Would  
8 the state be granting a certificate to cross  
9 it?

10 MR. OLDENBURG: I'm not sure.  
11 I'm assuming.

12 COMMISSIONER BAILEY: Okay.

13 MR. OLDENBURG: So if we put  
14 that sort of in a "parking lot," one of the  
15 other issues, and this might be an easier one  
16 to tackle maybe, is the co-location of the  
17 line with the high-pressure gas line, where  
18 they're in the existing corridor. We heard  
19 some testimony that that was because of a  
20 potential tower collapse that could puncture  
21 the line and could lead to all sorts of bad  
22 things. Sort of my take on it is that the  
23 electrical engineers and everyone else that  
24 works for Eversource would know better than

1 anybody whether or not that was an issue, and  
2 they've testified that it isn't an issue. So  
3 I would -- with no greater guidance than  
4 that, I would say that it probably isn't an  
5 issue.

6 CHAIRMAN HONIGBERG: Well, I  
7 mean, the co-location exists today. There's  
8 transmission lines in the existing  
9 right-of-way with gas pipelines in the  
10 existing right-of-way. And the National  
11 Electrical Code has very specific  
12 requirements for what is allowed there. I  
13 think they know that. There are, I believe,  
14 portions of that that the PUC had to review  
15 crossings that were part of that stretch.  
16 And the Safety Division of the PUC concluded  
17 that they know how to do this, and one of the  
18 conditions of the approval was that they  
19 follow the electrical code in terms of  
20 setting it up. I don't think that's -- it's  
21 not something that should keep people up at  
22 night.

23 MR. OLDENBURG: I would agree.  
24 I think the whole issue was that the towers

1           were getting closer to the line, if that was  
2           an issue.

3                           CHAIRMAN HONIGBERG:   The  
4           electrical code is very strict.  It is set up  
5           to avoid things blowing up, among other  
6           things.

7                           MR. OLDENBURG:  One of the  
8           other issues that was brought up that hasn't  
9           been completed yet was the whole discussion  
10          on the topic of the Traffic Management Plan  
11          and what goes into that.  And we saw some of  
12          it.  There's a traffic control plan that's  
13          developed at each location of the work.  We  
14          saw examples of what was developed that were  
15          presented for the design at the time.  Those  
16          typically would be developed based upon the  
17          final construction plans.  There's also sort  
18          of an operations plan that's developed which  
19          would take into account the multiple  
20          locations being open at one time -- so, how  
21          are they going to deal with, you know, you  
22          have three excavations going on at one time  
23          within a mile and a half.  How do you deal  
24          with the overlap, how do you deal flagging

1 operations, any signal operations or things  
2 like that. Also deal with emergency  
3 response. So you have, you know, an  
4 ambulance that has to get through or a fire  
5 truck that has to get through. How do you  
6 ensure there's no traffic backups and that  
7 they have a clean, free flow through the  
8 construction zone. So those types of things  
9 would go into the traffic operations plan.  
10 It also deals with all sorts of the  
11 requirements, you know, from a standard  
12 standpoint.

13 MR. WAY: Mr. Oldenburg, so  
14 the difference between the operation plan and  
15 the traffic management plan?

16 MR. OLDENBURG: Well, one is  
17 more of a -- a traffic control plan is more  
18 set up as this is where the signs go, this is  
19 where the flagger goes, this is where the  
20 temporary signal would go. And then the  
21 operations plan is more how you would operate  
22 it. It could also go into different types of  
23 strategies that you might use to lessen  
24 traffic impact. An example might be, say in

1 Plymouth, where the roundabout is closed.  
2 You put a sign on the interstate that says,  
3 you know, construction on 175A in downtown  
4 Plymouth, use Exit 26, go up to the next  
5 exit. So you can also use different measures  
6 that you see that might include, you know,  
7 smart work zones. We see those a lot on I-93  
8 today. It could say, you know, "Construction  
9 Ahead," "Woodstock 5 miles, 5 minutes." Sort  
10 of gives you a heads-up of. You know, when  
11 it says "Woodstock 5 miles, 20 minutes," I  
12 might want to seek an alternate route.

13 MR. WAY: And that's in the  
14 operations plan?

15 MR. OLDENBURG: That would be  
16 sort of the strategies in the operations  
17 plan, correct.

18 The other component of it  
19 deals with a public outreach plan and making  
20 sure -- an example is, recently in Conway,  
21 Route 16 over the Saco River, that bridge was  
22 closed to one way only. So there was a big  
23 detour around it. So we wanted to make sure  
24 people knew how to get to North Conway and

1 the shopping. So there was a whole public  
2 outreach plan that was developed. We heard  
3 Ed Roberge, the city engineer in Concord,  
4 talk about the public outreach plan they did  
5 for Concord Main Street. So that's part of  
6 your traffic control, your Traffic Management  
7 Plan that would go into it. So --

8 MR. WAY: So is that all part  
9 of the Traffic Management Plan, or is it --

10 MR. OLDENBURG: It is.  
11 There's three distinct components of it. One  
12 is the traffic control plans, which are the  
13 actual physical plans themselves; the  
14 operations plan, how are you going to operate  
15 traffic, you know, during the construction;  
16 and then the public outreach component, which  
17 is how do you let people know what's going on  
18 in the construction.

19 MR. WAY: And the only thing  
20 we have right now is the traffic control  
21 portion? Is that --

22 MR. OLDENBURG: No, we don't  
23 even have that. We have portions of traffic  
24 control plans from the old design. My



1           understanding is that they've gone -- we sort  
2           of saw the initial documentation that have  
3           gone to the DOT Traffic Control Committee.  
4           My understanding is that sometime next month  
5           they'll have plans much further along dealing  
6           with the Traffic Management Plan and things  
7           like that. So the original meeting -- and  
8           there's the memo on the web site. I think it  
9           was presented as testimony. They made  
10          initial contact with the Traffic Control  
11          Committee. That Committee set out what the  
12          requirements are to meet all three of those  
13          components and what the Applicant needs to do  
14          to develop that Traffic Management Plan. So  
15          while we haven't seen it, it's in the works.

16                    COMMISSIONER BAILEY: Is it in  
17                    the works for the local town roads?

18                    MR. OLDENBURG: No. It was  
19                    very specific that it's only the state roads  
20                    that it covers because that's the only review  
21                    and approval authority that DOT has is over  
22                    the state roads.

23                    MS. WEATHERSBY: Mr.  
24                    Oldenburg, does DOT sign off on all three of

1           those plans, types of plans, or just the  
2           outreach plan for state roads?

3                       MR. OLDENBURG:   Yes.   So what  
4           would happen is the Traffic Control Committee  
5           met, and it designates how significant the  
6           traffic impact is going to be due to the  
7           Project.   So most projects are considered  
8           non-significant, where they're not going to  
9           impact traffic unduly.   There's also a Level  
10          2 significance and a Level 1 significance.  
11          So a Level 1-significant project is like  
12          I-93, has a huge impact on traffic.   This is  
13          considered, I believe it was a Level 2-  
14          significant project, where all these  
15          components are required.   So if it was  
16          non-significant, you wouldn't have to do a  
17          public outreach plan.   You wouldn't have to  
18          do an operations plan.   You'd just have to  
19          come up with the traffic control plan.   But  
20          because it's considered a significant  
21          project, those three components come into  
22          play.   So you wouldn't do these components if  
23          it didn't have the traffic impact that it's  
24          going to.

1 MS. WEATHERSBY: So in this  
2 instance, all three of those plans will be  
3 required and be approved by DOT.

4 MR. OLDENBURG: Yeah. So the  
5 next stage of this is they come back to the  
6 Traffic Control Committee with a Traffic  
7 Management Plan, and that gets approved by  
8 the DOT.

9 MS. WEATHERSBY: And in the  
10 public outreach portion, are they required  
11 generally to talk with the various  
12 communities about -- we heard testimony about  
13 festivals and fairs and triathlon events.  
14 Does that come into play here, or is that  
15 separate?

16 MR. OLDENBURG: No.  
17 Absolutely that would come into play. So I  
18 would assume, just like any DOT project,  
19 there's certain major events that are either  
20 statewide or local that would be included.  
21 You know, the NASCAR race, the Prouty Bike  
22 Race up north, any of those regional or  
23 statewide or even local events you would want  
24 to mention in the traffic operations plan

1           that no work takes place during, you know,  
2           this weekend due to this event. You'd always  
3           want to have that mentioned. So it will take  
4           a review of, you know, all those local  
5           events, you know, and making sure they're  
6           accounted for.

7                           MS. WEATHERSBY: And is there  
8           an opportunity for a community to submit  
9           things to the DOT or make comments, you know,  
10          oh, you forgot my fiddlers festival or  
11          whatever it may be?

12                          MR. OLDENBURG: And that's one  
13          of the -- what the DOT would normally do is  
14          they have public information meetings, public  
15          hearings, go to a select board meeting and  
16          talk about a lot of this.

17                          I mean, we heard testimony --  
18          I will get the bridge and the route wrong.  
19          But on Route 18, Indian Brook, Sugar Hill,  
20          that bridge was closed. Maybe it was Route  
21          116. We heard testimony from the pancake  
22          place about it. But one of the other, the  
23          nursery or the landscape, one of their issues  
24          was when we wanted to close that road was in

1           their prime time to get plants out to market.  
2           And so we actually moved off the construction  
3           a month based upon that to accommodate their  
4           needs. So that typically happens. And the  
5           only way that really happens is with direct  
6           conversations with the communities on when  
7           these events are.

8                         MR. WAY: So I think I know  
9           the answer to this question, but just to  
10          maybe summarize. In terms of the local  
11          roads, DOT is not going to participate.  
12          They're not going to have a Traffic  
13          Management Plan review. They're not going --  
14          that doesn't go before the review committee  
15          on local roads. So there's nothing to  
16          require an outreach plan unless we require  
17          it, which we could do. But there's no  
18          similar process in local roads that would be  
19          in state roads.

20                        MR. OLDENBURG: Correct.

21                        COMMISSIONER BAILEY: Can I  
22          ask a follow-up? When we say "local roads"  
23          in this part of the conversation, are we also  
24          talking about Loudon Road?

1 MR. WAY: Yes.

2 MR. OLDENBURG: Yeah.

3 COMMISSIONER BAILEY: So  
4 there's no traffic plan for Loudon Road that  
5 DOT is working on.

6 MR. OLDENBURG: Not that DOT  
7 is working on, no. I do not believe so, no.

8 DIR. WRIGHT: So this must  
9 happen all over the state, though. This  
10 can't be the first time where you have a mix  
11 of state roads and local roads being impacted  
12 by the same project, is it?

13 MR. OLDENBURG: No. I mean --

14 DIR. WRIGHT: Okay. So DOT  
15 just worries about their portion and lets the  
16 locals do whatever they do at that level.

17 MR. OLDENBURG: So almost  
18 every DOT project has an intersection with a  
19 local road. So local roads are affected to  
20 some degree. Sometimes work requires to go  
21 up a local road just some distance just to  
22 make the match work from a construction  
23 standpoint. But state law says, on a DOT  
24 project, DOT controls the construction

1 activities on all roads. So we have a  
2 municipal work zone agreement that the DOT  
3 asks the communities to sign that says during  
4 the work we manage the construction on state  
5 and local roads. So we have an agreement  
6 that the town signs, that DOT signs, that  
7 says during the work on our projects, we have  
8 the authority to manage traffic and  
9 construction on local roads. That's a --  
10 it's a requirement. And that's the only way  
11 that we can actually operate on local roads.  
12 This project doesn't have that, so...

13 COMMISSIONER BAILEY: And the  
14 difference with this project is that -- well,  
15 let me ask you this: If it were not a DOT  
16 project, but it were a project that DOT were  
17 involved in with respect to the state roads,  
18 then would the towns be taking the lead on  
19 the impact on their roads?

20 MR. OLDENBURG: Yes.

21 COMMISSIONER BAILEY: And so  
22 here we've been asked to pre-empt the towns'  
23 authority on this kind of thing as well, I  
24 guess.

1                   MR. OLDENBURG: I guess to  
2                   some degree, yes. Yeah.

3                   So, some of the other things  
4                   that have been talked about with the Traffic  
5                   Management Plan, and we can -- was the way  
6                   the traffic will be managed with one lane of  
7                   traffic on a lot of the roads, especially in  
8                   the underground section. So in the  
9                   underground section -- let me limit that to  
10                  the Bethlehem to Bridgewater section having  
11                  one lane of traffic. Ms. Farrington said  
12                  that the volume of traffic along those  
13                  sections of road, you know, that wouldn't  
14                  cause an issue. And I would tend to agree  
15                  that the traffic volumes that I've seen, the  
16                  only place I've seen them on the exception  
17                  request, traffic volumes are on there. Some  
18                  of the traffic volumes on those roads are  
19                  very low, easily managed with a flagger and  
20                  one lane of traffic. You know, you're going  
21                  to get situations like in downtown Franconia  
22                  where it's going to be a little bit harder to  
23                  manage. But the traffic volumes, you are not  
24                  going to see mile backups. You're not going



1 to see huge traffic issues if they're managed  
2 correctly. And I would believe in Franconia,  
3 with a flagger they'll probably operate a  
4 little bit better because that's one way  
5 through and the other two-way stopped. So  
6 with a flagger, it almost operates like a  
7 signal, you know; they're going to direct  
8 traffic, who goes when. So I think it's  
9 easier, in my view. Might be easier to  
10 manage with a flagger. That doesn't say  
11 during operations when they're not there and  
12 the flagger isn't there at night. That's  
13 going to be how do you leave that, making  
14 sure it's left -- that's where you don't know  
15 because you don't have plans. But throughout  
16 this section, if this was building 2,000 feet  
17 of conduit and one splice vault, this would  
18 be a no-brainer. I think the problem is  
19 where you get the series -- they have to  
20 build this in two years. That's 25 miles in  
21 a year. I mean, we did the math. And  
22 100 feet a day, that means they have multiple  
23 crews out there operating all at the same  
24 time. So they could have in that 52-mile

1 section a dozen crews. So, going through one  
2 traffic control operation might not be an  
3 issue, two, three. But when you get to 12,  
4 is that -- that's going to have some sort of  
5 impact on the way people get to where they're  
6 going. And how that's managed is going to be  
7 the tough part. And we haven't really heard  
8 how they're going to manage multiple work  
9 zones, you know, multiple HDD drilling  
10 operations. Some of the areas are going to  
11 be easier than others. Some are going to be  
12 more difficult. I think once you get down  
13 into some of the less populated areas of  
14 Route 3 through Campton and Thornton, it  
15 might be a little easier. The road gets a  
16 little wider. You're around the interstate  
17 where there's more options. But when you're  
18 going through Franconia and Easton and Sugar  
19 Hill and downtown Plymouth, how you manage  
20 that traffic is going to be pretty important.

21 COMMISSIONER BAILEY: Do you  
22 think that there is a way to have it managed  
23 where -- well, let me -- where it wouldn't  
24 affect the orderly development? I know

1           that's putting you on the spot.

2                       MR. OLDENBURG: That's getting  
3           to the end, isn't it?

4                       COMMISSIONER BAILEY: All  
5           right. Don't answer.

6                       MR. OLDENBURG: I think  
7           there's going to be certain components that  
8           are going to be a little more difficult than  
9           others. But they've addressed some of the  
10          major ones, you know, dealing with traffic in  
11          downtown Plymouth. Have they done it to our  
12          satisfaction? That's the question. Patty,  
13          you had a...

14                      MS. WEATHERSBY: Yeah, I was  
15          going to say, I think during the testimony  
16          you kind of took them through, you know, best  
17          case, you've got this many stops that last  
18          one minute each. You know, if you went  
19          through various scenarios in total, what  
20          would the delays be, that we have sort of  
21          that range of numbers. I think it's just up  
22          to us to decide if everything is working to  
23          the best it can be, it will still delay  
24          people. And, you know, those effects on

1 travel, tourism, people's jobs, et cetera,  
2 you know, what level does it become too much  
3 for us, whether they get there or not. I  
4 don't know.

5 MR. OLDENBURG: I mean, the  
6 best case is you get there and there's no  
7 traffic and the flagger lets you right  
8 through. The worst case is they're  
9 off-loading a splice vault and traffic is --  
10 you're stopped there, you know, for five or  
11 ten minutes while they off-load that, because  
12 they're not going to want you anywhere near  
13 that crane swinging that big piece of  
14 concrete next to your car as you drive by.  
15 So I would envision that that's going to  
16 happen. How many of those do you hit along  
17 the way? That's, you know -- how long does  
18 it take you to, you know, get set up in the  
19 morning and get the flagging operations to  
20 sort of coincide, if you will, if they need  
21 to.

22 MR. WAY: Mr. Oldenburg, let  
23 me put you on the spot.

24 MR. OLDENBURG: I haven't been

1           for the last three hours. I feel like I've  
2           been through an interview.

3                       MR. WAY: Mr. Oldenburg, let  
4           me put you really on the spot. So in your  
5           experience, when you look at some of the  
6           spots that we've talked about that might be  
7           more and more challenging, are there some  
8           that do look feasible on paper, but by your  
9           experience might be very difficult to  
10          implement and you would have more concerns  
11          about? Like, for example, I understand what  
12          the plan is in Plymouth. I personally can't  
13          envision how that is going to happen, knowing  
14          Plymouth and knowing the congestion in that  
15          area and how traffic flows. I'm going to  
16          need some convincing and more clarification  
17          on how that happens. But I'm not a DOT  
18          person, and so that's what I'm wondering. Do  
19          you see similar places like that, the  
20          Franconia 18/116 intersection, the Woodstock  
21          area? And I think some accommodations have  
22          been made there, but...

23                      MR. OLDENBURG: I think you  
24          hit the big one is downtown Plymouth and how

1           that work goes. And I think we heard Mr.  
2           Johnson and Mr. Bowes talk about that to some  
3           degree is they would have specialty crews in  
4           Plymouth. That's their whole job is to get  
5           through Plymouth, smaller operations where  
6           they might not go as fast, but they're going  
7           to take up less room. So you're talking, you  
8           know, a backhoe and dump truck and just  
9           enough equipment that they're going to use in  
10          the day so that they're not taking up 1,000  
11          feet of road, but they're taking up a  
12          100 feet of road. It's still going to  
13          require a lane closure and the parking  
14          blocked off, but maybe not to the degree  
15          where it's the entire downtown. So I think  
16          when we talk about Plymouth, we think of this  
17          huge -- the entire downtown is going to be  
18          closed off. And I don't think, from what I  
19          heard, that that's their intention. They're  
20          going to fine-tune it and make it a much  
21          smaller operation.

22                                Now, on the other hand, I will  
23          say that I did hear when the construction  
24          panel came back the second time was that

1           there was a discussion about the Plymouth  
2           water and sewer work, and Mr. Johnson said,  
3           "Well, we'll probably do our trenching the  
4           first year, and then we'll come back and do  
5           the water sewer the second year."

6                         MR. WAY: I don't know if that  
7           helps.

8                         MR. OLDENBURG: That didn't  
9           really help me out too much because, you  
10          know, that just extends the construction.  
11          But I think their impression was -- or the  
12          thought process was they could not do all the  
13          work in the time frame when the school was  
14          closed. And I think that was one of their  
15          key components was to do it in the summer  
16          when the college kids aren't around so they  
17          can get in and out. That was my impression  
18          and memory.

19                        MR. WAY: And that made sense  
20          to me, to try to do that work at the same  
21          time or at the same time you're doing the  
22          other trenching work. But the concern I had  
23          was, like you said, then we're extending out  
24          the construction period on, I look at it as a

1 sort of sensitive business ecosystem a bit in  
2 town.

3 The other thing, too, is we're  
4 also, in that case, going to have to require  
5 a detour on local roads; correct?

6 MR. OLDENBURG: Correct.

7 MR. WAY: So that's going to  
8 have to happen. And then we have to -- and I  
9 don't know where this falls in the traffic  
10 control plan that will be put in place. But,  
11 for example, to make downtown Plymouth work,  
12 there has to be the suggestion that parking  
13 will be accommodated. Well, if you go down  
14 to Green Street, I think it's called Green  
15 Street right down below, and I park in that  
16 parking area there, it's not like there's  
17 millions of spaces there. You know, I mean,  
18 how will that work? So that's one where I  
19 have concerns where, you know, I think you're  
20 right. They'll have their specialty crews  
21 and they'll be good, as good as anyone can  
22 be. But it still results in a very congested  
23 area that's going to have an impact  
24 temporarily -- but in some cases could be



1 long term for some, but a temporary impact on  
2 some of the businesses. And that's an area  
3 of concern for me.

4 COMMISSIONER BAILEY: Can we  
5 pull up the map that shows the intersection  
6 in Franconia where we actually -- I think it  
7 goes under, is it the Ham Branch River, the  
8 bridge there? The Gale River.

9 MR. OLDENBURG: Yeah, so it's  
10 the intersection of 18 and 116.

11 COMMISSIONER BAILEY: 116?  
12 Construction plan I think. Because, Mr.  
13 Oldenburg, I remember when we were there, we  
14 were looking at the size of the pit that  
15 would have to be there. That was 30 feet  
16 wide; right? And the road wasn't that wide.  
17 And they're not going to close the road  
18 until -- I just want to look at the map and  
19 have you explain that to me.

20 MR. OLDENBURG: Well, I think  
21 there was an issue we heard, because  
22 originally it was going to be a microtunnel.  
23 And I think the last I remember is "we're  
24 working on something else." So I'm not sure

1           what the "something else" is. But I thought  
2           it was HDD drilling from a town parcel or to  
3           a town parcel.

4                         DIR. WRIGHT: That's what I  
5           recall is they were looking at HDD drilling  
6           through that section.

7                         COMMISSIONER BAILEY: But they  
8           needed to get access to the town land? Was  
9           that it?

10                        DIR. WRIGHT: I think so.

11                        COMMISSIONER BAILEY: And they  
12           never followed up with that.

13                        DIR. WRIGHT: We don't know.

14                        COMMISSIONER BAILEY: We don't  
15           know. Right now what we have on the record  
16           is microtunnel --

17                        MR. OLDENBURG: Microtunnel,  
18           correct.

19                        COMMISSIONER BAILEY: -- at  
20           that intersection. And is that the thing  
21           that requires the 30-foot hole?

22                        MR. OLDENBURG: Yes.  
23           Basically you have a big hole, and in that  
24           big hole you drop a machine. It drills

1           underneath the Gale River, comes up to  
2           another pit, and you run your line through  
3           it.

4                        COMMISSIONER BAILEY:   And if  
5           that's the plan, do they have to close the  
6           road there?

7                        MR. OLDENBURG:   They showed  
8           no.  No, you didn't, that there was room to  
9           run traffic around the pit.  And that was one  
10          of the traffic control plans that they did  
11          have.  We looked at that when we were out in  
12          the field on a site review.  You know, if  
13          they can build the pit where they say they're  
14          going to build the pit, some of my concern, I  
15          guess, would be how do you protect that hole  
16          with I'm assuming a jersey barrier and still  
17          make it work.  So...

18                       COMMISSIONER BAILEY:   And they  
19          have enough space for the hole and the jersey  
20          barrier and one lane of travel.  Well, can we  
21          pull that --

22                        DIR. WRIGHT:   I was going to  
23          say, can we pull that map out --

24                        COMMISSIONER BAILEY:   Yeah,

1           that's the construction map that I want --

2                       MS. MONROE: Counsel for the  
3           Public, is that your CFP593? And I assume  
4           the Applicants have a --

5                       (Discussion off the record.)

6                       MR. WAY: Mr. Oldenburg, so  
7           while we're waiting for that, the DOT level  
8           of input into a design like that? You know,  
9           we're asking questions as to whether it's  
10          feasible or not. Does DOT say, No, we've  
11          reviewed it, that's feasible?

12                      MR. OLDENBURG: Yes, that  
13          would -- Route 18, 116, most of those roads  
14          are DOT-maintained roads. So they would  
15          review plans, make sure the traffic was, you  
16          know, was managed, you know, as safely as  
17          possible.

18                      MR. WAY: And they would be  
19          able to say one lane closed or not one lane.  
20          Or does it pass the "straight-face test"?

21                      MR. OLDENBURG: I thought --  
22          and when the plan comes up, we'll see if my  
23          memory is right. I thought they were running  
24          two lanes by it because the road was a lot

1 wider, like on the Gale River portion. So  
2 they actually got two lanes by. Very tight,  
3 but two lanes. I'm not sure how a truck  
4 coming across the bridge would make a right  
5 turn and stay in their lane. But they  
6 managed to get two lanes through, if I  
7 remember right, just because the existing  
8 road is that wide right at the intersection.

9 MR. WAY: But that's just at  
10 the intersection. That narrows as you get  
11 further towards Easton on 116.

12 (Discussion off the record.)

13 MR. OLDENBURG: That actually  
14 isn't the plan I was thinking of.

15 MS. MONROE: Right, that's the  
16 simulation, Dewberry.

17 MR. WAY: You want the trench  
18 plan; right?

19 MR. ASLIN: The exception  
20 request for this microtunnel, is that what  
21 you're looking for?

22 MR. OLDENBURG: It could be.

23 MR. ASLIN: That would have  
24 the plans for that section. That's CFP555.

1 (Pause in proceedings)

2 (SEC members reviewing document -  
3 CFP555.)

4 MR. OLDENBURG: There's  
5 also -- I thought it was part of the traffic  
6 control plans that the Applicant had  
7 furnished. And I thought it was a Par  
8 Electric plan or Louis Berger/Ms. Farrington  
9 plan that had been developed. It was on an  
10 aerial photo that had the lane markings and  
11 where the pit was located. I mean, what this  
12 shows is where the pit is, is the circle in  
13 the middle of the intersection. What this  
14 doesn't show is the lane usage and everything  
15 else. But my memory is, you know, to the  
16 right of that work zone was enough room to  
17 run two lanes of traffic. Like I said, the  
18 turning radius, if you were coming across the  
19 bridge and wanted to make a right turn into  
20 that, a car could make it maybe and stay in  
21 their lane, but a truck would take probably  
22 the whole road. So that would have to be  
23 managed. But I'm not positive of that.  
24 That's what I remember being seen when we

1           were in the field.

2                       MR. WAY:   So when you say a  
3           truck making a right turn, and that would be  
4           18 onto 116, would have a hard time doing  
5           that.   How does that get worked out?   Detour?

6                       MR. OLDENBURG:   Well, that  
7           would be something that -- yeah, the Traffic  
8           Management Plan.   Typically a state road,  
9           like you would want to be able to make a -- a  
10          truck make that turn from their lane.   So if  
11          they can't do that --

12                      MR. WAY:   Or do a detour.   But  
13          there's no real detour.

14                      MR. OLDENBURG:   Right.

15                      MR. WAY:   So you have to make  
16          that work for that --

17                      MR. OLDENBURG:   Correct.   But  
18          if, you know, during the day you had a  
19          flagger there, that wouldn't be a problem.  
20          If you had -- say you set up temporary  
21          signals.   So this was operating at temporary  
22          signals.   What you would do is have the stop  
23          bar where traffic stops further back so that  
24          the truck can use the whole road and turn,

1 and no one would be stopped there because  
2 they'd be further back.

3 MR. WAY: So you think the  
4 truck could work with a flagger.

5 MR. OLDENBURG: Oh, yeah.  
6 Actually, a flagger makes it a lot easier  
7 because they can stop the whole road and just  
8 let the truck turn. But that's something  
9 that should -- that has to be worked out with  
10 the Traffic Management Plan. That's the  
11 whole purpose we have it is for an instance  
12 like this. That shouldn't be a free-for-all  
13 for the contractor to figure out. Somebody  
14 needs to design how that works.

15 COMMISSIONER BAILEY: Do you  
16 think that circle is drawn to scale?

17 MR. WAY: Which circle?

18 COMMISSIONER BAILEY: The  
19 circle depicting the microtunnel. Is that a  
20 30-foot circle? No, not that one. The one  
21 in the road that's in the shading.

22 MR. OLDENBURG: So, actually,  
23 that's -- read the plans. That's the  
24 receiving shaft. So it might not have to be



1           that wide. All the equipment -- the  
2           launching shaft is down near Academy Road.  
3           Right. So that's the work zone you see to  
4           the right.

5                           COMMISSIONER BAILEY: Okay.  
6           So that circle's a little bigger. Is that  
7           30 feet, that circle, drawn to scale,  
8           30 feet? I mean, is there a scale? I don't  
9           see a scale on this map.

10                          MR. IACOPINO: Bottom left.

11                          COMMISSIONER BAILEY: Oh, oh,  
12           I see it. Yeah. Okay.

13                          MR. OLDENBURG: It looks  
14           pretty close.

15                          COMMISSIONER BAILEY: Looks  
16           like in inches, 30 feet. Okay.

17                          MR. OLDENBURG: You know, so  
18           at that location it looks like there's going  
19           to be one lane of traffic on Route 16. And  
20           that's all you're going to get for the whole  
21           construction. And that's weeks at a time.  
22           It's not like they can -- they're going to  
23           fill in the hole at night. So that's going  
24           to be 24/7 for the number of weeks that that

1 operation exists that that's going to be one  
2 lane. We heard that an operation like that,  
3 my understanding from what Ms. Farrington  
4 said, that there would be a temporary signal  
5 set up, so that the one-way traffic would be  
6 operated with a signal, a situation like  
7 that. She talked about some of the splice  
8 pit locations where they would be -- where  
9 the road would be left with a one-way lane  
10 overnight with a temporary signal. I have to  
11 believe that a situation like that would  
12 almost run that same way because it's going  
13 to be one lane 24/7 for weeks.

14 MS. WEATHERSBY: And didn't  
15 either you say, or maybe I'm recalling it,  
16 this process takes, like, 14 to 20 weeks?

17 MR. OLDENBURG: It was a lot  
18 longer than a splice pit, yes. I don't  
19 remember the exact time.

20 DIR. WRIGHT: Would it say  
21 that earlier in the exception request how  
22 long?

23 MS. WEATHERSBY: I can  
24 probably find it.

1 MR. OLDENBURG: It says the  
2 estimated traffic control duration of the  
3 proposed installation is estimated to be 8 to  
4 12 weeks. The duct bank connections to the  
5 microtunnel will take approximately 3 to 4  
6 weeks at each end.

7 COMMISSIONER BAILEY: And  
8 could they -- no, they probably can't reopen  
9 the road. So, three to four weeks at each  
10 end. Could they do those three to four weeks  
11 together at the same time on each end? Don't  
12 know.

13 MR. OLDENBURG: I don't know.  
14 I would hope so. It does say that the entry  
15 shaft is approximately 25 feet in diameter  
16 and the receiving shaft is 20 feet in  
17 diameter as part of the exemption request.

18 (SEC Members continue reviewing  
19 document - CFP555.)

20 MR. OLDENBURG: So, I guess to  
21 go back, if I remember Mr. Way's question  
22 correctly, is, yes, this is one of the more  
23 complicated traffic control configurations or  
24 setups that they're going to have to do.

1                   Another one is downtown  
2                   Plymouth, and we sort of talked about that.  
3                   And, you know, in the downtown Plymouth area  
4                   is also the roundabout. Their plan is to  
5                   close, you know, half of the roundabout, if  
6                   you will, and make it sort of a right  
7                   in/right out only at the roundabout and then  
8                   using local roads up and around. So that's  
9                   using local roads as a detour from state  
10                  roads. State DOT, without the town's  
11                  permission, we wouldn't do that. State  
12                  traffic stays on state roads. We understand  
13                  what we affectionately call the "rat hole  
14                  theory," where the locals know the local  
15                  roads and they will take the local roads.  
16                  But we would detour traffic, you know, using  
17                  other state roads. So we would not have --  
18                  the DOT would not have the authority to say  
19                  it's okay to use Merrill Street and some of  
20                  the other local roads.

21                               One of the other areas that  
22                               really wasn't brought up too much was down  
23                               Plymouth towards Bridgewater, and that's  
24                               where the road is extremely narrow and

1           there's like a retaining wall that holds the  
2           road off of the railroad. That's sort of  
3           like embedded in ledge. So I think there's a  
4           multitude of issues that the contractor could  
5           run into, none of which I think are show  
6           stoppers, but it's just going to be more  
7           complicated and a tighter work area and  
8           longer if they do run into ledge, which it  
9           sort of looks like. It appears to me like  
10          there's a concrete road under there, too,  
11          that's going to complicate issues. And it's  
12          very narrow. So that type of situation is  
13          going to be more complicated because of the  
14          narrowness of the road in some of the issues  
15          they're going to run into  
16          constructability-wise.

17                                But, you know, there's certain  
18          other areas which will probably be a little  
19          bit more -- you know, they might have to  
20          delve into a little bit harder from just how  
21          do they manage traffic. The intersection of  
22          Route 18, how close it is to the interstate  
23          ramps up in Bethlehem, you know, when they're  
24          working, making sure that they don't impact

1 ramp traffic and interstate traffic and  
2 people know where to go, how to get on the  
3 interstate, how to get off the interstate  
4 when they're immediately met with a  
5 construction zone, that type of thing.

6 MR. WAY: In your opinion, how  
7 this will go in the other areas, the local  
8 areas that we had talked about, Bear Rock  
9 Road, County Road. A lot of challenges up  
10 there. Who reviews those challenges? And I  
11 think I know the answer. But there's some, a  
12 few significant issues to be dealt with up  
13 there, and we don't have the benefit of a  
14 DOT. We have you here, and that's great.  
15 But how do we navigate those roads?

16 MR. OLDENBURG: Well, some of  
17 those roads are actually DOT roads, some that  
18 you might not think -- so, 145 is a DOT road.  
19 And there's a portion of Bear Rock Road  
20 that's DOT and then it becomes  
21 town-maintained. I think it's Bear Rock  
22 Road.

23 So there will be a DOT  
24 component in the review. But the ones that

1 are on local roads, I mean, you know, we sort  
2 of talked about that already, and it's in our  
3 "parking lot," that's going to be an issue.

4 I mean, we've been on those roads. We've  
5 driven up and down those roads. There's not  
6 a lot of traffic on those roads. Traffic  
7 control really isn't the issue. I think it's  
8 more the roads are closed and it's the detour  
9 route. It's, you know, making sure Mr.  
10 McAllister can get, you know, his farm -- you  
11 know, his milk to market and things like  
12 that. So how does that affect, you know, the  
13 economy of the region, in that you're closing  
14 these roads? You know, some of those homes  
15 are second homes for people that don't even  
16 live in this state. So is that going to be  
17 an impact? But there are, you know, other  
18 things to think of, emergency response and  
19 things like that.

20 MR. WAY: And I'm kind of  
21 thinking of a Mr. McAllister. You know, we  
22 have sort of one chance to get it right.  
23 Either he can turn his trucks and navigate  
24 off the road or he won't be able to. But

1 we're essentially going to have to take  
2 what's given to us and assume that it's  
3 correct, and then hope that it is correct.

4 MS. WEATHERSBY: If I could  
5 just point out the Applicant has suggested a  
6 condition that deals with this. It's sort of  
7 a DOT Version 2. It's Condition 18 with  
8 respect to the underground installation and  
9 locally maintained roads in Stewartstown and  
10 Clarksville. "Properly qualified consultant  
11 selected by and subject to the supervision of  
12 the SEC Administrator, paid for by the  
13 Applicants, is authorized to review and  
14 approve traffic control measures and a  
15 traffic management plan for the underground  
16 installation in locally maintained roads in  
17 Stewartstown and Clarksville."

18 MR. OLDENBURG: So that covers  
19 everything. That covers the detours, the  
20 road closures, the access to public -- or the  
21 residential and business, yeah.

22 MS. WEATHERSBY: Well, it  
23 certainly is all the traffic control stuff,  
24 but it's not the other two types of plans you



1 mentioned, really, the operation and the  
2 outreach.

3 MR. OLDENBURG: To be  
4 perfectly honest, I don't -- if that was a  
5 DOT project, a stand-alone up there, we  
6 wouldn't do that. So the example is 145 in  
7 Stewartstown. There was a bridge. We  
8 actually went around it in our site review.  
9 That bridge was closed for six months when it  
10 was being rebuilt. So 145 was closed for an  
11 extended period of time up there. The bridge  
12 had to be replaced. It was a failed bridge.  
13 And that's what -- did it impact traffic?  
14 Did it impact people? Yeah. They dealt with  
15 it. But the idea is that there's -- did it  
16 impact the region unduly? I don't know.

17 So one of the other things,  
18 and we sort of touched upon it, was the work  
19 in downtown Plymouth and how best to -- you  
20 know, has the impact to the parking, the  
21 hours of operation and that been addressed?  
22 Will that unduly affect, unreasonably affect  
23 businesses and community and that? So, you  
24 know, I don't know. The amount of work they

1           have to do, the time it takes, I'd have to  
2           believe it's going to have some impact on  
3           people visiting downtown Plymouth and going  
4           into those businesses. But I also know that  
5           the Applicant has stated there's a -- my  
6           brain just sort of turned to mush -- loss of  
7           business, you know, mitigation efforts that  
8           they've done. So if a business can prove  
9           they've lost money due to the construction,  
10          the Applicant will work with them on that.

11                       MR. WAY: I think also, too,  
12          the Applicant said when you look at the  
13          region as a whole, that you're not going to  
14          get an unreasonable impact. And, you know,  
15          that's something we may have to chat about at  
16          some point is region versus the sum of its  
17          parts. I mean, you can't have a region  
18          without the sum of its parts. And so you  
19          kind of have to talk about individual  
20          communities and impacts. Some communities I  
21          don't think will be overly impacted and some  
22          will be a little bit more so. When you look  
23          at Plymouth, you know, I think the testimony  
24          we've had, the letters, the comments from

1 business owners, this will create an impact.  
2 I tend to put a lot of stock in that. I  
3 think business owners tend to know their  
4 customers. I think business owners tend to  
5 know the tolerance of their customers for  
6 change. They know how much they'll spend. I  
7 think there was one comment early on that,  
8 "Well, maybe they could get them to spend  
9 more." But businesses figured that out quite  
10 a while ago, and if they could, they would.

11 So, you know, however we  
12 navigate through this, I tend to take the  
13 word of businesses pretty closely. And so  
14 when they say that they may experience an  
15 impact, it could be because of past  
16 experiences they've had with construction.  
17 The pancake kitchen. No, they're not right  
18 on the route, but they may very well have  
19 experienced the impact that happened with the  
20 result of a bridge closure and so they have  
21 an idea of what they can expect. And I think  
22 there's a lot of measures to mitigate that  
23 and there's a lot of outreach that can  
24 happen. But, you know, I think in Plymouth,

1 I think that potential impact, although  
2 temporary, is real for them and should be  
3 acknowledged. And I think also, too, you  
4 know, the impact on business and tourism --  
5 and we're going to get into this later -- it  
6 is different than, let's say, you know, 145.  
7 That's a different situation, you know, when  
8 we're talking about 116 in Franconia and  
9 we're talking about Plymouth. It's a little  
10 bit more pronounced. Those traffic  
11 management plans are even more important in  
12 those areas, particularly with events that  
13 are occurring. So...

14 MR. OLDENBURG: And where I  
15 need sort of help with that is, yes, downtown  
16 Plymouth is not a "region." But when you  
17 look at the region, you know, it's somewhere  
18 people in Rumney or in Woodstock or in  
19 Campton or in Thornton, you know, where do  
20 they go shopping? You know, it's -- you  
21 know, Bridgewater, you go through Plymouth to  
22 get to the grocery stores. And, you know, a  
23 lot of those communities up there don't have  
24 the services or the businesses, and they go

1 to a place like Plymouth to get those  
2 services. So I don't know -- yes, it's a  
3 very defined area, downtown Plymouth. But  
4 could the work in downtown Plymouth affect  
5 the region because that's where everybody  
6 goes in the region? So, you know, that's  
7 where I don't know. Rely on your expertise  
8 for that.

9 MR. WAY: Well, yeah, I don't  
10 know if we want to get into this when we talk  
11 more about tourism, we talk more about  
12 employment. But I guess also, too, when we  
13 talk about downtowns and -- downturns in  
14 business, even though we're talking about  
15 temporary -- and, you know, in the case of  
16 Plymouth, we're talking about restaurants,  
17 theater, you know, other things, goods and  
18 services, like the hardware store, et  
19 cetera -- they may anticipate that there may  
20 be some short-term employment losses. I  
21 think that's important to consider. I think  
22 that the idea that, as you said, if people  
23 know there's construction in one area,  
24 they're going to try to go somewhere else.

1           And that certainly could have an impact in  
2           the area. I'm one of those people. If I  
3           know there's construction, I don't have  
4           patience, I'll go somewhere else. You know,  
5           I think maybe -- I don't know if we want to  
6           "parking lot" that for a little while until  
7           we get to tourism and employment. Or we can  
8           start delving into it.

9                       MR. OLDENBURG: Well, if you  
10           want, there's a few more. Let me see if I  
11           can tick through the rest of some of these  
12           points about the construction. I don't know  
13           how many more there are, but...

14                      One of the things that Ms.  
15           Farrington did talk about was the  
16           construction vehicles. She wasn't going to  
17           analyze, you know, traffic impacts, the  
18           impacts to traffic and construction access.  
19           So you have these -- in the overhead  
20           sections, you have the aerial crossings where  
21           all the construction equipment is going to  
22           come and go, or the batch plant or the  
23           concrete is going to come and go. And she  
24           didn't think that there was going to be a

1 traffic impact due to that. And I would tend  
2 to agree. Yes, if you set up a concrete  
3 batch plant and there's a truck in there  
4 coming and going once every, you know, two or  
5 three minutes even, which there won't be,  
6 that's not going to have an impact on traffic  
7 on these roads. I can't believe that. And,  
8 you know, some of the other access is going  
9 to be limited to, you know, the workers show  
10 up at 8:00 in the morning, they go and park  
11 their vehicles, you know, in the  
12 right-of-way. So, you know, how many people?  
13 Even including construction equipment being  
14 brought in every day to deliver equipment or  
15 material, you're in the tens of vehicles, not  
16 in the hundreds of vehicles. So I don't  
17 think that construction access to the  
18 right-of-way or some of these temporary  
19 laydown yards, the marshaling yards and  
20 things like that are going to cause a  
21 problem. I just don't see it.

22 DIR. WRIGHT: Bill, is that  
23 something DOT doesn't normally look at under  
24 traffic management plans? Or is it a

1 case-by-case determination?

2 MR. OLDENBURG: That would be  
3 a case-by-case determination. You know, I  
4 would think that's on a majority of them.  
5 You know, we mentioned Loudon Road up here.  
6 I don't know if they plan on accessing the  
7 right-of-way through Loudon Road. But that  
8 would be an issue. You go down Regional  
9 Drive towards 106 where the precast company  
10 is, the right-of-way crosses Route 106  
11 through there. So how they access that road  
12 and things like that, I can't even -- I don't  
13 think that would even cause a problem. You  
14 put out a flagger and stop traffic and let  
15 the construction vehicles in. I don't think  
16 there's going to be a traffic backup or  
17 anything else because of, you know,  
18 construction vehicle access to the  
19 right-of-way.

20 MS. WEATHERSBY: We also heard  
21 testimony about Bear Rock Road and the  
22 excavation of the transition station. If I  
23 remember right, there was, like,  
24 5,000 truckloads of stuff that was coming



1 out. And how many trucks that is on that  
2 little road, do you have the same opinion  
3 there?

4 MR. OLDENBURG: Yeah, it's  
5 probably going to be more trucks than cars on  
6 that road when that -- but if you looked at  
7 that road, I bet you there's, you know, how  
8 many cars a day on that road? Hundred? Two  
9 hundred? Three hundred? I can guarantee you  
10 there's more than that leaving this driveway  
11 tonight. Is that going to be a traffic  
12 backup? You know, unless everybody leaves at  
13 once, probably not. So the amount of trucks  
14 that are going to be leaving, coming and  
15 going, I don't know where they're going. I  
16 don't know where you're going to take that  
17 many cubic yards of rock. But I wouldn't  
18 believe that that would have an impact on the  
19 traffic on the road. I'm not sure the road  
20 is wide enough in some areas. We looked at  
21 it, but the thought was that they would --  
22 the Applicant was going to dig up that road  
23 and replace that road. So from a  
24 construction access standpoint, I can't see

1           it's going to have a traffic problem.

2                           MR. WAY:  And when we talk  
3           about that, are we discussing it at, say, for  
4           example, peak times of the year?  You know,  
5           for example, I know I keep coming to 116  
6           because it's sort of a easy discussion.  But,  
7           you know, 116 during leaf peeping season,  
8           during those peaks.  And even you brought up  
9           the cumulative wait times brought about by  
10          multiple closures.  You know, that would be  
11          more the concern.  I know from a tourism  
12          perspective, if someone's coming up here,  
13          what are they going to be experiencing in  
14          terms of delay, and what is their tolerance  
15          for that delay?  At what point does that  
16          delay say, "I won't go here or I'll go there,  
17          or I'll go south?  And that's hard to do  
18          without that Traffic Management Plan.  So you  
19          keep saying "chicken or the egg."  It's hard  
20          not to have some of this information so you  
21          can make those decisions.  Because on that  
22          one stretch, you don't know if -- or we  
23          don't -- maybe not.  I don't know.  I don't  
24          have a real feeling for how many construction

1 vehicles there will be, what the wait times  
2 will be, how many -- we kind of know how many  
3 work zones they'll experience throughout the  
4 span. But that's going to impact the tourism  
5 experience. And it might be manageable.

6 MS. WEATHERSBY: Seems like  
7 we're lacking some information. I mean, I  
8 don't think we have -- at least I'm not  
9 recalling good estimates for the amount of  
10 construction vehicles or even existing  
11 traffic counts, and maybe that's getting too  
12 into the weeds, to be able to make these  
13 determination of whether --

14 MR. OLDENBURG: No, you're  
15 exactly right. I mean, that's the  
16 information you need. You start with the  
17 existing traffic counts on the roads and you  
18 see what type of impact it is. I mean, I  
19 closed it down, but the exception report for  
20 downtown Franconia had, like, 3,000 cars a  
21 day. That's how many cars are on that road.  
22 There's sections of 116 down in Easton and  
23 Woodstock that don't even have a thousand  
24 cars a day, the last that I saw in the

1 traffic volume reports. So, you know, that's  
2 not a lot of cars. So when you intermingle  
3 construction vehicles in that, even if you  
4 doubled it, it might not be an issue. When  
5 you add leaf peeping and tourism, I think you  
6 do get a -- you know, those folks are -- one,  
7 should be given through the public outreach  
8 some sort of advanced warning that if you go  
9 116, there's construction. And when you get  
10 on 116 and you're hitting multiple  
11 construction zones, is that going to affect  
12 your tourist experience? It could. And if  
13 you do the public outreach right and you say  
14 there's construction on 116, then what are  
15 people doing? They're finding alternate  
16 routes and they're not going up Route 116.  
17 So then the businesses or whoever that relies  
18 on the tourism, you know, they don't get that  
19 business. So it's a chicken and the egg  
20 thing as you -- not even. It's sort of  
21 chasing your tail. If you do the traffic  
22 control plan correctly, you minimize the  
23 impact to traffic. But in doing that, you  
24 may divert people to alternate routes as a

1 way of minimizing traffic, and that's going  
2 to affect businesses and the economy and  
3 tourism, I would think, because the way  
4 around 116 is the interstate.

5 MR. WAY: I think part of the  
6 issue, too, is when we had Ms. Farrington up  
7 before us -- and I want to make sure I call  
8 her by her new name. Is it Ms. Frazier?

9 MS. WEATHERSBY: Frazier.

10 MR. WAY: All right. Let's  
11 all resolve to call her by her new name.

12 [Laughter].

13 MS. WEATHERSBY: I resolve to  
14 call her --

15 MR. WAY: All right. Let's  
16 take a pledge.

17 MR. OLDENBURG: I resolve to  
18 call her Ms. Farrington.

19 MR. WAY: I think one of the  
20 things that was lacking is there really  
21 wasn't a New Hampshire-specific discussion.  
22 I didn't get a lot of sense there was -- we  
23 didn't get into the details of the  
24 communities, and I understand why, or the

1 impacts. We didn't talk about the bike tours  
2 on 116 or some of the other activities that  
3 might occur. And so I think, you know, that  
4 is a gap of information, that we don't  
5 exactly know how this is going to impact some  
6 of those activities. And in some cases I  
7 think they might not. I'm not always sure.  
8 That's a challenge for me.

9 DIR. WRIGHT: Isn't some of  
10 that, though, isn't some of this timing of  
11 when they do the construction? I mean, I  
12 know digging in the ground, there's only  
13 certain windows to do construction in the  
14 ground. But I mean I thought at one point  
15 the Applicant was pretty clear they were  
16 willing to work with local communities to try  
17 to work around some of those things. And I'm  
18 just not hearing any reflection of that at  
19 this point.

20 MR. WAY: You know, I think  
21 you're right. For example, I think with the  
22 Tamarack Tennis Club, there was a willingness  
23 to work to accommodate their schedules. On  
24 the other side, I think some communities have

1 played a big game of chicken here.

2 DIR. WRIGHT: Absolutely.

3 MR. WAY: Even with Plymouth.

4 You know, I think -- go to the Applicant. I  
5 don't think -- that's not their preferred  
6 place they wanted to go. So I think that's  
7 part of the problem is that there are some  
8 that are just holding out on the discussion.  
9 And maybe it's working. I don't know. But  
10 it is a two-way street. And I do see some  
11 accommodations. I think accommodations can  
12 be made in a lot of cases. It's just we have  
13 to have that body of information to be able  
14 to make it.

15 CHAIRMAN HONIGBERG: We should  
16 take a ten-minute break.

17 (Recess was taken at 3:42 p.m.

18 and the hearing resumed at 4:03 p.m.)

19 CHAIRMAN HONIGBERG: All  
20 right. We're going to resume. Mr.  
21 Oldenburg.

22 MR. OLDENBURG: Just a few  
23 more things I think that were questions. Or  
24 this is more of a comment.

1                   One of the things that came  
2                   up, and I view this as a good thing, is that  
3                   in the underground section -- and it goes to  
4                   sort of the future land use -- is when the  
5                   underground trench is in place and whatever  
6                   fill they use, the fluidized -- or the  
7                   thermal fluidized backfill, FTB, or whatever  
8                   is in place all the way up to almost the  
9                   gravels in the road, it's going to create  
10                  almost a wall, if you will, all the way down  
11                  the road. You know, someone that wanted to  
12                  come in and put, you know, a drainage line or  
13                  a sewer line or a waterline or something like  
14                  that, not that there ever would be, or if you  
15                  wanted to -- I think the example I used was,  
16                  you know, up at one of the schools, if you  
17                  had to put in a turn lane or something like  
18                  that, or had to do drainage work, even though  
19                  the line is low, the conductors are low in  
20                  the ground and you could go over them, that  
21                  potentially could be a problem. And so as  
22                  the Applicant said as one of the conditions,  
23                  if there was an economic -- you know, if  
24                  there was a cost to a community or state



1           because of the avoidance of the line, that  
2           the Applicant would be willing to pay that  
3           difference. And I think that was a key  
4           component. It goes into, at least at the  
5           DOT, like bridge construction. There's a  
6           number of bridges that they're going under  
7           that are old. Very old. Probably historic  
8           in some cases. If they are ever redone, you  
9           don't know what the foundations are going to  
10          be. So if a design of a bridge or a culvert  
11          or the roadway expansion ever had to be done,  
12          the idea is, the reality is this line isn't  
13          going to move. It's too expensive to move.  
14          To relocate, you know, 2,000 feet of --  
15          assuming you can go splice vault to splice  
16          vault, to me, it's not even -- it's not  
17          economical for someone to say you need to  
18          move. And I think they proved it. They'll  
19          do just about anything to say, No, we're not  
20          going to move. And that is, if it costs the  
21          state or local agency or local community more  
22          money to avoid their line, they're willing to  
23          pay this difference. And I think that's a  
24          key component of the future, because it is, I

1 mean, 60 miles underground. Eventually, at  
2 some point, assuming this thing is in the  
3 ground for 50 years or so, somebody is going  
4 to come along and say we need to replace this  
5 culvert or we need to replace this bridge or  
6 we need to widen the road or something. You  
7 need to fix this component, and it's going to  
8 be affected by the line. So, having that in  
9 place is, I think, a key condition, if you  
10 will.

11 MR. WAY: And I have a  
12 question on that as well. Was there a time  
13 limit on that? I seem to recall that it was,  
14 like, two years? Or am I remembering the  
15 wrong condition? But was there a time limit  
16 on when a community could take advantage of  
17 that condition?

18 MR. OLDENBURG: Not that I  
19 remember.

20 MR. WAY: If we could --

21 MR. OLDENBURG: And I think  
22 this might need a little molding.

23 MR. WAY: Let's see if  
24 there's... let's read it.

1 (Pause in proceedings)

2 MS. WEATHERSBY: It's  
3 suggested Condition 22 of the Applicants.  
4 "The Applicants agree to assume such  
5 additional cost as a municipality may incur  
6 due to the maintenance, operation, renewal or  
7 extension of the underground installation  
8 components of the Project or appurtenances  
9 thereto within the locally maintained roads."  
10 So that doesn't cover DOT. Maybe there's  
11 another one.

12 MR. OLDENBURG: There should  
13 be.

14 MS. WEATHERSBY: I'll look for  
15 another one. Doesn't cover DOT and it  
16 doesn't cover private property owners that  
17 might have a waterline or whatever. But  
18 perhaps there's another one.

19 MR. OLDENBURG: I think the  
20 two-year one is No. 21, which is if there's  
21 any roadway -- if there's any distortion or  
22 damage that's caused to the roadway by the  
23 trenching. So it says that -- 21 says,  
24 "Further Ordered, that any future surface

1 deterioration within the trench area in  
2 locally maintained roads due to settlement or  
3 other causes attributed to the construction  
4 shall be corrected by Applicants as required  
5 during construction and for a period of two  
6 years following the commencement of  
7 commercial operations of the Project."

8 MR. WAY: That's what I  
9 recall. So I like the first condition.

10 The second condition, Mr.  
11 Oldenburg, do you think that two years is an  
12 adequate amount on that one?

13 MR. OLDENBURG: I don't know.  
14 I would think in a road you would see  
15 deterioration or settlement or something like  
16 that within the first couple of years.

17 One of the other issues that  
18 was -- that was questioned, I think by Mr.  
19 Thompson and the Stewartstown-Clarksville  
20 Group, was the heat generated by the conduit  
21 in the ground under a dirt road. Is that  
22 going to affect it? And I don't know if we  
23 know the answer to that. But could that take  
24 longer than two years? I'm not sure. To be

1 fair, though, this isn't a lifetime warranty  
2 I wouldn't imagine either. That's something  
3 we -- so I guess the question is: Is two  
4 years the right answer? I would be fine on  
5 the state road I think with two years. I  
6 don't know about the local road, but...

7 COMMISSIONER BAILEY: Seems  
8 like the odds are that over a two-year winter  
9 we're going to have -- one of those two would  
10 probably be cold enough to test the concern  
11 that people were worried about, I would  
12 think. I mean, we could put a caveat in  
13 there that, in the event that the two years  
14 following operation are unusually warm or  
15 something like that, somebody could come back  
16 and ask us to extend that for another year or  
17 until, you know, we get a reasonable winter,  
18 get through a typical winter, something like  
19 that.

20 MS. WEATHERSBY: Seems like  
21 the Applicant's saying it's not going to have  
22 an effect, and they're standing by it. So if  
23 they're going to stand by it, let's do a  
24 longer time window. You know, maybe it's

1 five years. It's doesn't go on indefinitely.  
2 But winters can vary a great deal. And as  
3 roads change, especially dirt roads because  
4 of traffic, et cetera, I think a longer  
5 window would be appropriate.

6 MR. OLDENBURG: I think one of  
7 the other -- I think this goes to saying one  
8 of the conditions is to make the MOUs, you  
9 know, binding in the condition of approval.  
10 So that makes sense.

11 The other one was Mr. Bowes  
12 testified that the Applicant agreed to assist  
13 property owners with the maintenance or  
14 repair of utilities that were located in  
15 proximity to the underground section.

16 So the thing that struck me  
17 was like Mr. Ahern and his waterline that  
18 went under the road that no one really knew  
19 about until he testified about it. How many  
20 of those are there? To me, that's only a  
21 logical thing to put in, you know, that if  
22 they hit something that's a private utility,  
23 that they would repair it and make it whole  
24 again.

1                   COMMISSIONER BAILEY: Bill, I  
2                   have a question about that. Do you think  
3                   that we should condition it to require them  
4                   to go under all of those things that are in  
5                   the road now?

6                   MR. OLDENBURG: Well, that was  
7                   a DOT condition is that they go underneath  
8                   basically everything, all municipal  
9                   infrastructure, all drainage, to be the  
10                  lowest thing in the road. You know, and I  
11                  think that's why they're going -- they're  
12                  doing lot of the HDD drilling under a lot of  
13                  the larger culverts. It's just more  
14                  manageable to do that than it is to try to  
15                  open trench. You know, some of the other  
16                  conditions, they can't attach the line to,  
17                  like, a bridge. So that's why they're HDD  
18                  drilling under all the bridges and  
19                  everything.

20                  So I would -- I think the  
21                  condition is that they go under everything.  
22                  One of their conditions, and I think we  
23                  talked about it a little bit, was if they  
24                  can't, and they want to go over something --

1 oh, that's what it was -- and they were  
2 denied that from the DOT, that they may  
3 actually do an HDD drilling to go under  
4 whatever that is. So that was sort of a  
5 request that they put on it, was that if they  
6 wanted to go over something, that they left  
7 themselves the opportunity to do HDD drilling  
8 if they weren't allowed to go over something.  
9 I can't imagine what it would be. Have to be  
10 pretty deep and pretty big not for them to  
11 want to substitute direct trenching versus  
12 HDD drilling. But that was one of the  
13 conditions they put in. To me it makes sense  
14 that you'd want them to be the lowest thing.  
15 Then they're not impacted if the waterline or  
16 sewer line or drainage line has to be  
17 repaired, which they all need to be repaired  
18 eventually. So that makes sense for them to  
19 be the lowest thing.

20 One of the other issues, and  
21 we sort of talked about it, was the surplus  
22 excavation locations where -- so we brought  
23 up, you know, taking the ledge off of  
24 Transition Station No. 4. You know, where is



1           that going? So their idea is they're going  
2           to trench 60 miles, and they're not going to  
3           put the material back in that they took out.  
4           So they're going to have 60 miles worth of  
5           trenched material that they're going to put  
6           somewhere. And where is that? And do we  
7           need a plan? Do we need an explanation of  
8           where they're taking it? Does that site have  
9           to be approved? Typically as a DOT project,  
10          contractors sign off that they've taken it to  
11          a legal disposal area, be done with it. So  
12          that was one of, I think one of the  
13          intervening groups mentioned that there was  
14          no surplus disposal area identified and that  
15          it should be. I've sort of not bought in on  
16          that, but --

17                           MS. DANDENEAU: What  
18                           constitutes a "legal disposal area" for the  
19                           DOT? A landfill?

20                           MR. OLDENBURG: No. You could  
21                           contract with a private property owner that  
22                           says I need some fill to level off my lot,  
23                           and they can take in truckloads of material.  
24                           The downside is, does that property owner

1           have a legal right to fill in their land? Is  
2           it in wetlands? Do they have a wetlands  
3           permit? The other side of it is how do you  
4           know that the material that is being  
5           excavated from the trench isn't contaminated  
6           or -- so on both sides you have an issue of  
7           where you're putting it. It might not be a  
8           good site, and the material that they're  
9           receiving might not be great. So...

10                       MR. WAY: I agree with you  
11           that when we talked about the 30,000 cubic  
12           yards from I think Transition Station No. 4,  
13           that's a different situation, provided that  
14           you have a traffic management plan for the  
15           trucks. So I guess that would be my next  
16           question for you is how DOT has handled  
17           taking soil from trenches off of the state  
18           highway -- off the state road, rather, and  
19           what level of proof do we need on our end.  
20           It may not be something we have to worry too  
21           much about, provided there's some good  
22           controls in place?

23                       MR. OLDENBURG: Well, the DOT  
24           does have issues with certain aspects of

1           excavation directly adjacent to the road.  
2           It's something that we've been working with  
3           DES on. I'm not sure it would apply. It  
4           could apply in this situation. Some of the  
5           material, you know, the breaking down of  
6           asphalt due to plowing or just the normal  
7           work gets mixed in with that soil excavation  
8           material, and so then you have pulverized  
9           asphalt in some of this dirt. And it  
10          contains oils and things like that that you  
11          wouldn't want put in a playground and you  
12          wouldn't eat it. But is it contaminated? Is  
13          it -- no. You know, it's nothing that's, you  
14          know, high on the list. But it's just out of  
15          an over-precaution we don't allow that  
16          material to be reused. And that is like the  
17          surface layers of humus. We stockpile that  
18          and we dispose of that.

19                   MR. WAY: Do we allow that,  
20                   that particular oil-contaminated soil,  
21                   possibly oil-contaminated soil, do we allow  
22                   that as landfill cover?

23                   MR. OLDENBURG: No.

24                   MR. WAY: I think you

1 mentioned disposal --

2 MR. OLDENBURG: Absolutely.  
3 That's where we would send it.

4 MR. WAY: You'd send it as  
5 landfill cover --

6 DIR. WRIGHT: Bill, is this  
7 what you're referring to as "mildly  
8 contaminated"? Is that the term of art that  
9 DES uses?

10 MR. OLDENBURG: Well, it used  
11 to be called "mildly contaminated material,"  
12 but it contained the word "contaminated," so  
13 now we call it "limited reuse soil" because  
14 it has limited reuse abilities.

15 DIR. WRIGHT: Is there any  
16 testing that DOT normally requires of that  
17 material when it's excavated?

18 MR. OLDENBURG: Yes. Yes, we  
19 do. We test it to determine the limits, how  
20 far off it is and everything else. It is  
21 nothing that we -- we do it, like I said,  
22 internally, in an overabundance of caution.  
23 We do not -- we have not, you know, made that  
24 a condition of any external project, anybody

1 but the DOT. And it's something we've been  
2 working out with DES. It hasn't been on DES'  
3 radar as a big issue.

4 But no, we wouldn't typically  
5 allow that humus portion to be reused. But  
6 I'm not saying these folks couldn't. That's  
7 up to them where you'd put it. It's the  
8 same -- we heard about the ledge, the ledge  
9 that has to be excavated at Transition  
10 Station No. 4. There's chemicals used in  
11 blasting of that ledge. Those chemicals  
12 aren't good. There's a lot of cases down in  
13 the Windham area about the blasting material  
14 contaminating wells and things like that. So  
15 I think as part of that blasting that -- and  
16 I know this is another section of Public  
17 Health and Safety, but we'll talk about that  
18 later on. But do you just want to take that  
19 ledge and put it in somebody's yard? I'm not  
20 sure.

21 MR. WAY: And since we're on  
22 it and you mentioned it's up to them what  
23 they do with it, are you referring to this  
24 "mildly" or -- well, you called it something

1           differently. But if DOT isn't telling them  
2           what to do with it, are you saying they can  
3           pretty much do whatever they want with it?  
4           And I would imagine, then, that DES would  
5           have an issue with it at that point, wouldn't  
6           they? I mean, if you're taking soil that may  
7           be contaminated or have something in it  
8           that's mildly contaminated and you're going  
9           to do something with it --

10                   MR. OLDENBURG: I would tell  
11           you that the DOT is the only one that has a  
12           concern about it. We brought it up to DES,  
13           and they haven't been, you know, waging a war  
14           against this stuff. If you polled other  
15           states, half the other states are like,  
16           there's nothing to worry about. That's why I  
17           say it's sort of DOT out of an abundance of  
18           caution. Once this material leaves the state  
19           road, where it goes, you know, we just want  
20           to make sure that material doesn't go where  
21           it shouldn't.

22                   MR. WAY: So, for example, in  
23           Franconia, I think there was an old gas  
24           station. There was a gas station there --

1 MR. OLDENBURG: Plymouth. We  
2 heard about the plume of --

3 MR. WAY: Well, the plume.  
4 But I think there was also a gas station in  
5 Franconia. And I may be wrong, but I believe  
6 there is. I mean, do we have concerns about  
7 the soils in that area?

8 MR. OLDENBURG: So that's  
9 different because that is contaminated soil.  
10 So that has this whole -- when they get into  
11 Plymouth and the roundabout, they're going to  
12 have to have, you know, contaminated material  
13 mitigation efforts. They're going to have to  
14 deal with that. They've been made aware of  
15 it through testimony and everything else.  
16 But there are certain areas that probably  
17 they're going to run into that may not.  
18 Franconia.

19 MR. WAY: And so we know about  
20 Plymouth. And you're right. They mentioned  
21 how they're going to handle that. But if  
22 they're going to be hitting other areas that  
23 might have potential -- this is a large, a  
24 long route. And are there --

1                   MR. OLDENBURG: I would have  
2                   to believe, even though I don't know, they  
3                   would have a standard contingency clause in  
4                   there that if they hit contaminated material,  
5                   that they're going to take these precautions.  
6                   And when you dig it up, you smell it,  
7                   especially a gas station. It smells like  
8                   gasoline. The bridge work we talked about  
9                   earlier in Sugar Hill, there was an old gas  
10                  station right there. There was contaminated  
11                  material that was hit there.

12                 MR. WAY: That's what I'm  
13                 thinking of I think.

14                 MR. OLDENBURG: When that  
15                 bridge was redone, that delayed work for  
16                 three or four days. That material was  
17                 segregated. The workers took special  
18                 precautions for, you know, personal  
19                 protection, as well as environmental  
20                 protection, to make sure that that material  
21                 was segregated and landfilled. And that's  
22                 what the Applicant would have to do. And I  
23                 have to imagine as part of their construction  
24                 plan those contingencies are in there.



1 MS. DANDENEAU: Bill, you  
2 mentioned that DOT tests that top layer of  
3 potentially contaminated soil. Do you know  
4 of any contaminants that have been found? Do  
5 you know any of the results of that testing?

6 MR. OLDENBURG: Yes. It's  
7 been -- you know, when we started to do our  
8 own testing just on sides of the roads, it  
9 varies. That's why there's no real standard.  
10 You know, we've tested along, like,  
11 Interstate 393 and some secondary roads. It  
12 varies. Sometimes there's no trace  
13 whatsoever. Sometimes there's elements  
14 found, you know, three, four, five feet off  
15 the edge of pavement. But it's basically the  
16 degradation of asphalt is oil and gasoline  
17 products, and that's not good for your  
18 health. But they're in such low levels that  
19 they're not a concern. They're not  
20 considered contaminated. They're well below  
21 any of the levels of contaminated material.

22 MS. DANDENEAU: But if this  
23 material is being transported and deposited  
24 or stored in some other place, and there's a

1 lot of it in one location, should we be  
2 worrying about increased concentrations in  
3 those locations?

4 MR. OLDENBURG: You know, I  
5 don't even know if you're going to hit it  
6 because you're talking it's just the top few  
7 inches of soil. And if this is down six or  
8 seven feet, it's not going to amount to a  
9 significant amount of material, I don't  
10 think.

11 MS. DANDENEAU: Okay.

12 MR. OLDENBURG: And I can't  
13 believe they're going to dispose of all of  
14 this material all in one spot either.

15 MS. WEATHERSBY: Mr.  
16 Oldenburg, or perhaps Mr. Wright, do you know  
17 if there's a reporting requirement that, if  
18 someone, you know, excavates and finds  
19 obviously, you know, smell of petroleum, that  
20 there's a duty to inform, say, DES?

21 DIR. WRIGHT: I'm actually  
22 trying to do a little surfing right now on  
23 that. I assume there are certain  
24 requirements under our Waste Management

1 Division as to what procedures you need to  
2 follow if you run across what you believe to  
3 be a contaminated site. So I'm assuming --  
4 I'm not an expert in that area. But I'm  
5 assuming there are procedures in place to  
6 identify it and then identify how you're  
7 going to manage that material. But I'm not  
8 an expert in that area.

9 MS. WEATHERSBY: I guess the  
10 second question is, given everything we're  
11 hearing, it seems as though it may be prudent  
12 to require some testing. Do you agree with  
13 that; and if so, how -- over what distance?  
14 You know, what kind of a requirement would  
15 that be that would capture contaminants but  
16 not be onerous, overly onerous?

17 MS. DANDENEAU: I was going to  
18 ask what -- I mean, is the sampling protocol  
19 pretty simple? Do you know if the analyses  
20 of those soil samples are expensive?

21 MR. OLDENBURG: I would have  
22 to find out. I don't think so. But again, I  
23 would say that --

24 MR. WAY: If I could? I seem

1 to recall, like Mr. Wright said, I mean, it  
2 comes off as a solid waste provided certain  
3 things are done. So one of the things that  
4 I'm wondering is if that's -- if whatever  
5 condition there is, you're simply saying  
6 comply with the rules, the DES rules for  
7 whatever the soils management is going to be.  
8 Is that enough? I mean, do we need more than  
9 that to simply say comply with the rules that  
10 DES has in place?

11 MR. OLDENBURG: DES does not  
12 have any rules because it's not considered  
13 contaminated. And so that's why I'm sort of  
14 hesitant to answer your question. But you  
15 asked the perfect question of, you know, what  
16 would we do with that material. And that's  
17 what we would do with it. One of the things  
18 I will mention is if we can bury it in the  
19 existing, under the roadway, that's fine. So  
20 if we dig up this material, one of our  
21 disposals is that, you know, for widening the  
22 road, we put it underneath the road. And  
23 that's fine. So I don't know if there's a  
24 way of them reusing this material in the

1 trench as backfill.

2 I will say, again, the DOT is  
3 doing this out of an overabundance of  
4 caution, and there's no one else in this  
5 state doing this. DES isn't making us do  
6 this. We're actually writing the rules  
7 ourselves on how to deal with this. And the  
8 whole reason we do this is, once material  
9 leaves the state right-of-way, we do not  
10 control what happens with it. So the last  
11 thing we want somebody doing is taking this  
12 humus on the side of the road that could  
13 potentially have some bad stuff in it and  
14 using it in a playground. And that's the  
15 only reason why we're doing it. Would I put  
16 a condition on the Applicant to do that?  
17 It's up to them, you know, where they dispose  
18 of their material. That's their prerogative.  
19 But we're the only -- DOT is the only agency  
20 I know of that is even thinking of this.

21 DIR. WRIGHT: And you guys  
22 actually do sampling and testing of the  
23 material?

24 MR. OLDENBURG: We did

1           sampling and testing of certain roadways. We  
2           came up with a standard excavation amount and  
3           now use that on all our roadways. So we  
4           don't specifically sample every roadway. But  
5           if we know we're going to have excavation, we  
6           will just say we're going to take a foot  
7           down, six feet off the edge of pavement, take  
8           all the material away. Either bury it under  
9           the existing road or we throw it in the  
10          landfill. But that's -- I can't say enough  
11          that that is us, only us, and it isn't a DES  
12          requirement.

13                         DIR. WRIGHT: I was going to  
14                         say it sounds like it clearly falls outside  
15                         of what DES currently regulates.

16                         MR. OLDENBURG: It's an  
17                         unregulated material. Exactly.

18                         I think that's all I have,  
19                         actually, for the construction portion.

20                         MS. WEATHERSBY: One question  
21                         about the subject we were just talking about.  
22                         It seems as though the trench, the materials  
23                         excavated from the trench are only an issue  
24                         if DOT has approved the fluidized thermal

1 backfill that would go in instead of the  
2 spoils being put back in. As I recall, DOT  
3 has approved that; correct?

4 MR. OLDENBURG: I believe they  
5 did, yes.

6 MS. WEATHERSBY: Yes, I  
7 thought so, too. So this material does need  
8 to come off the site and not just be  
9 stockpiled for reuse on the Project, but it  
10 all has to go to an alternative location.

11 MR. OLDENBURG: And it's only  
12 the material that's outside the pavement. So  
13 if they're digging under the road, I'd have  
14 to believe that the pavement itself they take  
15 somewhere different. But if it's under the  
16 road, that material is fine.

17 MS. DANDENEAU: I'd be curious  
18 to know if they even know where the material  
19 goes, just from a practicality perspective.  
20 Because when I had my driveway redone a  
21 couple years ago, there was a truck of loam  
22 that went to this place and a truck of loam  
23 that went to that place, and that was part of  
24 offsetting the cost of the gravel that they

1           were bringing in. And I wasn't tracking  
2           that. And I'd be curious to know if they've  
3           got multiple construction crews and multiple  
4           smaller construction companies working for  
5           them, if those construction companies are  
6           hauling that stuff to different places to  
7           help offset the cost overall. I'd be just  
8           curious to know.

9                           MR. OLDENBURG: Probably. I  
10           mean, an example would be if they rip up  
11           pavement, they're probably taking that to a  
12           pavement plant and recycling it and putting  
13           it back in to make more pavement. The  
14           gravel, crushed gravel that they would dig up  
15           from under the road probably has some value,  
16           and they could probably reuse that as gravel  
17           or crushed gravel, some sort of granular  
18           material.

19                          DIR. WRIGHT: And probably in  
20           most cases you'd want them to do that.

21                          MR. OLDENBURG: Exactly.

22                          DIR. WRIGHT: That's an  
23           efficient reuse of the material rather than  
24           excavating new materials.



1                   MR. OLDENBURG: Exactly. You  
2 know, the humus and the loam that they take  
3 out of anywhere would probably be reused for  
4 the same purpose.

5                   MS. WEATHERSBY: Seems like  
6 this also came up when we were talking about  
7 invasive species and all of that, making sure  
8 the soils from one area didn't contain seeds  
9 and -- so it seems like they're -- I'd have  
10 to look back. But there was some testing or  
11 they had to be used in the same geographic  
12 area. I feel like we had a discussion. I  
13 just can't remember --

14                  MR. OLDENBURG: And I think  
15 that's one of the plans that Craig talked  
16 about that DES would approve. I mean,  
17 there's a wash truck -- you know, there's  
18 truck wash locations so that they don't  
19 spread, you know, invasive species from one  
20 spot to the other. They'd locate invasive  
21 species and treat them special. I mean,  
22 that's typically what they would have to do.  
23 You know, you know what it is. The  
24 environmental folks know how to deal with it.

1 But you're right. It's an issue. Every  
2 construction project will deal with it, and  
3 there should be a plan on how they deal with  
4 it.

5 CHAIRMAN HONIGBERG: I think  
6 we've exhausted Mr. Oldenburg now.

7 Mr. Way, what's the next item  
8 on that list of things to talk about in this  
9 area?

10 MR. WAY: I believe it was  
11 going to be Prevailing Land Use.

12 CHAIRMAN HONIGBERG: Is that  
13 you, Ms. Weathersby?

14 MS. WEATHERSBY: That's me.  
15 Want me to start on that?

16 CHAIRMAN HONIGBERG: Yes, we  
17 do --

18 MS. WEATHERSBY: Okay. So,  
19 for Land Use, this requirement comes from RSA  
20 162-H:16 IV (b) which requires the  
21 Subcommittee to consider whether the proposed  
22 project will unduly interfere with the  
23 orderly development of the region, with due  
24 consideration given to the views of municipal

1 and regional planning commissions, municipal  
2 bodies. And then our Administrative Rule  
3 301.15 requires us in making that decision  
4 whether there's an undue interference to  
5 consider the following: Section (a) of that  
6 rule is the extent to which the siting and  
7 construction and operation of the proposed  
8 facility will affect land use, employment and  
9 the economy of the region. So it's the same  
10 rule and statute we've been dealing with. So  
11 I'm going to talk about the land use issue.

12 So the Applicant has  
13 acknowledged that the construction of this  
14 project will cause some temporary adverse  
15 effect on land use by causing traffic-related  
16 noise, diversions, clearing of vegetation,  
17 use of marshalling yards, laydown areas, soil  
18 erosions, sedimentation control, et cetera,  
19 et cetera. So, basically the construction  
20 activities they've acknowledged will cause  
21 some temporary adverse effect on land use.  
22 But on the whole, the Applicant assert that  
23 the current land uses associated with the  
24 Project corridor, quote, "will be able to

1 continue largely uninterrupted during the  
2 operation and maintenance of the Project."

3 So, in support, they filed the  
4 prefiled testimony and report of Robert  
5 Varney, Normandeau Associates, entitled,  
6 "Review of Land Use and Local, Regional and  
7 State Planning." In that document,  
8 Mr. Varney offers his opinion that the  
9 Project will not have an adverse effect on  
10 local land use. In support, he asserts the  
11 following: His main reason is basically that  
12 160 miles, or 83 percent of the Project, is  
13 located in currently existing rights-of-way  
14 which already contain several distribution or  
15 transmission lines, and the Project will  
16 neither change this use, the use of this  
17 right-of-way, nor affect land uses in the  
18 area because its use as a transmission  
19 corridor is the same.

20 As to the 32 miles of the new  
21 right-of-way, Pittsburg to Dummer, Mr. Varney  
22 claims that it will be located on sparsely  
23 populated land which is primarily forested  
24 and managed for timber harvesting, recreation

1 and energy facilities. And this new section  
2 will not have an adverse impact on local land  
3 use because 32 of the 40 miles are located  
4 either underground or within a working forest  
5 managed by Wagner Forest Management, also  
6 close to Granite Reliable Wind and the  
7 Pontook hydroelectric facility. As to the  
8 remaining eight miles, he claims it's  
9 sparsely populated, mostly forested land that  
10 will be leased by Northern Pass Transmission.

11 The underground segments both  
12 up north and through the White Mountain  
13 National Forest will have no permanent effect  
14 on land use as the line is buried, and the  
15 roadways and abutting property uses won't  
16 change, according to Mr. Varney. Also, he  
17 says that the tree clearing and construction  
18 within the right-of-way has no effect on the  
19 adjacent land uses. So, land uses themselves  
20 along the Project corridor do include a  
21 variety of types of forestry, agricultural  
22 uses, residential, commercial, industrial,  
23 transportation, institutional, government,  
24 recreation areas, conservation and

1 historical, and natural features, such as  
2 rivers, wetlands, wildlife habitats. And he  
3 addresses each of these types and has found  
4 no adverse impacts to land use.

5 As to forestry, Mr. Varney  
6 concludes that forestry uses have co-existed  
7 within the existing utility corridor for many  
8 years, and development of the new  
9 right-of-way will not interfere with forestry  
10 or timber management activities in the area.  
11 Of course, most of the forested areas are in  
12 the northern portions of the Project.

13 There's also a number of  
14 agricultural lands. And as for those lands,  
15 Mr. Varney claims that approximately  
16 370 acres are characterized for the -- of the  
17 Project's right-of-way are characterized for  
18 agricultural use, which included pastures,  
19 hay fields, orchards, tree farms, livestock  
20 pastures, et cetera, including areas up in  
21 Lancaster, Ashland, and the flood plain of  
22 the Pemi River, Deerfield, Clarksville are  
23 the primary ones. Mr. Varney concludes,  
24 however, that the Project will not have an

1           adverse impact on the agricultural uses and  
2           will not interfere with the ongoing  
3           operations because the majority of the  
4           Project will be constructed within existing  
5           rights-of-way and the Applicant agrees to  
6           continue to coordinate corridor maintenance  
7           with the agricultural landowners.

8                           For residential land use, the  
9           Applicant asserts there's approximately 10  
10          homes within 500 feet of the overhead  
11          right-of-way in the northern segment of the  
12          Project, Pittsburg to Dummer, and there's  
13          more properties along the existing  
14          right-of-way from Dummer to Deerfield. He  
15          concludes that the Project will not have an  
16          adverse impact on residential land use along  
17          the corridor because it's primarily located  
18          within or along pre-existing utility and  
19          roadway corridors and will not interfere with  
20          established development patterns.

21                           As for infrastructure, the  
22          Applicant claims or acknowledges that the  
23          Project's in close proximity to five  
24          airports, will cross numerous roads,

1           railroads. It's going to follow state and  
2           municipal roads and will include an existing  
3           natural gas transmission line and numerous  
4           municipal utilities. Mr. Varney concludes,  
5           however, that the Project will not have an  
6           adverse effect on current or future  
7           transportation of utility services and  
8           facilities because the Applicant will  
9           continue to coordinate with the towns and  
10          agencies during construction and operation of  
11          the Project.

12                               For recreation, the Applicant  
13          asserts that -- or informs us that the  
14          existing right-of-way is used for hiking,  
15          mountain biking, snowmobiling, ATV riding,  
16          horseback riding, and that the Project  
17          crosses privately-owned, commercial or  
18          private land that's used for recreational  
19          activities. Mr. Varney concludes that the  
20          Project will only have a short-term impact  
21          associated with construction on the currently  
22          existing recreational activities because  
23          several trailheads will need to be closed  
24          during construction, and there will be no



1 permanent impacts to recreational land uses.

2 For conservation lands, the  
3 Applicant acknowledges the Project will cross  
4 various private and state-owned conservation  
5 lands, but that, again, the Project won't  
6 interfere with or have an adverse impact on  
7 conservation lands and will not alter the  
8 ongoing, long-term management and use for  
9 public access to the properties.

10 In support of some of his  
11 conclusions, Mr. Varney also analyzed the  
12 impact of existing transmission lines on land  
13 use and orderly development in Concord,  
14 Bedford and Londonderry, and he concluded  
15 that the construction of the current,  
16 existing transmission lines in those  
17 communities did not impact their growth  
18 regarding population, tax base, income level.  
19 Didn't impact commercial, multi-family  
20 residential development activities. Also  
21 didn't impact conservation, recreational or  
22 agricultural uses in those communities.

23 Those positions have been  
24 criticized by a number of parties. Counsel

1 for the Public criticizes Mr. Varney for not  
2 studying the impacts of construction  
3 generally or impacts from traffic data  
4 specifically on the land uses; for not  
5 considering the impacts of laydown areas,  
6 both that -- not considering the impact of  
7 laydown areas, locations that have been  
8 determined and those that have not; for not  
9 studying each of the 31 host towns to  
10 determine if any of them would be adversely  
11 impacted by construction; not reviewing or  
12 considering plans for the location of  
13 underground facilities or construction  
14 activities for any portion of the Project,  
15 such as microtunneling in Franconia or HDD  
16 drilling in Plymouth; for not analyzing any  
17 specific scenic area identified in any town's  
18 master plan to determine if the Project would  
19 adversely affect the scenic resource; also  
20 criticizes him for not considering the impact  
21 from construction or businesses along the  
22 route, particularly in Bethlehem, Franconia,  
23 Woodstock and Plymouth; for not evaluating or  
24 considering the aesthetics impact of the

1 Project on land uses or environmental impacts  
2 of those land uses; and also for not knowing  
3 the extent of vegetative clearing along the  
4 underground route or considering impact of  
5 clearing of properties along the proposed  
6 route.

7 Probably the most vocal  
8 opponent concerning land use is the Society  
9 for Protection of New Hampshire Forests.  
10 They allege a number of things. First, they  
11 allege the Applicant hasn't satisfied our  
12 administrative rules which requires the  
13 Applicant's estimate of the effects. This is  
14 Rule 301.09(a)(2). That requires the  
15 Applicant's estimate of the effects of the  
16 construction and operation of the facility on  
17 land use in the region, including the  
18 following: A description of prevailing land  
19 uses in the affected communities and a  
20 description of how the proposed facility is  
21 consistent with such land uses, and  
22 identification of how the proposed facility  
23 is inconsistent with such land uses. No  
24 description of inconsistent land use was

1 provided. Mr. Varney testified that there  
2 were no instances when the Project will be  
3 inconsistent. But SPNHF also alleges non-  
4 compliance with all land uses in all affected  
5 communities were not provided. Our rules in  
6 Site 102.07 define "affected communities,"  
7 and that's not only host communities, it's --  
8 I'll read the definition. It's the  
9 proposed -- "affected communities" are "the  
10 proposed energy facility host communities and  
11 unincorporated places, municipalities and  
12 unincorporated places abutting the host  
13 municipalities and unincorporated places, and  
14 other municipalities and unincorporated  
15 places that are expected to be affected by  
16 the proposed facility, as indicated in  
17 studies," et cetera.

18 Because a non-abutting  
19 community cannot be physically affected by  
20 the transmission line project, SPNHF alleges  
21 that visual impact on those land uses must be  
22 taken into account or that rule would be  
23 meaningless. And Mr. Varney did not analyze  
24 changes to land uses in affected communities.

1 He just started with the premise that there's  
2 no change in use along the corridor. And  
3 according to SPNHF, basically he didn't do  
4 his job, and he needed to analyze visual  
5 effects on land uses, not just physical  
6 affects.

7 SPNHF also asserts that  
8 Mr. Varney's strict adherence to his belief  
9 that a transmission line in an existing  
10 right-of-way cannot be inconsistent with  
11 prevailing land uses rules out any  
12 possibility of finding interference. He  
13 holds fast to that belief, even when we had  
14 that discussion concerning intensification of  
15 utilities in the corridor. SPNHF believes  
16 this is contrary to state law which has found  
17 that increased intensity of use is a factor  
18 in determining whether the use is a  
19 continuing use is or a different use.  
20 According to Mr. Varney, no amount of  
21 transmission lines or height would unduly  
22 interfere with the prevailing land use, so  
23 long as the proposed project is in the  
24 existing right-of-way. And he pretty much

1 held fast to that throughout  
2 cross-examination.

3 SPNHF cites case law where a  
4 great increase in the size or scope of a use  
5 can affect the analysis of whether the use is  
6 still a continuing use.

7 Just personally, I know from  
8 zoning law that there's a concept of "non-  
9 conforming use" if you're zoned, say,  
10 residential and there's a market in your  
11 neighborhood that doesn't fit the zoning.  
12 And there's a provision in the law that that  
13 use can continue. But at some point if it's  
14 intensified too much, it becomes a different  
15 use. You know, instead of a local corner  
16 store it becomes a Market Basket, you know,  
17 is that a different use. And there's a whole  
18 analysis that goes with that, that SPNHF  
19 would like us to use. In that analysis, you  
20 do look at the extent to which the use in  
21 question reflects the nature and purpose of  
22 the pre-existing non-conforming use.

23 So in my example, whether the  
24 use as a Market Basket reflects the nature

1 and purpose of the existing, you know, little  
2 store, or in this case, perhaps the small  
3 little distribution line, and now you have a  
4 big transmission line, that's a factor to  
5 consider is the extent to which the use in  
6 question reflects the nature and purpose of  
7 the pre-existing non-conforming use.

8 The second factor is whether  
9 the use at issue is merely a different manner  
10 of using the original non-conforming use or  
11 whether it constitutes a use that's different  
12 in character, nature and kind.

13 And also, the third factor is  
14 whether the use will have a substantially  
15 different effect on the neighborhood.

16 Back to SPNHF. They also  
17 state that we must account for the change in  
18 land uses from when a utility line was first  
19 installed to the land uses now, which is  
20 part, I guess, of what I just talked about --  
21 that is, it's not the use of the corridor,  
22 but the changing land uses around it, to see  
23 whether the transmission line is consistent  
24 with these new uses.

1                   They also criticized  
2           Mr. Varney for not addressing the land uses  
3           of second homes. It was all lumped in  
4           "residential." And second homes are, as we  
5           know, of particular concern and an important  
6           land use, particularly in the north. It also  
7           criticized Mr. Varney for not differentiating  
8           between different recreational land uses,  
9           snowmobiling, fishing, hiking, et cetera, and  
10          whether the Project might affect different  
11          users differently. Didn't account for homes  
12          in forested areas.

13                   Concerning conserved lands,  
14          the Project goes through many conserved  
15          parcels, including those funded with taxpayer  
16          dollars. And Mr. Varney is criticized for  
17          not analyzing effects on those conserved  
18          lands, but rather, just saying that it's not  
19          going to interfere with those because it's  
20          not going to alter the ongoing management,  
21          use or public access to those parcels.  
22          Again, he kind of just looked at the physical  
23          interference and not the actual changes to  
24          the land use caused by visual impacts,



1 resource degradation and fragmentation.  
2 SPNHF also criticizes Mr. Varney for not  
3 analyzing the change in corridor use by  
4 replacing an existing line with higher or  
5 different poles.

6 So if you remember, Mr. Varney  
7 presented his report, and it contained land  
8 use maps. And those maps are criticized.  
9 Many don't show uses. Some things don't  
10 correlate, don't correspond to what's in his  
11 report. Some things are just labeled  
12 "unknown land," "vacant land," et cetera, and  
13 those maps are criticized.

14 Other intervenors also have  
15 objections. Bethlehem to Plymouth Abutters,  
16 they argue that the underground section is  
17 located in proximity to a number of private  
18 properties and that the Project and  
19 associated vegetation clearing will alter the  
20 character and the land use of that area.

21 Concord has a list of issues  
22 also. They believe that Northern Pass will  
23 interfere with its future economic growth and  
24 development, which we heard a lot of about in

1 testimony, particularly near the Steeplegate  
2 Mall/Loudon Road area. They indicate that  
3 Northern Pass will be out of character with  
4 the existing land uses along the corridor or  
5 create adverse scenic impacts.

6 Pembroke asserts that  
7 residential and commercial properties  
8 adjacent to the proposed project will be  
9 negatively impacted.

10 Whitefield, too, indicates  
11 that it believes the Project will negatively  
12 affect development.

13 Mr. Van Houten testified that  
14 the Project will alter the rural residential  
15 character of his property and surrounding  
16 properties by constructing additional roads,  
17 attracting recreational motor vehicles.

18 Mr. Ahern indicated that it  
19 would alter the land use of his property.

20 The Bilodeaus talked about  
21 their home in Deerfield and the expansion,  
22 the new, upgraded substation. And that's  
23 going to involve some clear-cutting of trees,  
24 30 months of construction, et cetera. And

1           they were of the opinion that construction of  
2           the transition station will have a negative  
3           effect on their land usage and enjoyment of  
4           their property.

5                         Mr. Thompson was concerned  
6           about the undergrounding of the line  
7           affecting his nearby natural water springs.

8                         The Webster Family Group  
9           indicated that they thought the Project would  
10          have a negative impact on the enjoyment of  
11          their property located along the Pemi River  
12          and would alter the current recreational use  
13          by introducing unappealing, unattractive  
14          towers, in their opinion.

15                        The Foulkas argued that the  
16          Project would alter Deerfield's land use and  
17          character and would make it easier for other  
18          transmission projects to be introduced into  
19          the region.

20                        New Hampton -- I'm going to  
21          leave North [sic] Hampton for a minute.

22                        The Joint Muni Group alleges  
23          the Applicant hasn't provided the SEC with  
24          the required information regarding affected

1 communities, the same argument we heard  
2 before; basically, the Applicant can't on its  
3 own decide that it wasn't necessary to  
4 provide that information by simply finding  
5 there was no effect on abutting land uses,  
6 and criticized that they didn't analyze any  
7 interference with land use because they  
8 didn't talk about the visual impacts of the  
9 Project on land uses. The Joint Munis kind  
10 of repeat other's arguments, that basically  
11 the use of the existing right-of-way for  
12 sections of the Project don't automatically  
13 mean there will be no interference or other  
14 impacts. And if that were the case, an  
15 interesting argument, they say there would be  
16 no logical need for the SEC to review any new  
17 transmission lines with the ones going  
18 through an existing corridor -- but rather,  
19 here we are.

20 So we must have a purpose, in  
21 that there should be review of all the  
22 impacts when a new transmission line is even  
23 going through an existing corridor.

24 Other abutting property

1 owners, Bethlehem to Plymouth, talk about the  
2 use of the corridor for transmission lines is  
3 a different use than the use for distribution  
4 lines, through lines versus service lines.

5 Deerfield Abutters believe  
6 that Northern Pass is going to undermine  
7 their efforts to control land uses and it's  
8 not consistent with the rural character.

9 There's several intervenors  
10 from Concord, Whitefield, Deerfield and  
11 others who assert that the Project will  
12 negatively affect conservation and recreation  
13 uses.

14 So that's kind of the  
15 overview. I think it kind of comes down to  
16 Mr. Varney's assertion that, because this is  
17 an existing utility corridor of some sort or  
18 another, whether it be a roadway or  
19 distribution line or transmission line, that  
20 adding the new line to it does not change the  
21 land use of the corridor and therefore not  
22 the land uses of the community. And others,  
23 of course, disagree with that.

24 CHAIRMAN HONIGBERG: We could

1           decide that that's the last thing we're going  
2           to do today and pick up the discussion  
3           tomorrow, which I think is what a lot of  
4           people would like to have happen.

5                         All right.     So that's what  
6           we're going to do.   We're going to adjourn  
7           and be back here at 9:00 tomorrow morning.

8                         Wait, wait, wait.

9           Commissioner Bailey.

10                        COMMISSIONER BAILEY:   Can I  
11           just ask counsel one question?   Is the  
12           discussion about land use a different  
13           discussion than Mr. Varney's testimony about  
14           review of the master plans and zoning  
15           ordinances?

16                        MR. IACOPINO:   I would say no.  
17           I would say that master plans and land use  
18           ordinances are all part of the general  
19           subject of Land Use.

20                        COMMISSIONER BAILEY:   Okay.  
21           Thanks.

22                        CHAIRMAN HONIGBERG:   Now can  
23           we adjourn?

24                        COMMISSIONER BAILEY:   Yes.

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CHAIRMAN HONIGBERG: All  
right. We'll be back tomorrow at 9:00.  
(Whereupon the Day 1 Afternoon  
Session was adjourned at 5:02  
p.m., and the Deliberations will resume  
on January 31, 2018,  
commencing at 9:00 a.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed  
Shorthand Court Reporter and Notary Public  
of the State of New Hampshire, do hereby  
certify that the foregoing is a true and  
accurate transcript of my stenographic  
notes of these proceedings taken at the  
place and on the date hereinbefore set  
forth, to the best of my skill and ability  
under the conditions present at the time.

I further certify that I am neither  
attorney or counsel for, nor related to or  
employed by any of the parties to the  
action; and further, that I am not a  
relative or employee of any attorney or  
counsel employed in this case, nor am I  
financially interested in this action.

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Susan J. Robidas, LCR/RPR  
Licensed Shorthand Court Reporter  
Registered Professional Reporter  
N.H. LCR No. 44 (RSA 310-A:173)



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