

1 STATE OF NEW HAMPSHIRE
2 SITE EVALUATION COMMITTEE

3 January 31, 2018 - 9:00 a.m. DELIBERATIONS
4 49 Donovan Street DAY 2
5 Concord, New Hampshire Morning Session Only

6 {Electronically filed with SEC 02-05-18}

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

1
2 CHAIRMAN HONIGBERG: Good
3 morning, everyone. We're going to resume
4 deliberations. We were talking about a lot of
5 things, but we were in the middle of Patty
6 Weathersby discussing various issues in
7 prevailing uses of land and the views of
8 municipalities.

9 Ms. Weathersby, you want to
10 pick up where you left off or start a new
11 topic?

12 MS. WEATHERSBY: Sure. So
13 yesterday when we left off, we were talking
14 about land uses and Normandeau's report which
15 described by category the different types of
16 land uses along the corridor. And basically
17 their conclusion is that the Project was
18 consistent with those various land uses because
19 it was primarily within an existing utility
20 corridor. Very quick summation. And there's,
21 of course, a lot more to it.

22 So, today I want to pick up
23 with the second part of the land use
24 question, which is the views of the municipal

1 and regional planning commissions and the
2 municipal governing bodies.

3 CHAIRMAN HONIGBERG: Hang on.
4 Off the record.

5 (Discussion off the record)

6 CHAIRMAN HONIGBERG: I'm sorry,
7 Ms. Weathersby.

8 MS. WEATHERSBY: That's fine.
9 So, the rule that concerns
10 this is 301.09, which has a number of parts,
11 some of which I read yesterday. It does
12 require certain things in the Application,
13 and that is an expression of the views of the
14 municipal and regional planning commissions
15 and the municipal governing bodies if such
16 views have been expressed in writing in the
17 master plans and zoning ordinances -- master
18 plans of the affected communities and the
19 zoning ordinances of the host communities and
20 unincorporated places. So it has been raised
21 as to whether's there's compliance with that
22 requirement.

23 The Applicant did not provide
24 the Committee with the actual zoning

1 ordinances or master plans of either host or
2 affected communities. You probably recall
3 that during the hearings, Mr. Varney
4 discussed and later produced working drafts
5 of his summaries of those zoning ordinances
6 and master plans. It also didn't summarize
7 affected communities, but only host
8 communities in the master plan summary. So
9 there is a question that we should talk about
10 later as to whether the Subcommittee has the
11 information we need to make our determination
12 concerning undue interference with orderly
13 development.

14 A point the Applicant has
15 raised that I think would be good to keep in
16 mind is that, as we go through our analysis
17 of municipal and state plans and views, that
18 those don't preempt SEC jurisdiction. If we
19 find inconsistencies in the zoning
20 ordinances, et cetera, we don't necessarily
21 need to find that the orderly development is
22 affected; we just need to give the views of
23 the municipalities and regional planning
24 commissions due consideration.

1 So, the Applicant's opinion on
2 this was contained in Appendix 41 of the
3 Application. There was also prefiled
4 testimony and various exhibits. Mr. Varney
5 was the witness on this matter. Just a quick
6 summary, I guess, of what happened.

7 As you probably recall,
8 Mr. Varney testified that he reviewed the
9 regional planing -- the regional plans for
10 each of the regional planning commissions in
11 the Project area, the local river corridor
12 management plans and statewide plans that
13 involved various aspects of land use,
14 environment, energy transmission and
15 infrastructure. He reviewed the master plans
16 for the corridor communities and the master
17 plans in communities where a high-voltage
18 transmission line presently exists. He
19 concluded that none of the master plans
20 specifically discussed existing transmission
21 lines or corridors as being inconsistent with
22 local zoning or present any specific
23 challenges to the aspirations set forth in
24 the master plans of the various communities.

1 In towns with existing high-voltage
2 transmission lines, none of the master plans
3 he reviewed specifically identified them as a
4 problem. So his overall conclusion was that
5 there were no instances along any of the 192
6 miles of the proposed Project where the
7 proposed facility is inconsistent with any of
8 the prevailing land uses. There's a whole
9 list of plans that he reviewed -- different
10 regional plans, planning commission plans,
11 resource management plans, river corridor
12 plans -- and they're all in the record.
13 Also, state plans, climate action plans,
14 development plans, strategy plans, on and on.
15 And there's, again, a list. And Mr. Varney
16 concluded that the construction and the
17 operation of the Project is consistent with
18 the state and regional plans and will not
19 interfere with their implementation.

20 One state statute actually
21 that he didn't address, but others have
22 raised, that New Hampshire RSA Section 162-R,
23 specifically R:2, which is the Energy
24 Infrastructure Corridors designation. That

1 statute, in part, Roman II, designates
2 certain roads as energy infrastructure
3 corridors and lists in Part (b) that
4 identifies an energy corridor as I-93 between
5 the Massachusetts border and the Vermont
6 border, excepting approximately 1.7 miles
7 located in the White Mountain National Forest
8 north of Franconia Notch State Park. That
9 statute actually also says, however, that
10 nothing in this chapter will require a
11 developer of energy infrastructure to site a
12 proposed -- to site energy infrastructure, or
13 any part thereof within an energy
14 infrastructure corridor designated in the
15 chapter. We learned this was -- there was
16 some testimony on this at various points of
17 the hearings. We learned, I believe, that
18 the reason for the 1.7-mile gap in the
19 corridor was a jurisdictional one, and that
20 that 1.7 miles is owned by the Federal
21 Government; therefore, New Hampshire couldn't
22 include it in the description. So that is, I
23 guess, a question we should talk about,
24 whether the siting of Northern Pass is

1 consistent with this section of the statute.
2 But again, while this energy corridor is
3 preferred, it's not required.

4 So, for master plans,
5 Mr. Varney indicates that he reviewed the
6 master plans for all the corridor
7 communities. Again, he didn't do the
8 affected communities. But he really provides
9 little in the way of analysis of towns'
10 master plans. His summary states certain
11 things that are found in the master plans,
12 but he doesn't really analyze how the Project
13 is consistent or inconsistent, but, in my
14 opinion, jumps more to his conclusion that
15 the Project is consistent.

16 In his -- for zoning
17 ordinances, it was indicated that Pittsburg,
18 Clarksville, Stewartstown, Stark, Dalton,
19 Woodsville and Dummer don't have zoning
20 ordinances. The rest of the communities do.
21 And a working draft -- again, a working draft
22 summary was provided. But again, there was
23 very little in the way of analysis of the
24 ordinances and how the Project would be

1 consistent or inconsistent, in my opinion.
2 The focus of Mr. Varney's analysis seemed to
3 be his review of the master plans and zoning
4 ordinances. In researching those documents,
5 he did not meet with any planning boards,
6 zoning boards, selectmen or municipal
7 economic development directors or committees
8 to discuss their views or whether they felt
9 it was -- the Project was consistent or
10 inconsistent with those plans or ordinances.
11 He did meet with regional planning
12 commissioners and seven professional
13 municipal planners to ensure that he had the
14 most recent versions of the planning
15 documents, but he didn't ask for their
16 opinion as to the Project's impact on orderly
17 development of the region or request that
18 they provide documents for him to consider.

19 Various towns have taken
20 positions in this matter, of course, and one
21 way in which they did so was with warrant
22 articles or town votes. As I was counting
23 them up last night, I came up with the
24 following -- I may have missed one or two:

1 But I think Pittsburg, in 2011, passed a
2 warrant article opposing the Project;
3 Clarksville, I think in 2012, passed a
4 warrant article requiring the undergrounding
5 of transmission lines; Pembroke, in 2014,
6 passed a warrant article expressing
7 opposition to the Project and a commitment to
8 stop its construction; Deerfield passed
9 ordinances in 2013 and 2017 -- sorry --
10 passed warrant articles; Franconia, in 2012,
11 and that one was acknowledged, that since
12 that -- since the dates of the early votes,
13 the Project has changed. But Mr. Meth, when
14 he was here testifying, indicated that
15 Franconia was still opposed to the Project,
16 and indeed, in 2016 and 2017, town voters
17 approved additional funding to support
18 efforts to oppose the Project.

19 In Clarksville, there was a
20 warrant article in opposition, generally in
21 opposition. There's also a petition by 515
22 residents that were in opposition. And
23 Whitefield passed a warrant article.

24 Easton passed an article in

1 2011 concerning funding supporting the
2 opposition, and in 2012 and 2013 they
3 approved additional funds. Easton also
4 passed a number of zoning -- excuse me -- a
5 number of ordinances that would specifically,
6 they were hoping would specifically deal with
7 this project concerning blasting, bore hole
8 sealing, use of HDD drilling, thermal
9 backfill, just, again, specifically
10 addressing specific aspects of the Project if
11 it goes through Easton.

12 Concerning these warrant
13 articles, Mr. Varney acknowledged that many
14 towns have passed warrant articles addressing
15 the Project or taken other actions in
16 opposition. He opined that these were not
17 definitive actions inconsistent with the
18 towns' plans or regional development plans.
19 Then he also indicated that it wasn't clear
20 to him that all of the facts were presented
21 to the voters at the time of votes and
22 discounts the votes as expressing -- as to
23 whether it really expresses the views of the
24 governing bodies.

1 There are 31 host communities
2 along the route; of those, one municipality
3 has intervened in favor of the Project, and
4 that is Franklin. The only other
5 municipality that's supportive of the Project
6 is the City of Berlin, which is not a host
7 community, but it is a host community to the
8 Coos Loop, which they're hoping to upgrade.
9 And the Applicant has promised to upgrade the
10 Project if -- upgrade the loop if the Project
11 is approved. So, Berlin supports this
12 project, provided that the Coos Loop is
13 upgraded and the Forward NH Plan and the
14 North Country Job Association go forward as
15 expressed, as the Applicant has committed to.
16 Without compliance with those conditions, the
17 City takes no position in support of or
18 against the Project.

19 Twenty-two municipalities have
20 intervened and objected in writing and in
21 testimony to this project. Their testimony
22 very generally is that the Project will
23 unduly interfere with the orderly development
24 of their respective towns or regions.

1 There's also three towns that
2 have not intervened -- Campton, Lancaster and
3 Thornton -- but they have passed -- those
4 three towns have passed warrant articles at
5 their town meetings to oppose the Project.
6 There's four towns -- Allenstown, Hill,
7 Northfield and Stark -- that have not
8 participated in these proceedings. Dummer
9 has participated by sending two letters, one
10 in support generally of the Project,
11 generally encouraging Northern Pass
12 Transmission and the SEC to address concerns
13 of property owners about the visual impacts
14 and to consider mitigation efforts to
15 alleviate them, and then a second letter
16 expressing concerns about town roads.

17 There are two counties that
18 have intervened, Grafton County and Coos
19 County, and they have intervened in
20 opposition to the Project. There's a whole
21 host of specific examples given by these
22 municipalities of how the Northern Pass is
23 inconsistent with their master plans or
24 zoning ordinances. I can go through them all

1 if you'd like, but I don't think that's
2 probably a good use of our time right now,
3 but perhaps when we're discussing things we
4 can talk about some of them.

5 I guess very generally, the
6 representative -- if I can paraphrase what
7 I've heard and understand. The
8 representatives of these municipalities feel
9 as though the Project will unduly interfere
10 with the orderly development in their
11 respective regions or towns and find that the
12 Project will be inconsistent with their
13 master plans and other land use regulations.
14 Many towns have testified about the scale of
15 the Project, including the tower heights and
16 the increased intensity of the use of the
17 right-of-way, and they distinguish the
18 Project from the existing transmission line
19 and indicate its noncompliance in various
20 ways with their town's zoning ordinances and
21 master plans.

22 Many municipal representatives
23 have testified about their concern with
24 construction adversely affecting their towns

1 in various ways: Aquifers in the towns of
2 Easton and Bethlehem, other important water
3 bodies, such as the Pemi, the Gale River,
4 Coffin Pond, Turtle Pond and various other
5 ponds in Concord. Towns have ordinances in
6 place to protect these resources that the
7 Project, in their opinion, is not following.
8 Other municipalities have discussed how the
9 Project is not in compliance with their town
10 goals or regulations about the environment,
11 particularly open-space wetlands and
12 aquifers, buffer zones, aesthetics, noise,
13 traffic, height restrictions, conservation
14 efforts, character preservation efforts,
15 scenic roads, historic resources,
16 recreational uses, public safety and
17 development goals. Still, others pointed to
18 sections of their own ordinances which
19 require the burial of utilities. Some have
20 testified how their access roads don't comply
21 with town regulations and how there might be
22 safety issues concerning site distance and
23 access gates and bars, et cetera. So, those
24 are the towns.

1 There's also some regional
2 planning commissions that have expressed
3 their views. This project runs through areas
4 covered by four regional planning
5 commissions: North Country Council, Lakes
6 Region Planning Commission, Central New
7 Hampshire Regional Planning Commission, and
8 the Southern New Hampshire Regional Planning
9 Commission. None of those commissions have
10 intervened in this proceeding.

11 Mr. Varney and a staff member
12 from Normandeau have met twice with staff
13 from the North Country Council and once with
14 staff from the remaining regional planning
15 commissions. Mr. Varney's -- Normandeau's
16 notes show that these regional planning
17 commissions raised some concerns about the
18 Project. The North Country Council told
19 Mr. Varney that Pittsburg was one of three
20 areas of most concern and also expressed
21 concerns regarding the cumulative impact of
22 large projects such as transmission lines and
23 wind farms on tourism and their scenic
24 resources and the visual impacts to the

1 Connecticut River, Pittsburg, Franconia
2 Ridge, the White Mountain National Forest,
3 Appalachian Trail crossing, Balsams and the
4 Mountain View Grand Hotel.

5 In addition, the North Country
6 Council submitted comments to the Committee
7 regarding the Project. North Country Council
8 submitted a written comment and spoke to this
9 Committee during the public hearing on
10 March 14th, 2016. Barbara Robinson,
11 Executive Director of the North Country
12 Council, told us that their regional plan
13 contains a strategy statement about
14 protecting this region's iconic and popular
15 viewsheds from undue adverse impacts from
16 incompatible land uses such as large
17 transmission lines like Northern Pass, and
18 she expressed support for burial in the
19 roads.

20 She also indicated another
21 policy of the North Country Council was to
22 increase the region's production and use of
23 renewable energy consistent with protection
24 of other important natural and scenic

1 resources. And they urge the SEC to be sure
2 the Project wouldn't provide a financial
3 disincentive to the development of additional
4 local energy generation facilities.

5 Tara Bamford, of the North
6 Country Council, also submitted a comment to
7 the Committee on June 23rd, 2016, stating
8 that the viewshed analysis submitted by the
9 Applicant was misleading and suggesting that
10 the Applicant should be required to provide
11 the SEC with a more meaningful viewshed
12 analysis to enable the Committee to fully
13 understand the scope of the impact.

14 The Lakes Region Planning
15 Commission told Mr. Varney that following
16 I-93 seems like the most direct route and
17 expressed concerns about large river
18 crossings, like the Pemigewasset. Those
19 concerns are not referenced in Mr. Varney's
20 report.

21 Grafton County and Coos County
22 have intervened and oppose the Project.

23 In addition, we're required to
24 take into account public comments, something

1 like 3,000 comments. The vast majority are
2 in opposition to the Project. In addition,
3 there's a public comment of July 20, 2017,
4 that was co-signed by 107 legislators from
5 New Hampshire who oppose the Project.

6 Residents in some municipalities have signed
7 petitions in opposition to the Project which
8 they presented to the Committee, including:
9 New Hampton, with 700 signatures; Plymouth,
10 with 6,554 signatures; Whitefield, 535
11 signatures. During the public comment
12 hearing in July of 2017, Melissa Elander
13 presented two petitions that she noted were
14 signed by 20,000 people. Concord also
15 received a petition requesting burial of the
16 Project that had over 1,100 signatures.

17 CHAIRMAN HONIGBERG: Ms.

18 Weathersby, I want to clarify something. I
19 don't think Coos County is an intervenor in this
20 proceeding. There's one county commissioner who
21 sought intervenor status, but the county itself,
22 I'm almost certain is not an intervenor here.

23 MS. WEATHERSBY: You're right.

24 Sorry. I misspoke. Mr. Sampson, right, a

1 Commissioner. And he's part of a group. No?

2 CHAIRMAN HONIGBERG: He was put
3 into one of the relevant intervenor groups of
4 North Country folks.

5 MS. WEATHERSBY: I'm not going to
6 go on. I think that kind of summarizes the
7 views of the regional planning commissions,
8 counties, municipalities and citizens that have
9 expressed things and their views in writing.

10 CHAIRMAN HONIGBERG: Anyone like
11 to comment, discuss anything that Ms. Weathersby
12 said yesterday afternoon about prevailing land
13 uses or the summary she just provided of the
14 municipalities' positions?

15 [No verbal response]

16 CHAIRMAN HONIGBERG: All right.
17 Well, I'll offer something on the
18 municipalities.

19 It is not surprising that the
20 municipalities where the Project is proposed
21 to be located have taken strong positions.
22 The one that is -- or the major supporter,
23 Franklin, has a large infrastructure project
24 that would be part of the Northern Pass that

1 would be, obviously, to them a significant
2 property tax contributor. Other communities
3 where they have seen property tax increases
4 projected as a result of this aren't
5 persuaded that that's a good idea. I've just
6 given you the information I was going to be
7 providing later regarding property taxes.
8 But the warrant articles, positions taken
9 after the Project was proposed are important,
10 something we need to consider. I am more
11 impressed by the communities who took
12 positions before Northern Pass was a glimmer
13 in anyone's eye, who have planning documents,
14 master plans or other zoning ordinances that
15 have been on the books since before 2009 or
16 2010. And there are some. I don't remember
17 which, off the top of my head. But we've
18 seen some of those. And those are, to me,
19 more significant because they're not
20 project-specific. They are more general
21 statements of what the communities believe
22 their community should look like and weren't
23 passed in response to rumors or projections
24 about what this project would do in their

1 communities. I don't know that there's any
2 significance beyond that feeling that I've
3 carried from early on in this. But both sets
4 of viewpoints are relevant. They're
5 significant and something we all need to
6 consider. And, you know, I've been thinking
7 about those positions since the beginning of
8 this process.

9 Somebody? Anybody? Mr.
10 Oldenburg.

11 MR. OLDENBURG: Okay. I'll
12 start. I know one of the intervenors' comments
13 was that all the master plans weren't included
14 as part of the record. But in Mr. Varney's
15 summary, where he summarized all of the master
16 plans, if they were available online, there was
17 a link so that we could go and find those master
18 plans. And while I appreciate not having in the
19 record that 30 or some-odd master plans, there
20 was the availability to go and review them. And
21 his summary was the key components that he
22 found. Take that for what it is. But it seems
23 to me that they were available for our review
24 and they were available to comment on.

1 The other thing that I think
2 you had commented on was the route, the route
3 selection and the whole discussion about
4 I-93. I don't want to belabor it because it
5 isn't really part of the Application, but I
6 know the energy corridor and the legislation
7 on the energy corridor and how it excluded
8 the portion that was in the federally owned
9 section of I-93. But there is a component
10 that was -- and that's the Franconia Notch
11 State Park where I-93 goes through. It was
12 brought up early on, I think it was brought
13 up by Mr. Hodgdon, where there is an
14 agreement among state agencies and other
15 groups that would make that route very hard
16 to go through. It's an agreement that goes
17 back to the 1970s when the Franconia Notch
18 Parkway was built. And any work that's done
19 in the parkway requires basically an MOU with
20 all those parties, which is the Department of
21 Transportation and the agency previously
22 known as DRED, SPNHF and AMC, and a group at
23 the time which was the Franconia Notch
24 Alternate Route Group, which I think has been

1 disbanded. But all four of those parties
2 have to come to an agreement on whether or
3 not work on the parkway or any modification
4 of the parkway is done.

5 So I don't think it's just
6 that 1.7 miles. I think there's other
7 complications with going down I-93 that I
8 don't think were fully explained. So I think
9 the route not going down I-93 -- I think
10 going down I-93 would have been just as
11 complicated as going down 116. It might have
12 been less obtrusive from an impact
13 standpoint, you know, an abutter's
14 standpoint. But technically it would have
15 been difficult, I think. So the route is the
16 route.

17 MS. WEATHERSBY: I was simply
18 pointing out areas where it has been raised that
19 the Project is inconsistent with government
20 plans, and that has been raised. I agree that
21 it would be complicated. I don't know if it's
22 impossible. But it does not -- the Northern
23 Pass Project is not in one of the energy
24 corridors that's suggested by that statute.

1 MR. OLDENBURG: Right, and there
2 was a reason why.

3 CHAIRMAN HONIGBERG: Mr. Way.

4 MR. WAY: Good morning. I guess
5 some of the issues that I'm interested in as we
6 discussed prevailing land use, I guess I'm
7 interested -- well, first off, let me agree with
8 Mr. Oldenburg. I do agree. I think we had
9 access to the master plans. I feel satisfied
10 that that condition was met. I do think,
11 though, we may want to have some discussion on
12 the content of those master plans and maybe how
13 they were represented and to what extent we
14 accept what they're saying, and then I think we
15 can probably talk about maybe some of the zoning
16 requirements that tend to spin off from a
17 required master plan. I think that's important.

18 A transmission structure in an
19 existing ROW -- right-of-way, rather, I'm
20 interested in that. I think there was one
21 discussion, and I believe I saw it in the
22 brief and when I read the transcript. I need
23 to feel in my mind when it couldn't be within
24 the prevailing land use. What has to happen

1 for it to fail? I didn't get a sense of
2 that. So, you know, it was sort of a, you
3 know, on the far end of the spectrum, well,
4 what if it was 500 feet tall? You know, it
5 would still be within the prevailing land
6 use. But because it's a transmission
7 structure, it's in a right-of-way, that
8 right-of-way's been established for that,
9 it's been there, people know that. But, you
10 know, at what point do we go beyond the
11 boundaries of what is considered a structure
12 within that right-of-way. And this might be
13 it. I think it's just worthy of a discussion
14 that we do have to talk about is when does
15 something expand beyond its intended use, a
16 nonconforming structure, as I think as you
17 said yesterday, Ms. Weathersby.

18 I'm still interested, and I
19 brought this up yesterday, this idea of the
20 "region," everything being measured by the
21 region. And I understand that we say
22 "region" in the rules and in the statute.
23 But what constitutes that region? Because
24 the other thing, too, is you don't want to

1 minimize the municipalities that combined
2 make up that region. So if we're looking at
3 it as one whole, why are we even getting the
4 input of municipalities? So I think there's
5 got to be more discussion about, are we
6 looking at this project in chunks, in
7 regions? Is it the sum of its parts? I'm
8 not clear on that yet. I think that's
9 important here because I think there are
10 places where there are certainly concerns.
11 But I think, as the Applicant would say, but
12 if you look at it as a whole, regionally, the
13 whole project, it's not unreasonable. That's
14 my thoughts to get me started.

15 CHAIRMAN HONIGBERG: Commissioner
16 Bailey.

17 COMMISSIONER BAILEY: I was
18 thinking sort of along the lines you were about
19 how do we figure out when the land use has
20 changed and off an existing right-of-way to
21 determine whether it would unduly interfere with
22 orderly development. And I think the towns who
23 oppose the Project -- specifically thinking
24 about Deerfield and Whitefield, as examples --

1 they're saying that their master plan and their
2 planning has been to maintain the rural
3 character of their town. So I was thinking:
4 All right. Well, what does that mean, and how
5 does the existing right-of-way look today? And
6 I picture the right-of-way in Deerfield that we
7 passed that was on the side of the road there
8 was a pond. I think Ms. Menard was there with a
9 sign about herons. And so picture that in your
10 mind and that sort of rural. My memory of that,
11 and maybe we should pull up a picture of it, is
12 that it was wooden structures and they were kind
13 of old-fashioned-looking. And then think about
14 what the right-of-way in Loudon Road looks like
15 today. Very industrial, those big metal towers.
16 And I think what Deerfield is saying is if you
17 pick that picture up in Loudon Road and you
18 plunk it in Deerfield, according to Deerfield
19 and Whitefield and some of the other towns, that
20 looks very different than how it looks today,
21 and they're arguing that that's not consistent
22 with their rural character. I'm not persuaded
23 by Concord. I think it's pretty industrial up
24 there on Loudon Road. But for some of the other

1 towns, I think that's their argument, and I
2 think that's what we need to think about.

3 MR. WAY: I actually was --

4 DIR. WRIGHT: Chris, could I just
5 add to that? I kind of had the same thought. I
6 think a lot of us tried to really ask that
7 question of Mr. Varney when he was here: Is
8 there a tipping point when we get to there is a
9 prevailing change in the land use? I think
10 that's a question we specifically asked. I
11 don't think we ever got really an answer, other
12 than a very generic, "It's a right-of-way, it's
13 a right-of-way."

14 I also have some thoughts.
15 I'm not sure how a new right-of-way in the
16 North Country impacts land use as well. I
17 think that's something we also need to think
18 about and talk about. Some of that is, you
19 know, through a working forest. You know,
20 that may not be a big deal, but there are
21 other areas that were not working forests.
22 So that may be something we want to discuss
23 as well.

24 CHAIRMAN HONIGBERG: I think with

1 respect to Mr. Varney's testimony, I agree with
2 you, Mr. Wright, that he had one answer to a
3 number of questions asked by intervenors,
4 Counsel for the Public and members of the
5 Subcommittee, that if it was placed in the
6 existing right-of-way and it was a transmission
7 line, it was consistent with the prevailing land
8 use. And that was the answer to all of those
9 questions. Like Commissioner Bailey, I think
10 that it's different in different places. And
11 even within Concord, although Loudon Road is not
12 a good example for Concord. But just north of
13 there, up north of the Broken Ground area,
14 Turtle Pond, up toward Canterbury, you have a
15 very different feel. If you put an additional
16 line, an industrial tower in what is today
17 wooden structures that are 60 feet high, and you
18 put 100-foot or 90-foot towers adding to that
19 that corridor, it's going to look different. I
20 don't know that it would be helpful to pull up
21 some of the view simulations. But I know when
22 we were on Shaker Road in East Concord, looking
23 across Shaker Road toward a place where you can
24 kind of just see the tops of the existing

1 towers, there was a picture from a slightly
2 different location showing the simulation, and
3 you can see a lot more in what is now a very
4 rural location. You can all of a sudden see a
5 lot more towers, and they're not off in the
6 distance; they're across the street and about 60
7 or 70 yards past the other side of the street.
8 So there are places within Concord that are like
9 Deerfield, are like Whitefield in your examples,
10 Commissioner Bailey, where I think you make a
11 pretty good argument that those are going to be
12 very different from what they are today, even
13 though they are the same type of structure in
14 the existing corridor.

15 MS. DANDENEAU: I would just like
16 to add that up in the North Country, where we
17 have sections of this project potentially going
18 through areas that are not in an existing
19 right-of-way, that disparity is going to be
20 increased that much more because we don't have a
21 right-of-way at all and then we will. And the
22 structures are proposed to be very tall.

23 MR. WAY: And I was going to say
24 that the Concord argument I think I bought, or

1 at least I agreed with. And they have --
2 forgive me if I forget her title, professional
3 economic development planner. I think it was
4 Ms. Shank. And she talked about the Loudon Road
5 area. And I guess one of the thoughts I had is
6 that I thought she laid out a pretty good
7 reasoning for what they're looking at for
8 economic development and orderly development in
9 the Loudon area. And I don't know if I
10 necessarily agree that that's exactly how it
11 should happen. That's for them to decide. But,
12 you know, within that zone that encompasses some
13 of these structures, they seem to have a plan.

14 So it also brings up the
15 question that, if I go to a community and I
16 ask that community about orderly development,
17 who's best to know what the orderly
18 development is going to be? If we hear from
19 Deerfield that this is not in line with their
20 orderly development, I know I tend to listen
21 more to that. So when Concord says it's not
22 in line with their orderly development, it's
23 not in their plans of where they'd like to
24 go, however this works out, I tend to listen

1 to that. And once again, I think it's going
2 to come down to are we listening to the
3 individual communities and then summing that
4 up to a region? Or do you buy, as Mr. Varney
5 said, it's a region, and on the whole the
6 region? I think that's hard. But I tend to
7 listen to the communities that know best what
8 their development is going to be.

9 CHAIRMAN HONIGBERG: Commissioner
10 Bailey.

11 COMMISSIONER BAILEY: I agree
12 with you that communities know what --
13 communities who have taken the time to plan
14 development should be very carefully considered.

15 I respectfully disagree with
16 you, your analysis about Concord's
17 development, because I think that the
18 testimony from Ms. Shank was -- and maybe we
19 can pull this up to see if I have it right or
20 you have it right. I had a different
21 impression from that discussion, though. And
22 my impression of the testimony from Ms. Shank
23 was that was kind of her vision for the
24 future, but the master plan hadn't been

1 updated to articulate that vision. So it's
2 something that she's thinking about as a
3 professional planner, but the Town of Concord
4 hasn't voted on that yet. And the Town of
5 Concord has -- the existing master plan does,
6 in Concord, I think does say that the zone up
7 on Loudon Road is industrial. And there's an
8 existing transmission line there. And in
9 order to implement Ms. Shank's vision of the
10 future, if it can get through town voting,
11 they'd have to bury all those transmission
12 lines. So I think that's a pretty high
13 hurdle. I'm not sure -- I wasn't convinced
14 that that's ever going to happen. That being
15 said, there are other areas of Concord, as
16 Chairman Honigberg articulated, that the plan
17 does say should be rural, and they want to
18 maintain the rural character. And so I just
19 wanted to add that.

20 And the other thing that I
21 wanted to add was I think Mr. Varney's
22 position is that the overwhelming precedent
23 from past Site Evaluation Committees has been
24 that if you put a transmission line in an

1 existing right-of-way, that's not
2 inconsistent with orderly development. So I
3 think that's where he was coming from. And I
4 think that's a reasonable argument to make,
5 but I'm not sure it outweighs the
6 overwhelming information that we have from
7 municipal officials.

8 CHAIRMAN HONIGBERG: Mr. Way, I
9 guess a thought in response to your question
10 about what does the "region" mean, or what areas
11 do we have to consider. It's different in
12 different parts of the statute and different
13 parts of our own rules. In some places we are
14 directed to look at what's going on within the
15 affected municipalities, and in some instances
16 it seems like we're being directed to talk about
17 a region that may even be larger than the state
18 of New Hampshire, and there are gradations in
19 between. That's something I think that we might
20 want to have a non-meeting with our own lawyer
21 to talk about that. But it's also something
22 that in some areas we're just going to have to
23 wrestle with and decide what's important, given
24 the particular criterion or set of criteria that

1 we're considering at the time. For example, I
2 happen to know because I've just been looking at
3 it, that the property values inquiry in the
4 rules is directed at the specific
5 municipalities. Doesn't talk about anything
6 beyond that when you're talking about property
7 values. So... Ms. Weathersby.

8 MS. WEATHERSBY: Wasn't sure I
9 was going to weigh in just yet.

10 CHAIRMAN HONIGBERG: Let me,
11 before you start. I'll just say that at the
12 request of the court reporters, I'm going to try
13 to identify speakers because it will help us get
14 what will be a great transcript either way, but
15 it'll make it easier for the stenographers to
16 give us a great transcript.

17 MS. WEATHERSBY: So, a number of
18 thoughts running through my head. One is when
19 Normandeau had to do its analysis. You know, I
20 kind of feel for him a little bit because you've
21 got all these different land uses. You've got
22 beautiful farmland, town centers, agricultural,
23 recreational, industrial land, all different
24 kinds of land uses. And putting this project

1 with its towers and lines and underground
2 portions through those various areas, you know,
3 it clearly is a different type of use than, you
4 know, say farmland as it goes through. And
5 there's really no way to say it's compatible
6 with that agricultural use, for example. So you
7 have to say, well, it's an existing corridor and
8 it's already there and it's better than going --
9 a new corridor through that same land. And, you
10 know, I agree with that. And there really isn't
11 a whole lot of other arguments that could be
12 made because it's not consistent with that
13 agricultural use in my example. But that said,
14 we've heard of other alternatives: One, a
15 no-build alternative; and, two, one that
16 perhaps, particularly like up north with the
17 agricultural, most of where the agricultural
18 land is, you know, down Route 3, you know, there
19 are other alternatives that we've heard about
20 that have different effects on land use that may
21 be less. And I know we're not here to study all
22 the alternatives. But I think that since we've
23 heard about them, we can consider them. I'll
24 stop there.

1 CHAIRMAN HONIGBERG: Mr. Wright.

2 DIR. WRIGHT: Ms. Weathersby, I
3 think you actually brought up a good point that
4 I kind of thought about previously, and that's
5 the idea -- there's a reason we have utility
6 corridors, because we don't want utilities
7 running all over the place. We do want to
8 congregate them so that I guess it would be less
9 disruptive overall. If we need the energy, we
10 want to congregate them. That's why we put
11 pipelines in existing transmission lines, so
12 that we don't have another pipeline.

13 That being said, I just keep
14 coming back to the scale, scope and nature of
15 this project. And not only is it
16 significantly different than what's in the
17 corridor, in order to place it in the
18 corridor they need to make other changes in
19 the corridor as well, like moving existing
20 lines, increasing the heights on those. So
21 that's something that kind of piles on me a
22 little bit, too.

23 CHAIRMAN HONIGBERG: Ms.
24 Weathersby.

1 MS. WEATHERSBY: So that's partly
2 where I get hung up, too. And we were pressing
3 Mr. Varney on this point, is at what point is it
4 too much? At what point does it have such an
5 effect on the abutting land uses or regional
6 land uses that it just does affect the orderly
7 development of the region? And for what it's
8 worth, I look to the guidance of land use law
9 concerning -- from a zoning perspective. And I
10 talked about it yesterday. There's the concept
11 of, okay, there's a non-conforming use. You
12 know, there's a commercial facility right in the
13 middle of a agriculturally zoned area. And that
14 is allowed to stay there because it either got
15 permission or it was grandfathered, or whatever
16 it is. However, it was allowed to be there
17 lawfully. But then as it expands, at some point
18 it becomes a different use because of its
19 intensification. And there's a whole line of
20 cases pretty consistently throughout three
21 factors to consider when making that
22 determination. And I'm not giving you legal
23 advice. This is probably something Mr. Iacopino
24 could speak to. But for me, I use this as

1 guidance. And those three factors that are
2 generally used when considering whether there's
3 been a substantial change in that pre-existing
4 nonconforming use is: The extent to which the
5 use being questioned reflects the nature and
6 purpose of the pre-existing nonconforming use;
7 whether the use is merely a different manner of
8 using the original nonconforming use or whether
9 it constitutes a use that's different in its
10 character, nature and kind; and third, whether
11 the use will have a substantially different
12 effect upon the neighborhood. And when I look
13 at those, I think in certain places this project
14 will have a substantially different effect on
15 the neighborhood. And I think in other certain
16 places the use is different in its character,
17 nature and kind. You know, going from a set of
18 40-foot wooden poles to a series of towers over
19 a 100 feet, it's such an expansion, in my mind,
20 that it tips, such that it becomes a different
21 use than what is presently in the corridor.

22 CHAIRMAN HONIGBERG: Ms.

23 Dandeneau.

24 MS. DANDENEAU: I love that you

1 just used the term "neighborhood" in citing
2 those three -- are those considered rules, land
3 use rules?

4 MS. WEATHERSBY: Case law.

5 MS. DANDENEAU: Case law.

6 Because a "neighborhood" in Coos County might
7 encompass many square miles of land versus in
8 Concord or elsewhere it might be a block or two.
9 So, again, I think this goes back to that
10 question of yours, Mr. Way, about what
11 constitutes a "region." And I think in
12 agreement with some other people that have
13 spoken, a region is very different if we're
14 talking about maybe Coos County versus some of
15 the other counties or some of the other
16 municipalities. I guess that's all I'll say for
17 now.

18 CHAIRMAN HONIGBERG: Mr.
19 Oldenburg.

20 MR. OLDENBURG: You're making me
21 think about this a lot harder than I originally
22 thought.

23 CHAIRMAN HONIGBERG: Don't hurt
24 yourself.

1 MR. OLDENBURG: Because this
2 was -- my thought originally, my thought, my
3 initial thought was you're in an existing
4 corridor. There's a transmission line in the
5 existing corridor. The expectation at some
6 point is that line could be expanded, that it's
7 not going to stay as it is forever, that there
8 could be an expansion of that line. Now,
9 whether or not this expansion is more than
10 should be allowed or is outside the character
11 of -- to me, there's an easement there. There
12 might be wood poles today, there might be steel
13 poles tomorrow. I didn't see it as such a big
14 thing. Now you're making me think about it. My
15 concern, and I'll go back to the North Country,
16 where there isn't an easement, where there's --
17 it's a new line. And is that in line with the
18 land use? So, yeah, that was -- yeah, I'm
19 thinking a lot more about it.

20 CHAIRMAN HONIGBERG: I'll make
21 you feel better, Mr. Oldenburg. When you're on
22 a right-of-way, when you abut a right-of-way,
23 when you're near a right-of-way, that
24 right-of-way can be changed as long as the work

1 is done within the right-of-way. The notion is
2 that, if today there is 20 or 30 feet of
3 vegetation in the right-of-way between where you
4 are or your house is and the cleared area,
5 there's nothing preventing the utilities from
6 clearing right up to the edge of the
7 right-of-way. I mean, there was a lot of
8 testimony from landowners and folks that somehow
9 that's wrong, that that's not allowed. It is.
10 I mean, there may be other things that have to
11 happen for it to take place. But those
12 rights-of-way are utility rights-of-way, and
13 they can be cleared right up to the edge if
14 necessary. That's not to diminish the other
15 parts of what you said, Mr. Oldenburg. I'm
16 trying to agree with a lot of what you just
17 said. It's a utility corridor. They're going
18 to put utilities in. It makes perfect sense
19 that that's what they would be looking to do.
20 But the other comments that have come largely
21 from folks sitting to my right, they're right,
22 too, that if you put, I think someone said a
23 500-foot tower, does that change it
24 sufficiently? There's going to be a point at

1 which it's no longer the same kind of use. And
2 that's completely separate and apart from the
3 property rights aspect of things, the overuse of
4 the easement. That's not something we can
5 adjudicate. That's not something we're here to
6 adjudicate. We're looking at our statute and
7 our rules regarding the economic development of
8 the region and whether the Project is consistent
9 with prevailing land uses as a subset of that.

10 Mr. Way.

11 MR. WAY: And I think we're
12 coming to a point that I think we all agree
13 upon, and I think you, Chairman, I think you
14 summarized it well, is that there's the
15 realities of having a right-of-way in your
16 property. There is a reality that it's going to
17 be expanded, that they have rights to clear.
18 And sometimes it's not great and it's not
19 welcome and it's not something you'd like to see
20 happen. But it could happen nonetheless, and
21 that is all within right. And where we're
22 focusing upon I think is, as someone said, that
23 "tipping point." There is that tipping point
24 where it isn't something that one would come to

1 expect or ever expect in that right-of-way. Not
2 saying this is it. I'm just saying that's what
3 we're talking about. And then the question is,
4 and I've got to look at this even more, is how
5 do we take that tipping point and meld it into
6 our rules. There's an on/off thing. It's
7 either with prevailing land use or it's not.
8 I'm also thinking we're talking about aesthetics
9 here, particularly as we talk about
10 intensification, the aesthetics from the
11 neighborhood and the rural character that's
12 encouraged by master plans. So I'm trying to
13 think if we take some of these pieces together,
14 that might help us figure out what is that
15 tipping point. I'm not exactly sure myself
16 where it is. And some places I have a concern.
17 I think Turtle Pond was mentioned. That was
18 one. Definitely up north I think there's a
19 discussion about the rights-of-way being created
20 that we should have. I'll stop there.

21 CHAIRMAN HONIGBERG: Commissioner
22 Bailey.

23 COMMISSIONER BAILEY: I think
24 Mr. Varney's testimony, and I'm trying to find

1 it and I can't, was that there is no tipping
2 point. Does anybody else remember that?

3 MR. WAY: I think he's Day 37, I
4 think.

5 COMMISSIONER BAILEY: He's a lot
6 of days. That's the problem.

7 MS. WEATHERSBY: As I recall --

8 COMMISSIONER BAILEY: Go ahead.

9 MS. WEATHERSBY: I'm sorry. I
10 think I was pressing him on this because in my
11 mind there had to be some tipping point. And we
12 discussed, you know, a larger number of towers,
13 higher towers. I think I threw in a wind
14 turbine or something in there, or some tower,
15 you know. And as I recall, maybe we should look
16 back at it, he was saying that as long as it's a
17 utility corridor and this is a utility -- which
18 he booted out my cell tower example because of
19 this -- as long as it's a utility corridor and
20 it's a utility, that it was allowed and there
21 was no tipping point. That's what I recall.

22 COMMISSIONER BAILEY: Okay. So
23 now we have to figure out whether that's
24 reasonable, whether that proves that it's

1 consistent with orderly development. If we
2 believe that, then the answer is, yes, it's not
3 inconsistent with orderly development.

4 CHAIRMAN HONIGBERG: Well, I
5 think the extreme answers that question, because
6 if the proposal is for a series of 500-foot
7 towers, I don't think anyone would say that's
8 the same. I don't think that's a reasonable
9 position to take. Maybe others disagree. But,
10 I mean, that's not the proposal. That's the
11 extreme example trying to prove that it's not as
12 simple as I think we all heard Mr. Varney
13 articulate. There is a point, and I don't think
14 you can stop at just saying it's a utility line
15 so it's okay.

16 MS. DANDENEAU: I agree. I think
17 that there is definitely a tipping point. I
18 think the struggle that I have is that that's
19 subjective. Every single person in this room
20 would give a different number for the height of
21 a tower that would make a difference for them,
22 what their tipping point would be. So I think
23 that maybe goes back to something Mr. Way said,
24 which is that we should be listening to feedback

1 that we've gotten from the communities and
2 really internalizing that as we try to form our
3 own opinions about that.

4 CHAIRMAN HONIGBERG: Mr. Way.

5 MR. WAY: Part of the problem, I
6 think, throughout this process, and I saw this
7 with orderly development and tourism and
8 aesthetics, there was a reticence to speak
9 directly with the community and sit down with
10 them and maybe necessarily get their views. I
11 understand why and -- you know, I understand.
12 But I think, as Ms. Dandeneau said, or what I
13 think you were saying, is orderly development is
14 local. And this is something that you're going
15 to get a sense of by sitting down with the
16 community. But I think, once again, we go to
17 the master plans. I think there's a few things
18 that we look at. But we go to the master plans
19 and we look at the zoning. Because master
20 plans, I mean, they don't -- they look at the
21 entire community. They don't look at the
22 community minus the right-of-way. It's in there
23 as well. So one shouldn't interpret that if we
24 say we're trying to maintain the rural character

1 of that community, that somehow that means
2 everything outside the right-of-way. With that
3 said, the right-of-way is there, and it's going
4 to have a presence. So master plans have -- I
5 think suggest a value. But I don't give them
6 the weight that maybe both sides will give them.
7 They're guidance. Sometimes zoning is more
8 important. As the Chairman said, sometimes the
9 ordinances and zoning that came up before
10 this -- and maybe I think I'd have to look at
11 that again to get a sense. I think it's really
12 important. But it is subjective, but it's not
13 as subjective at the local level, I think.

14 CHAIRMAN HONIGBERG: Ms.
15 Weathersby.

16 MS. WEATHERSBY: Sure. Mr. Way,
17 how would you respond to Normandeau's assertion
18 that when they looked at the communities that
19 are encumbered by a utility corridor with a
20 high-voltage transmission line, that the master
21 plans of those communities didn't single that
22 out as a problem?

23 MR. WAY: I think in my
24 experience, oftentimes master plans are a

1 process of consensus and compromise in a
2 community, and oftentimes you're not going to
3 get to a level of specificity. I think, as I
4 heard one witness say, you know, you're not
5 trying to envision all the things you don't
6 want; you're trying to envision more the things
7 that you do want because sometimes that's easier
8 to get consensus in the master plan process.
9 That's why master plans, sometimes they're quite
10 old and some are outdated, because they're a
11 bear to get through communities, in my opinion.
12 So the fact that a master plan doesn't
13 specifically call out a transmission corridor, I
14 don't think that is permission -- not
15 permission -- but a willingness or
16 acknowledgment that it should happen. I think
17 you have to look at sometimes the intent of the
18 master plan and what they're trying to say.

19 And while we're on the
20 subject, too, let's look at the intent of
21 regional planning commissions as well, which
22 I think were more silent. We did hear from
23 North Country Council, and I believe there
24 was a couple comments from Lakes Region

1 Planning Commission. There's four regional
2 planning commissions in all. But they have
3 their regional plans. I mean, I don't think
4 anyone says, you know, we want a transmission
5 corridor here. But that shouldn't preclude
6 it from happening. But you do have to look
7 at the intent of the plan.

8 DIR. WRIGHT: Mr. Chairman, my
9 mind's bouncing all over the place now at this
10 point on these master plans. Are we talking
11 systematically going through every one of them
12 and looking at -- I don't think that's what
13 Mr. Way is suggesting or anybody else is
14 suggesting. But were there some specific master
15 plans, I think, Mr. Chairman, that you noted
16 that may have addressed at least at that
17 community level?

18 CHAIRMAN HONIGBERG: I'd have to
19 go back and look.

20 DIR. WRIGHT: I thought New
21 Hampton may have been one?

22 CHAIRMAN HONIGBERG: It's one of
23 the towns around. It's New Hampton or
24 Ashland --

1 DIR. WRIGHT: I mean, is that
2 helpful for us to look at one community's master
3 plan and see how it -- but, I mean, that doesn't
4 obviously represent all of the communities.

5 CHAIRMAN HONIGBERG: Commissioner
6 Bailey.

7 COMMISSIONER BAILEY: I was just
8 going there. And if we look at the Joint Muni
9 brief, starting on Page 37, they go through
10 several examples of town master plans where they
11 suggest that this issue is covered. And so I
12 suggest that we take a look at that.

13 CHAIRMAN HONIGBERG: Do you
14 suggest that we take a look at that while we're
15 all sitting here, or do you suggest that we
16 break for 30 minutes and take a look at the
17 brief and the references on our own and then
18 come back and discuss them?

19 COMMISSIONER BAILEY: I don't
20 know.

21 I have it highlighted, so I
22 could go through it. But I --

23 MR. OLDENBURG: What page?

24 COMMISSIONER BAILEY: Starting on

1 Page 37.

2 MR. WAY: Did you say Joint
3 Muni 37?

4 COMMISSIONER BAILEY: Page 37.

5 CHAIRMAN HONIGBERG: It's the
6 post-hearing brief filed by the Joint Municipal
7 group.

8 MR. WAY: Okay.

9 (Committee members review document -
10 Joint Municipal Group Post-Hearing
11 Brief, Page 37.)

12 COMMISSIONER BAILEY: All right.
13 Give it a shot.

14 MR. WAY: Is it the first or
15 second one on the Joint Muni post-hearing?

16 COMMISSIONER BAILEY: There's
17 only one Joint Muni, I think.

18 CHAIRMAN HONIGBERG: Mr. Way,
19 there's a redacted version and a public version.
20 I think everything that Commissioner Bailey is
21 looking at is in the public version of this.

22 COMMISSIONER BAILEY: So I think
23 these are examples of towns' master plans. So
24 if we start with Bethlehem, on Page 37, in the

1 second paragraph it says that the master plan
2 focuses on maintaining a quiet, rural
3 environment and emphasizes development that is
4 in character with the history and character of
5 the town. And among the guiding visual
6 principles is maintaining the rural landscape.
7 I'm not going to go over every single point that
8 they make. I'll just go through some of the
9 things.

10 On the next page, in the first
11 paragraph on the next page, it says that
12 Ms. Laleme also opines that the Project is
13 inconsistent with Bethlehem's zoning
14 ordinance that says no building or structure
15 shall be greater than 40 feet unless a
16 special exception is granted by the zoning
17 board. In no circumstance, however, may a
18 building or structure exceed 60 feet. So the
19 Project is inconsistent with the master plan
20 and zoning ordinance of Bethlehem. That's
21 what the Joint Muni brief is arguing.

22 In Bristol, Mr. Coates opined
23 that the Project conflicts with the town's
24 master plan because it would adversely impact

1 the town's rural character, the scenic
2 viewsheds and its protected wetlands. The
3 master plan seeks to protect and preserve,
4 among other things, the rural quality of the
5 town of Bristol, conserving and showcasing
6 the town's natural assets. The Project is
7 also inconsistent with the town's zoning
8 ordinance on the next page. The Project
9 would violate Bristol's Pemigewasset Overlay
10 Zoning District. Several overhead towers are
11 in violation of the restrictions as they are
12 within the overlay district or located on
13 slopes which exceed 15 percent. And then
14 they point to specific towers that are
15 inconsistent with their zoning ordinances
16 regarding the Pemi Overlay District.

17 The next city is Concord.

18 Increased visibility of the Project
19 structures due to their increased height and
20 number will undermine the goals and
21 objectives of the city's master plan, zoning
22 ordinances and current objectives for
23 redevelopment. There are repeated references
24 throughout the Vision section in Concord's

1 master plan about the importance of retaining
2 Concord's extensive rural landscape. In
3 order to achieve the vision of the citizens
4 of Concord, the Land Use section in the
5 master plan includes, among other things:
6 Land use goals to protect and conserve
7 important open space, environmentally
8 sensitive areas and natural resources outside
9 the urban growth boundary; promote orderly
10 transmission among land uses and separate or
11 buffer incompatible uses to the greatest
12 extent possible; provide for the reservation
13 of land area of adequate size and in
14 appropriate location for public facilities
15 and utilities that will serve future land
16 uses; improve and enhance the overall
17 appearance and aesthetics of the community,
18 inclusive of architectural features,
19 streetscapes, landscapes and signage;
20 discourage sprawl by focusing future
21 development and concentrating demand for
22 services within the limits of the urban
23 growth boundary.

24 And then on the next page they

1 say that Ms. Shank discusses the
2 inconsistency of the proposed project with
3 Concord's master plan. It fails to
4 adequately separate and buffer incompatible
5 uses; the location of the high-voltage
6 transmission line in close proximity to
7 residential homes; the removal of tree
8 vegetation and the impacts of the character
9 and feel of the neighborhoods where the lines
10 are proposed to be located; as well as
11 overall appearance, character and aesthetics
12 for Concord. And there's more examples of
13 Concord, but...

14 The next town they cover is
15 Deerfield. And Deerfield's master plan goes
16 on to specify how to maintain those qualities
17 by espousing certain relevant guiding
18 principles: A well-managed town that
19 controls its growth and development, keeping
20 it in line with the existing character,
21 appearance and beauty of the town. Another
22 goal is an attractive town that values its
23 history, environment, scenic beauty, open
24 space, clean water, clean air and wildlife,

1 and seeks to protect these and other
2 community resources through managed growth
3 and careful planning. And then they list
4 several goals of how the town should
5 accomplish the vision and guiding principles:
6 Promote development that will preserve the
7 natural and cultural features that contribute
8 to Deerfield's rural character; encourage
9 limited economic development that will be
10 consistent with the town's rural character,
11 as well as support the needs of the community
12 to create a sustainable local economic base;
13 recognize that the town's natural resources
14 and open space form the basis of the overall
15 character and well-being of Deerfield;
16 promote the preservation and protection of
17 historic and cultural resources.

18 You know, it goes on to
19 provide similar information about Easton town
20 planning, New Hampton town planning. And New
21 Hampton is really interesting, because I
22 remember from the record that they have a
23 section in their zoning ordinances from, I
24 think it was 2005, that says, where

1 appropriate, installation of any new
2 utilities and/or transmission lines shall be
3 buried underground, and new structures within
4 the zoning district are limited to 35 feet.

5 Pembroke is another example,
6 Sugar Hill, Whitefield. And that's it.

7 So I think the Joint Muni's
8 brief show us that there are master plans
9 that specifically apply to orderly
10 development and can be interpreted to say
11 something about this subject even though the
12 word "transmission line" is not used in the
13 document.

14 CHAIRMAN HONIGBERG: Mr. Wright.

15 DIR. WRIGHT: I guess I would
16 just add, based on just what you walked through,
17 that I haven't read through all of that word for
18 word, but I would tend to agree with your
19 assessment, though, that it does -- it can be
20 interpreted to speak to something like this
21 without using the words "transmission lines."

22 CHAIRMAN HONIGBERG: All right.

23 We're going to need to take a break soon,
24 anyway, so why don't we take a ten-minute break

1 now.

2 (Recess was taken at 10:18 a.m.
3 and the hearing resumed at 10:40 a.m.)

4 CHAIRMAN HONIGBERG: All right.
5 I'll do a couple things. One housekeeping
6 matter. For those who weren't here yesterday,
7 if you see one of us in the hallway or out in
8 the parking lot or something, we're not being
9 rude if we don't talk to you. We would ask you
10 not to try to talk to us. Think of us as jurors
11 right now in a trial, and if you were there, you
12 would be asked not to speak to the jurors. So
13 we're going to ask you not to approach us.
14 We're not being rude. We love you all, some
15 more than others [laughter], but I just need to
16 do that.

17 For context for the
18 Committee's benefit, I talked with counsel,
19 so I want to do something to give us some
20 context for where we are right now. We've
21 been discussing the criterion related to the
22 orderly development of the region and the
23 Applicant's responsibility to show that the
24 proposed facility will not unduly interfere

1 with the orderly development of the region.
2 There are three subcomponents of that
3 criterion having to do with the views of
4 municipal and regional planning commissions
5 which we've been discussing: One related to
6 decommissioning, which we haven't been
7 discussing today, and then a third, which has
8 a number of subcomponents of its own, whether
9 the siting and construction and operation
10 will affect land use, employment and the
11 economy of the region. Largely, we've been
12 talking about land use. We are going to
13 continue that, but we also have to talk about
14 employment and the economy within this larger
15 criterion. I think I may be the only person
16 who found all of that helpful. But since
17 this is all about me, that's what we're going
18 to do right now.

19 We had long discussions about
20 the proposal and how use of the existing
21 corridor to put additional above-ground
22 facilities in it is or isn't consistent with
23 prevailing land uses. There were allusions
24 to the right-of-way in the North Country and

1 some discussion yesterday about the
2 underground portions.

3 Mr. Oldenburg, I think, you
4 wanted to talk some about the new
5 right-of-way in the North Country.

6 MR. OLDENBURG: To me, that's the
7 difficult one is where there isn't a
8 right-of-way today with the towers and the lines
9 and what impact that's going to have on the land
10 use. I mean, we heard from a lot of people, not
11 only the communities themselves, but the
12 residents in the area. You know, they bought
13 their homes. The land use is for the view, you
14 know, and that's going to break up that. So I
15 know part of that's aesthetics. But, you know,
16 the land use up there, to me that changes what
17 that land use is. So, that, to me, that's a
18 harder component than the existing easement that
19 we've been talking about. But that was a harder
20 hurdle for me to get over.

21 The underground section and
22 the change of land use, we really haven't
23 talked about that. I think, sort of my
24 limited understanding of it, I think the

1 Applicant has made some concessions of if it
2 affects land use, like if a municipality or
3 state agency wants to do something in the
4 road and the line causes an issue, their
5 ability to use the land the way they want to,
6 they've offered a mitigation effort for that.
7 So I'm not sure how it would impact the land
8 use in the underground section, with the
9 exception of maybe the downtown Plymouth
10 area. I'm not quite sure on that, but that's
11 sort of my two cents on the northern section,
12 the underground section.

13 CHAIRMAN HONIGBERG: Ms.
14 Dandeneau.

15 MS. DANDENEAU: I'd be curious to
16 know what the rest of the Subcommittee thinks
17 about this aspect of it, and that is when we've
18 heard testimony about the new right-of-way
19 through the Wagner Forest, there's been a lot of
20 emphasis on the fact that it's a working forest.
21 And what I've read from that or what I've gotten
22 the impression from that is, because it's a
23 working forest, the impact of this overhead
24 portion is lessened. And I'd be curious what

1 others think about that.

2 CHAIRMAN HONIGBERG: Anyone want
3 to engage? Mr. Wright.

4 DIR. WRIGHT: I guess to me it
5 matters a little bit what aspect of this we're
6 talking about. If we're talking about potential
7 visual or aesthetic impacts, I think that could
8 be -- that could fall in one camp for me. If
9 we're talking land use where it's under private
10 ownership, you know, they're making a conscious
11 decision if it is a change in land use. They're
12 at least making that conscious decision that
13 that's what they want to do with their private
14 property. I think that's how I kind of feel
15 about it.

16 CHAIRMAN HONIGBERG: Commissioner
17 Bailey.

18 COMMISSIONER BAILEY: I agree. I
19 think there was testimony that the Wagner Forest
20 actually preferred that the construction be
21 above ground through the forest so they know
22 where it is. And, you know, it's a working
23 forest, so from time to time there's going to be
24 clearing. And it's their property and they've

1 decided that it's okay. So I agree with Mr.
2 Wright. It may be a different question about
3 the visual impact running through the forest on
4 that pond that we saw so many times.

5 MS. DANDENEAU: Big Dummer Pond,
6 yeah.

7 COMMISSIONER BAILEY: Big Dummer.
8 But as far as land use, I think I don't have a
9 problem with that.

10 MS. DANDENEAU: Okay.

11 CHAIRMAN HONIGBERG: Ms.
12 Weathersby.

13 MS. WEATHERSBY: So I think
14 because it's a new corridor, it may be a change
15 in the land use, but I don't find that
16 unacceptable in the Wagner Forest part. The
17 descriptions that we've heard of the Wagner
18 Forest is there's various logging roads, there's
19 commercial activity of the cutting and the
20 loading of the trucks and the skidders and what
21 have you. And I also take -- give a fair amount
22 of weight to the fact that Wagner Forest is
23 inviting this on their property and being
24 compensated for the right-of-way going through

1 their property.

2 Do you think there's other
3 issues associated with it, for the forest
4 fragmentation issues and other topics? But
5 as far as land use, while it may be a change,
6 I don't find it necessarily an objectionable
7 one.

8 MS. DANDENEAU: Okay.

9 CHAIRMAN HONIGBERG: On this
10 topic, I guess I'd note we heard from a number
11 of Yale graduate students who were concerned
12 about the use of that land, which is -- I'm not
13 sure how indirectly, but in some way under the
14 control of the trustees of the Yale University.
15 And it's really beyond our jurisdiction to tell
16 the owners of that land what they can or can't
17 do with it. They made a decision. That's
18 really up to them. And the grad students at
19 Yale should take that up with the trustees
20 directly, which I actually think they're doing
21 in some ways.

22 The other part of the
23 above-ground, new right-of-way is not in the
24 forest, however. It enters at the border,

1 the Canadian border, and goes to Transition
2 Station 1. There's a new right-of-way -- I
3 think 2 to 3 is largely in the forest; right?
4 I think that's right. And then from 4 to 5,
5 that's, again, not in the forest.

6 COMMISSIONER BAILEY: Right,
7 that's Stewartstown and Clarksville.

8 CHAIRMAN HONIGBERG: Right. So
9 there's more new right-of-way being cut up
10 there. I mean, do people have opinions about
11 that? Ms. Weathersby.

12 MS. WEATHERSBY: Sure. I think
13 that there's eight miles of new right-of-way up
14 there. And the Applicant tells us it's
15 consistent with land use up there because the
16 area is mostly forested and doesn't -- of course
17 I'm paraphrasing it -- doesn't affect a lot of
18 people, it's sparsely populated, very forested.
19 And I think that kind of shortchanges the folks
20 up there a bit. There are -- it's definitely a
21 different land use. Can the
22 non-actively-managed forest use continue? Yes,
23 except where the corridor is. But I don't think
24 just because an area is sparsely populated that

1 the effect on those people should be discounted
2 as compared to an urban area.

3 CHAIRMAN HONIGBERG: Anyone else
4 on that topic? Anyone want to offer thoughts on
5 the underground section, whether that is a land
6 use issue? Commissioner Bailey.

7 COMMISSIONER BAILEY: I think
8 some of the testimony was that in the
9 underground section, since they don't know where
10 the right-of-way is, they might impact -- they
11 might cut some trees that are in the
12 right-of-way that people didn't realize were in
13 the right-of-way, that they thought were on
14 their property.

15 As far as land use is
16 concerned, I believe that if they put it
17 underground, it doesn't -- it's not going to
18 impact land use for the same reasons that Mr.
19 Oldenburg articulated. You know, there may
20 be temporary impacts, but I don't think that
21 it's inconsistent with orderly development if
22 it's buried.

23 CHAIRMAN HONIGBERG: Anybody
24 else? Ms. Weathersby.

1 MS. WEATHERSBY: Sure, I'll chime
2 in here as well. The only concern I heard in
3 addition to what's already been said was the
4 present use of some of the areas where the
5 underground portion will go through for aquifers
6 and the concern that a couple towns had
7 concerning the effect that this may have on
8 those aquifers. I don't think it's been proven
9 that it will have an effect, but I certainly
10 understand the concern to have a safe
11 drinking-water aquifer.

12 CHAIRMAN HONIGBERG: Mr. Way.

13 MR. WAY: I agree with what I'm
14 hearing, Commissioner Bailey. I think I agree
15 with you as well, is that underground with
16 regards to land use may not necessarily fit. I
17 guess part of the problem is there may be
18 situations where land use does, in the
19 underground portion, does have an effect. I
20 don't necessarily have a feeling exactly where,
21 back to your point of aquifers, back to the
22 point of existing structures within the road.
23 Those are things that I have a concern with, but
24 I don't necessarily have enough information.

1 But I think generally I'm sort of putting land
2 use and the underground portion sort of in
3 separate buckets.

4 CHAIRMAN HONIGBERG: All right.
5 I don't see anybody else clamoring to talk about
6 that.

7 I think we're going to move to
8 a different sub-element of the orderly
9 development having to do with the economy.
10 And Commissioner Bailey you were prepared to
11 discuss markets, electric markets?

12 COMMISSIONER BAILEY: I am. Good
13 night.

14 CHAIRMAN HONIGBERG: Actually,
15 Commissioner Bailey, there are people in the
16 back of the room who will be interested in this.

17 COMMISSIONER BAILEY: All right.
18 Site Rule 301.09 requires the Applicant to
19 estimate the effects of construction and
20 operation of the Project on the economy of the
21 region, including an assessment of the economic
22 effect of the facility on affected communities
23 and on in-state economic activity during
24 construction and operation.

1 The Applicant presented
2 evidence in the testimony of Julia Frayer
3 Exhibits 1, Appendix 43, which was the
4 original LEI report; Exhibit 28, which was
5 Ms. Frayer's prefiled testimony, the
6 confidential version; Exhibit 81, which was
7 the updated LEI report that re-analyzed the
8 economic impact based on the change in the
9 Forward Capacity Demand Curves; Exhibit 82,
10 which updated her testimony; Exhibit 101,
11 which was a supplemental testimony of Ms.
12 Frayer; 102, which was a rebuttal LEI report;
13 180, which was the response to the Committee
14 record request for calculation of savings and
15 their present value; 181, which was an update
16 of Figures 1 and 10 from the updated LEI
17 report, including the net present value
18 calculations; and Exhibit 503, which
19 responded to a record request for explanation
20 of the difference between the LEI and Brattle
21 MOPR calculations. The Applicant claims the
22 Project will result in significant economic
23 benefits for New England and New Hampshire.
24 I'll focus on the benefits for New Hampshire.

1 The Applicant claims its
2 expert, Ms. Frayer, and Counsel for the
3 Public's experts, agree there will be
4 significant energy savings if the Project is
5 constructed when compared to a world without
6 Northern Pass.

7 Now, retail rates are a
8 combination of wholesale costs, among other
9 things, from two buckets: The energy market
10 and the capacity market. And there's no
11 disagreement that there will be some savings
12 from the energy market. Local economic
13 benefits occur during operation of the
14 Project because of the reduction in the
15 retail cost of electricity. The amount of
16 the savings is important because it serves as
17 the primary input to the model that
18 calculates the amount of economic growth
19 expected. And in addition to the input from
20 the energy market -- electricity market
21 savings, the model also includes the \$205.3
22 million in the Economic Development Fund for
23 the 20 years of operation.

24 LEI also forecasted production

1 cost savings for the ISO-New England system
2 based on the change in total marginal costs
3 of production to be about \$389 million a
4 year. The Applicant also claims the Project
5 will displace older, less-efficient
6 generation and reduce greenhouse gas
7 emissions by 3.2 million metric tons per year
8 in New England, creating 189 million in
9 annual incremental social benefits from those
10 reductions.

11 Finally, the Applicant says
12 the Project will provide insurance to
13 customers by mitigating increased energy
14 prices when the price of national -- sorry --
15 the price of natural gas spikes. And they
16 estimate that those -- well, actually,
17 Counsel for the Public. They say -- Counsel
18 for the Public, I think, estimated that those
19 savings could be about \$5 million a year if
20 New England experiences extremely cold
21 weather conditions every year like it did
22 during the polar vortex a few years ago.

23 Counsel for the Public
24 sponsored witnesses, Jurgen Weiss and Sam

1 Newell from the Brattle Group, to testify
2 about the wholesale electricity markets. And
3 I haven't outlined each of their exhibits,
4 but I can summarize them.

5 Counsel for the Public said
6 that it agreed that potential savings in the
7 energy market are expected, but they're
8 relatively small, and the larger amount of
9 savings from the capacity market was more
10 uncertain. Counsel for the Public pointed
11 out that, in order for there to be any
12 savings from the capacity market, the Project
13 would have to qualify for and clear in the
14 Forward Capacity Market. Uncertainties
15 include Hydro-Quebec's ability to demonstrate
16 to the ISO that it has sufficient excess
17 capacity during winter peak periods to sell
18 into the capacity market, and if they can't
19 do that, then they won't qualify for the
20 market and there won't be any savings. Mr.
21 Weiss of Brattle testified LEI's estimate of
22 Hydro-Quebec's excess capacity was not
23 reliable and that his review of the source
24 documents indicated Hydro-Quebec had

1 substantially less than 1,090 megawatts
2 available during the winter peak periods,
3 calling into question whether the Project
4 would qualify. If the ISO determines that
5 only some amount of capacity would qualify,
6 then the amount of savings anticipated from
7 the capacity market would be reduced.

8 Counsel for the Public also pointed out that,
9 even if the full amount of capacity qualified
10 to bid in the Forward Capacity Auction, the
11 minimum price required by the Internal Market
12 Monitor may be too high to clear the auction.
13 Uncertainties about the minimum offer price
14 calculation include whether the Internal
15 Market Monitor will consider Hydro-Quebec's
16 capacity new or existing and whether the
17 amortization should be 20 years or 40 years.

18 Counsel for the Public believes with
19 certainty that the Internal Market Monitor
20 will include the cost of the new transmission
21 facilities in Canada. And if the Internal
22 Market Monitor includes \$500 million for that
23 cost, the minimum price would be above last
24 year's clearing price of \$5.30 a kilowatt

1 month.

2 Counsel for the Public also
3 suggested the possibility that existing
4 generators could decide to retire if Northern
5 Pass lowers the capacity price, as it
6 suggests it will. If an existing generator
7 retires, the price-suppression benefits of
8 the Project would be negated and prices would
9 rise.

10 In order to address the
11 uncertainties, Counsel for the Public's
12 experts modeled four different scenarios
13 comparing projected market conditions without
14 the Project to various test cases with the
15 Project. Scenario 1, which they claim is the
16 most optimistic, assumes the Project would
17 qualify and clear 1,000 megawatts in the
18 capacity auction. Under that scenario,
19 Brattle determined the Project would provide
20 \$26 million in average annual capacity market
21 savings. Total savings included in energy
22 market savings would be -- including the
23 energy market savings would be \$34 million a
24 year from 2020 to 2032. That's about \$21 a

1 year for a residential customer using 621
2 kilowatt hours per month. Results of
3 Brattle's Scenario 1 were similar to LEI's
4 analysis. In order to address the
5 uncertainties that they raised, Brattle
6 created other scenarios.

7 Scenario 2 addressed the
8 possibility that the Project may cause
9 existing generation to retire. It calculated
10 the savings in the capacity market if
11 500 megawatts of existing generation retires
12 or if only 500 megawatts of Northern Pass
13 qualifies and no existing generation retires.
14 And under that scenario, the savings from the
15 capacity market was cut in half. Combining
16 the capacity market savings from that
17 scenario with the energy market savings,
18 Brattle estimated the average residential
19 bill savings to be about \$14 a year for a
20 customer with 621 kilowatt hours a month,
21 which is from the PUC's -- from my experience
22 at the PUC, that's sort of what we use when
23 we're talking about a typical residential
24 customer.

1 Scenario 3 models the
2 Project's impact on the energy market alone
3 to deal with the uncertainties about whether
4 the Project will qualify and clear. The
5 impact on the energy market is \$8 million
6 average annual savings, and that equates to
7 about \$5 a year for the typical residential
8 electric customer, \$5 a year in savings.

9 And then, finally, Scenario 4
10 looks at what the impact would be if Northern
11 Pass displaces another project that could
12 supply 1,000 megawatts of clean energy and
13 demonstrated that the Project would not
14 provide any savings that another project
15 located somewhere else could not have
16 provided.

17 With respect to carbon
18 emissions, Counsel for the Public advised
19 that, when looking at greenhouse gas
20 emissions from a global perspective,
21 reductions can only be realized if new
22 incremental hydro is being delivered to the
23 Project. If hydropower is being diverted
24 from Ontario or New York, no actual

1 greenhouse gas emission reductions will be
2 realized. Counsel for the Public suggested
3 that if no new incremental generation is
4 being included in the costs used for the
5 minimum price calculation, then it can't
6 simultaneously claim that there are emission
7 reductions.

8 Counsel for the Public said
9 that production cost savings should not be
10 added to retail savings because they
11 represent the same value expressed in a
12 different manner. Brattle acknowledged the
13 Project's fuel diversity and insurance
14 against gas price spikes that may increase
15 the wholesale market savings slightly.

16 NEPGA had a very technical and
17 complicated argument. It sponsored the
18 testimony of William Fowler, who is a
19 uniquely qualified expert that they claim is
20 like no other in the case because he lives
21 and breathes this industry. He helped
22 develop the wholesale market rules, and he
23 currently serves as vice-chair of the NEPOOL
24 Markets Committee. NEPGA argues that the

1 Applicant has failed to show by a
2 preponderance of the evidence that the
3 Project will produce the wholesale market
4 benefits the Applicant asserts. NEPGA
5 highlights some of the same uncertainties in
6 qualifying for and clearing in the Forward
7 Capacity Market as Counsel for the Public,
8 and raising a few more, including a
9 deliverability test, which is much more
10 difficult than a system impact test, has not
11 yet been conducted and is likely to
12 significantly increase the cost of
13 transmission upgrades or prevent the Project
14 from qualifying. NEPGA says that the
15 assumptions in the minimum offer price
16 calculation have to be consistent. So if
17 they're using a 40-year amortization
18 schedule, then they must also consider the
19 generation costs over the same period, and
20 they didn't do that. NEPGA criticized LEI's
21 analysis of capacity market savings,
22 suggesting the clearing prices it used in the
23 base case are too high. Since it's the
24 difference between the clearing price and the

1 project -- sorry -- the clearing price with
2 the Project and without the Project that
3 generates the capacity savings, if the base
4 case is too high, the capacity savings are
5 exaggerated. NEPGA also points out that the
6 net installed capacity requirement has
7 decreased and is expected to decrease more,
8 which decreases the clearing price in the
9 auction, further exacerbating the inflated
10 prediction in LEI's base case. If Northern
11 Pass does not clear the capacity auction,
12 NEPGA points out that the Project may have an
13 opportunity to obtain a capacity supply
14 obligation outside the Forward Capacity
15 Auction and subsequently be permitted to
16 clear it through a change to the market rules
17 currently pending before FERC, known as
18 CASPR -- that's Competitive Auctions with
19 Sponsored Policy Resources. And it's a
20 change in the market design that has been
21 filed at FERC. So it's a little more sure
22 than it was when we were talking about it.

23 According to NEPGA, though,
24 CASPR, by design, would almost certainly

1 require an existing generator in Maine or New
2 Hampshire to retire, resulting in lost jobs
3 and lost tax revenue in Maine or New
4 Hampshire and no capacity market savings.

5 The Deerfield Abutters were
6 not convinced there would be any savings from
7 the capacity market, although estimating
8 those savings is critically important. They
9 highlighted the difference between Northern
10 Pass's estimates and Brattle's and pointed
11 out that LEI's forecast for the Forward
12 Capacity Auction 11 was 20 percent greater
13 than what actually occurred.

14 Dummer, Stark, Northumberland
15 argue that the Applicant can't prove it will
16 qualify for the capacity market because
17 Hydro-Quebec hasn't been involved in the
18 proceeding.

19 So that sort of summarizes the
20 positions. Well, actually, let me say one
21 more thing.

22 The Applicant says that the
23 discussion or the debate about whether it
24 will clear the capacity market is

1 "intellectually interesting, but not
2 outcome-determinative." And I think I may
3 agree with that. I think what that means is
4 that, if there are no -- assume there are no
5 savings from the capacity market. Everybody
6 agrees there's going to be some amount of
7 savings from the energy market, even if it's
8 only \$5 a year for an average, typical
9 residential customer. And so that doesn't
10 negatively impact orderly development,
11 therefore it's okay.

12 So I can go further into it,
13 but I don't think we necessarily need to
14 for -- you know, all things, or all other
15 things being equal, if there's any savings
16 from the energy market, then on net it has a
17 positive impact on the economy. The thing
18 that that also affects, however, is that's
19 the major input to the REMI PI+ model which
20 generates the gross state product and number
21 of jobs. So, you know, I think, even
22 assuming that it's only \$8 million a year in
23 savings, if you plug that into the REMI
24 model, the impact after construction on jobs

1 will be positive, but much smaller than it
2 would be if there were savings from the
3 capacity market.

4 CHAIRMAN HONIGBERG: I was going
5 to ask you about that. The capacity market, the
6 projected capacity market savings are, as you
7 said, a huge input into the REMI model, which is
8 what calculates the state product benefits of
9 any change in the economy that you want to run
10 through that model. That's right, isn't it?

11 COMMISSIONER BAILEY: Yes. And
12 Ms. Frayer testified that it's the majority of
13 the impact on the economy during operations.

14 CHAIRMAN HONIGBERG: Okay.

15 COMMISSIONER BAILEY: It's
16 different during construction.

17 CHAIRMAN HONIGBERG: Thank you.

18 I want to provide a little
19 bit, or one additional data point or another
20 piece of perspective about that "typical
21 usage" number of 620 or 650 per month. I
22 think most people in this room will find if
23 they look at their electric bills, they use
24 more than that. Those numbers, that tends to

1 be a relatively low-usage residential
2 customer who would come in the 600 to 650
3 range. I'm sure there are people out there
4 with numbers lower than that. Some of the
5 folks in Deerfield I know have very green
6 homes, who have been part of this proceeding,
7 have testified about being off the grid. So
8 their numbers are going to be different. But
9 for most of the folks in this room who are
10 connected to the grid and use their power
11 from Unitil or Liberty or Eversource or the
12 Co-op, your numbers are probably higher than
13 that. But that's a number that is a commonly
14 used number in the utility world. That was
15 the only additional information I wanted to
16 provide there.

17 People have questions or
18 comments on what Commissioner Bailey said?
19 Mr. Way.

20 MR. WAY: Quick question.
21 Commissioner and Chairman, you may have
22 mentioned this, but I seem to recall we had a
23 discrepancy between Julia Frayer's estimates in
24 the market and the Brattleboro [sic] Group. And

1 I've got to say, I found both groups to be on
2 top of their game. But as I recall, didn't we
3 send the both of them back to work on some
4 estimates and to report back to us? Did that
5 happen?

6 COMMISSIONER BAILEY: Yes, it
7 did. I mentioned that in my exhibits. That
8 was -- I don't have, of the top of my head, the
9 number for Brattle. But Brattle basically said
10 that had to do with the MOPR calculation. And
11 if we're not worried about the capacity market
12 savings, the MOPR calculation doesn't matter.
13 But what I asked them to do is try to explain to
14 me what the difference in the calculations were.
15 And what Brattle said was they estimated the --
16 I think they said they estimated the savings --
17 hang on a second. I have it. Just a minute.

18 (Pause)

19 MS. MONROE: What is the exhibit
20 number, Sandy?

21 MS. MERRIGAN: The redacted
22 version is Counsel for the Public's 669, and the
23 confidential version is 669A.

24 MS. MONROE: Thank you.

1 COMMISSIONER BAILEY: I think
2 that LEI's [sic] calculation assumes similar
3 energy revenues as LEI through 2030, but they
4 assumed higher revenues than LEI thereafter. So
5 that was lower -- the way the MOPR works is they
6 take all the costs that are associated with the
7 build of the Project and they subtract the
8 revenue that they're expected to receive from
9 the energy market and the net of that is the
10 minimum price that they can offer in the
11 capacity auction. And so LEI -- I mean,
12 sorry -- Brattle assumed that they were going to
13 get more offsetting revenue than LEI did. That
14 was Brattle's explanation.

15 And, you know, again, if we --
16 I'd like -- I'd be interested to hear if you
17 guys want to talk about whether the capacity
18 market savings are outcome-determinative or
19 not.

20 DIR. WRIGHT: Can I just -- this
21 capacity market stuff, I love it.

22 COMMISSIONER BAILEY: I know.
23 It's intellectually stimulating.

24 DIR. WRIGHT: I don't know about

1 that. So it's an intellectual exercise, in that
2 in one case it doesn't matter because if there's
3 other market savings, there's still economic
4 positive gains; is that right?

5 COMMISSIONER BAILEY: That's
6 right. Small. Very small, but --

7 DIR. WRIGHT: Because it's a
8 smaller part --

9 COMMISSIONER BAILEY: Right.

10 DIR. WRIGHT: -- the capacity --
11 the market energy savings are small --

12 COMMISSIONER BAILEY: The energy
13 market savings, yeah --

14 DIR. WRIGHT: -- compared to the
15 energy market savings. But we still care about
16 it, though, right, because it does impact, as
17 you said, that's the number -- the combined
18 number is what goes into Julia Frayer's economic
19 analysis on overall economic growth; right?

20 COMMISSIONER BAILEY: Yes. And I
21 think, at least I interpret that the Applicant's
22 brief to mean that, for orderly development, the
23 impact on the economy is positive even without
24 the capacity market savings.

1 DIR. WRIGHT: And that's all that
2 matters.

3 COMMISSIONER BAILEY: And that's
4 all that matters for orderly development. I
5 think it may be a different calculus when we're
6 talking about public interest.

7 DIR. WRIGHT: Okay.

8 COMMISSIONER BAILEY: I mean, if
9 the savings were enormous, it may have a
10 different -- we may come to a different public
11 interest finding than if the savings are
12 minimal.

13 DIR. WRIGHT: Because that could
14 outweigh something else --

15 COMMISSIONER BAILEY: Yeah.

16 DIR. WRIGHT: -- that we balance
17 on that scale.

18 COMMISSIONER BAILEY: Right.

19 DIR. WRIGHT: Okay.

20 CHAIRMAN HONIGBERG: I hesitate
21 to have people fall into balancing harms and --

22 DIR. WRIGHT: Okay. Yes.

23 CHAIRMAN HONIGBERG: You can talk
24 about context, you can talk about, you know,

1 things that are significant to you in
2 determining whether something's in the public
3 interest, but I think we don't need to go there
4 to have that discussion.

5 DIR. WRIGHT: Okay.

6 CHAIRMAN HONIGBERG: I want to
7 make a comment on the NEPGA expert who was
8 offered up. I did not -- while I appreciate his
9 credentials, and I agree with the
10 representations that NEPGA made about him and he
11 makes in his own testimony, that he is maybe
12 uniquely qualified to provide information about
13 how the ISO-New England markets work. His task
14 was limited. The task of him by the people who
15 retained him was limited, and it limited the
16 utility ultimately of his testimony to me. I
17 just didn't find his broad conclusions, and
18 NEPGA's broad assertions about his testimony, to
19 be supportable ultimately. I thought that
20 Counsel for the Public's experts were really
21 talking the same language as Ms. Frayer. And
22 the debate, as it went on with the two of them
23 not really talking to each other at the same
24 time, but talking about the same things, I think

1 highlighted and allowed me, anyway, to narrow
2 the areas where they disagreed. The work that
3 both of them did afterwards in response to our
4 request I found helpful in understanding the
5 nature of the disagreement and just how
6 significant it was.

7 I think for purposes of
8 discussing orderly development, I think,
9 Commissioner Bailey, I agree with you that
10 there are undisputed energy market benefits
11 if this project is built. They are small. I
12 think the capacity market benefits, if they
13 exist, are likely to be larger. Like I said,
14 if they exist, therefore, significant to
15 other elements that we may have to talk about
16 later. But that's where I am on this markets
17 discussion. Mr. Way.

18 MR. WAY: Chairman and
19 Commissioner Bailey, the concern about entering
20 the Forward Capacity Market and the potential
21 for forcing retirement, what are your thoughts
22 on that? What's the potential likelihood?

23 COMMISSIONER BAILEY: Well,
24 Ms. Frayer said that the Project would not cause

1 retirements; that there would be retirements
2 during the life of the Project, but not because
3 of the Project forced the retirement. Brattle
4 said that that's really uncertain. And they
5 just didn't buy that. You know, I don't know
6 how to quantify the likelihood that retirements
7 will happen because of Northern Pass. But NEPGA
8 points out in its brief, with respect to CASPR,
9 that the way that that will work, he says,
10 almost with certainty, is it will force a
11 generator in New Hampshire or Maine to retire so
12 that Northern Pass can obtain its capacity
13 supply obligation. And if that happens,
14 according to NEPGA, if a generator closes
15 there's going to be tax revenue impacts and loss
16 of employment at that generator. And I don't
17 know -- you know, if -- and he says that there
18 won't be any savings from the capacity market
19 because Northern Pass won't have influenced the
20 price of the capacity market.

21 CHAIRMAN HONIGBERG: If it enters
22 the market through CASPR, or something like
23 CASPR.

24 COMMISSIONER BAILEY: Correct.

1 Yeah.

2 DIR. WRIGHT: What's the status
3 of CASPR? That was something that was being
4 developed; right?

5 COMMISSIONER BAILEY: Yeah, it's
6 been developed and it's been filed at FERC,
7 so --

8 DIR. WRIGHT: But not approved at
9 this point.

10 COMMISSIONER BAILEY: No, but I
11 think it's likely that it will be approved. The
12 New Hampshire Commission actually filed comments
13 supporting it.

14 CHAIRMAN HONIGBERG: But
15 regardless, we heard testimony about how CASPR
16 works and how capacity would enter the market
17 and what effect it would have. By definition,
18 if a resource is entering the market through
19 CASPR, through the CASPR mechanism, something
20 has to retire because it's a replacement
21 auction. It's a second auction after the
22 first-level auction. So that's a feature of the
23 proposal.

24 One of the other things that

1 is significant, and one of the things I do
2 agree with NEPGA and NEPGA's expert, is there
3 will be retirements. I mean, whatever their
4 cause is, there will be retirements if a
5 project like this is built or not. Over the
6 course of 20 or 40 years, many of the
7 resources that are generating power today
8 will not be generating power during that time
9 because they're too old or they're taken
10 offline for other reasons. So that's a true
11 statement. It's a harder call to determine
12 whether those retirements are going to be
13 caused by the entry of any particular
14 resource or set of resources.

15 COMMISSIONER BAILEY: I think
16 that there's also -- there was also testimony
17 that if Northern Pass enters through CASPR, and
18 it replaces a generator that was a price taker
19 in the capacity market, so it didn't change the
20 price of the market, didn't raise the price of
21 the capacity market, that Northern Pass will
22 keep the capacity market price lower, because
23 when a generator retires, usually the capacity
24 price goes up because somebody needs to build a

1 new project to fill the void. And if Northern
2 Pass just kind of slides in there through CASPR,
3 then they'll take the price that the market
4 determines without Northern Pass, but that will
5 keep the price lower for longer.

6 CHAIRMAN HONIGBERG: Didn't
7 Counsel for the Public's experts say that there
8 could be delays or time shifts in the savings,
9 but the savings wouldn't disappear?

10 COMMISSIONER BAILEY: Yeah.

11 CHAIRMAN HONIGBERG: Ms.
12 Weathersby.

13 MS. WEATHERSBY: I have a
14 question about the capacity markets. It seemed
15 like everything hinged on clearing 1,000
16 megawatts in the capacity auction. And I'm
17 wondering what effect, if any, if you can speak
18 to it, if they -- if Northern Pass has won,
19 which I understand they have, the Massachusetts
20 Cleaning Energy RFP for 1,000 megawatts of
21 energy, what effect that has on some of these
22 calculations, if you're able to say. I know
23 that evidence isn't in the record, but --

24 COMMISSIONER BAILEY: No, it kind

1 of is.

2 MS. WEATHERSBY: -- from your
3 experience --

4 COMMISSIONER BAILEY: It kind of
5 is. I think that Counsel for the Public's
6 Scenario 4 was suggesting that if another
7 project won the Massachusetts RFP, then another
8 project could be built. And it may not have the
9 same impacts in New Hampshire if it was built
10 somewhere else, but it would have the same
11 savings as Northern Pass would give us.

12 CHAIRMAN HONIGBERG: Ms. Frayer
13 testified to that as well. She was asked by me,
14 and I think by others, if something is built,
15 would these characteristics -- whether it's
16 Northern Pass or something else -- will it have
17 the same effects on the capacity market, and her
18 answer was "Yes."

19 COMMISSIONER BAILEY: So now we
20 know that Massachusetts selected Northern Pass,
21 so Scenario 4 I don't think is relevant.
22 Because Massachusetts picked Northern Pass, so
23 Northern Pass is the project that -- I mean,
24 there isn't another project that might be built

1 instead of Northern Pass right now. So in order
2 to get capacity market savings, if there are
3 any --

4 CHAIRMAN HONIGBERG: Mr. Way.

5 MR. WAY: Regarding the
6 Massachusetts RFP, is there a downside to New
7 Hampshire as a result of the RFP, of the RFP
8 being awarded to the Project?

9 COMMISSIONER BAILEY: Well, I
10 think that's what we're here to figure out.

11 MR. WAY: In your opinion, do you
12 see a downside to that award?

13 COMMISSIONER BAILEY: I think it
14 makes the record -- it makes some of the
15 questions in the record clearer.

16 CHAIRMAN HONIGBERG: There were a
17 number of questions asked, particularly of early
18 witnesses for the Applicant -- Mr. Quinlan, Mr.
19 Auseré -- and a number of other witnesses were
20 asked in one way, shape or form, "Are you really
21 going to build this if you don't win the Mass.
22 RFP?" And they gave answers like, "Well, we'll
23 make that decision when the time comes. We're
24 committed to going forward," et cetera, et

1 cetera, et cetera, "We'll talk with our
2 partners." I mean, what the Mass. decision does
3 is it removes that uncertainty element to it.

4 MR. WAY: That's my
5 interpretation.

6 CHAIRMAN HONIGBERG: Over the
7 lunch break we'll all be studying the capacity
8 market. Closed book exam at 1:00.

9 Other questions or comments
10 about this element? Just one moment.

11 (Discussion off the record between
12 Chairman Honigberg and Counsel.)

13 DIR. WRIGHT: Marty, could I just
14 maybe follow up on --

15 CHAIRMAN HONIGBERG: Sure.

16 DIR. WRIGHT: Commissioner
17 Bailey, you brought up the issue of potential
18 carbon emission savings of the Project, and I
19 don't think we discussed that at all. Is that
20 something that we should discuss in this
21 context, or is it something we should discuss in
22 the context of environmental stuff when we get
23 to air quality?

24 COMMISSIONER BAILEY: Well, I

1 think if we're talking about impacts on the
2 economy, and Ms. Frayer says that it's going to
3 have a societal cost -- a society benefit -- let
4 me see. Hang on.

5 DIR. WRIGHT: A social cost of
6 carbon.

7 COMMISSIONER BAILEY: Yeah,
8 but -- so that there is a savings there, you
9 know, that there is a benefit because there's
10 less carbon, so more people might move to the
11 region because we have a renewable-friendly
12 policy, and so if more people move to the
13 region, then that will create more jobs. And
14 she estimates that the impact of that, I think,
15 was \$389 million, or something like that.

16 DIR. WRIGHT: And I think Brattle
17 Group estimated a number as well, but it was
18 slightly different.

19 COMMISSIONER BAILEY: I don't
20 remember that.

21 DIR. WRIGHT: I think I do. It's
22 a little bit different, but it was still in the
23 hundreds of millions of dollars.

24 COMMISSIONER BAILEY: But that is

1 only the case if they're not displacing hydro
2 resources --

3 DIR. WRIGHT: That's currently
4 being used elsewhere.

5 COMMISSIONER BAILEY: Yeah, and
6 I --

7 CHAIRMAN HONIGBERG: Put it
8 another way. If all they're doing is shifting
9 generation that's currently being sold somewhere
10 else, like New York or somewhere --

11 COMMISSIONER BAILEY: Ontario.

12 CHAIRMAN HONIGBERG: -- west of
13 us, or Ontario, if all they do is take existing
14 hydro generation and move it to New England,
15 there's no net change. And I think there was
16 testimony from a couple different witnesses on
17 that point. So there was a -- I've forgotten
18 which witness it is, but I think it was Counsel
19 for the Public, and I think you alluded to it,
20 Commissioner Bailey, that there's a -- two
21 things can't be true at the same time. They
22 can't have new generation to get the
23 environmental benefits and not include the cost
24 of that new generation when they're calculating

1 a minimum offer price for the ISO bid. If
2 they're using existing generation, they can
3 avoid having those costs included, but they
4 can't really be claiming the same level of
5 environmental benefits.

6 COMMISSIONER BAILEY: Same thing
7 for production costs, just to close the loop.
8 And I think it was the Brattle witness who
9 explained to me that production cost savings are
10 not additive to the savings from the energy
11 market and that we shouldn't count both as
12 benefits, because the benefits from the
13 production costs savings are already included in
14 the savings in the wholesale electricity market.
15 So I would not count the production cost
16 savings.

17 CHAIRMAN HONIGBERG: All right.
18 We have a little more time before we take a
19 lunch break. I'll start a discussion of another
20 one of the economics elements, and that has to
21 do with property values. The rule element that
22 we're talking about is still the same, orderly
23 development. The Applicant is required to
24 provide information about real estate values in

1 the affected communities. This is a place where
2 the rules are specific in terms of what the
3 Applicant has to do.

4 The Applicant offered the
5 testimony of Dr. James Chalmers. He had a
6 report and his testimony, both original and
7 supplemental, and he spent a fair bit of time
8 on the witness stand in front of us. He
9 relied on his knowledge of the industry and
10 work he's done elsewhere and studies to
11 conclude that high-voltage transmission lines
12 have minimal effect on real estate values and
13 real estate markets. And he had some New
14 Hampshire-specific research initiatives that
15 he relied on as well. The three New
16 Hampshire-specific studies were case studies
17 analyzing 58 residential sales of properties.
18 He had 13 subdivision studies, and he had
19 market activity research, reviews of sales
20 prices to list price ratios and analyzing the
21 market in different parts of the state using
22 what he said were "real sales." He relied on
23 the work of appraisers locally to do much of
24 the groundwork, collect the paperwork and

1 then interview selling brokers to determine
2 if there were other explanations for the
3 difference in sales prices from asking
4 prices, and whether they also affected time
5 on the market. His ultimate conclusion was
6 that the only significant effects on real
7 estate occur within 100 feet of the edge of
8 the right-of-way. It requires seeing new
9 structures. He was less concerned about
10 visibility of other parts of the line, the
11 conductors or the wires themselves. He was
12 more concerned about the structures. He
13 concluded that there were only, I think the
14 number was nine properties along the course
15 of the entire Project that would be affected
16 or could be affected. He was criticized at
17 length [laughter].

18 There were lots of people who
19 had opinions that were instinctive. We
20 received a lot of public comment. A lot of
21 the thousands of public comments that we
22 received were related to property values and
23 the effect this Project would have on
24 property values. And the overwhelming

1 feeling among those comments was that there
2 would be far greater negative impacts on
3 property values than Dr. Chalmers opined.

4 We had a number of witnesses
5 testify under oath regarding property values.
6 I don't have the specific numbers. I'm not
7 going to go through them individually. But
8 there were roughly a dozen individual
9 property owners who testified that they
10 believed their properties would be affected
11 adversely in terms of the value if the line
12 were built. They ranged from people who
13 currently live on the right-of-way and people
14 who don't.

15 We had a few people who are in
16 one way, shape or form in the industry, the
17 real estate industry. Mr. Powell in -- he's
18 a realtor in Lancaster who has direct
19 experience that he testified to about the
20 effect that the proposed line has had on
21 specific properties that he's been involved
22 with. Ms. Menard, in a couple of different
23 contexts, is in this industry and provided
24 her own research and also extensive

1 cross-examination of Dr. Chalmers and others
2 regarding work that was done, pointing out
3 errors, omissions and things that couldn't be
4 true in her view based on facts on the
5 ground.

6 The other criticisms of Dr.
7 Chalmers' work were there was a large range
8 of reasons why people had specific reasons to
9 disagree with what he had done. He limited
10 his studies to single-family homes, which
11 eliminated consideration, at least at first,
12 of condominiums and other types of ownership.
13 He did then, I think, go back and take a look
14 at areas like McKenna's Purchase here in
15 Concord, ultimately did not change his view
16 that the Project, if it's built, will have
17 minimal impacts on real estate values. Give
18 me a moment. (Pause)

19 Dr. Chalmers did acknowledge
20 and agree with some of the criticisms that he
21 received. Specifically, he reminded us and
22 everyone of the danger in relying on small
23 numbers when you're doing analyses of larger
24 phenomena. He was also, as I indicated, of

1 the opinion that only those properties that
2 are closest to the line, and in most
3 instances encumbered by the line, meaning
4 that the line went over a portion of the
5 parcel, were likely to be affected. The
6 Applicant also offered at varying levels of
7 specificity a plan to address and assist
8 property owners whose properties are
9 adversely affected if the Project is built
10 and they attempt to sell and have to take a
11 price cut. In very general terms, the idea
12 is they would offer a lump sum, small, I
13 think \$1500. Or if there was appraisal
14 evidence that the property sold for a large
15 amount less than it, quote, unquote, should
16 have, then the Company would cut a check to
17 the property owner to make up for that. That
18 was criticized as inadequate by a number of
19 people. But I think it's fair to say that
20 that proposal is a proposal and the Company
21 would be open to revisions or expansions if
22 the Committee felt it was important to do so.

23 I'm sure there are other
24 things that people will remember about the

1 guaranty program, about Dr. Chalmers and
2 about some of the other evidence we heard,
3 but that's sort of an introduction to the
4 issue. Just for planning purposes, we're
5 probably going to break sometime in the next
6 15 minutes.

7 We've stumped the band.

8 Mr. Way.

9 MR. WAY: So, in looking at his
10 studies, Dr. Chalmers, I think when he said that
11 there's potential for losses due to the impact,
12 I think we settled to, like, one percent to
13 six percent? Was that --

14 CHAIRMAN HONIGBERG: His opinion
15 was one to six percent. He acknowledged that
16 there were studies that showed much, much higher
17 effects of high-voltage lines, but they were
18 elsewhere, and he didn't believe were correct
19 for this environment.

20 MR. WAY: Well, one part of that
21 that I seem to recall, that one to six percent
22 was like a third iteration of a similar study he
23 had done with sort of similar findings, and that
24 percentage was a bit different. I believe it

1 was like three to six percent or three to
2 nine percent. And so that number changed to a
3 low number. And I really wasn't convinced by
4 the explanation that he gave that he sort of
5 evolved in his opinion, and I didn't know if
6 anybody else felt that way.

7 [No verbal response]

8 CHAIRMAN HONIGBERG: You've
9 thrown the line out. I'm not sure anybody's
10 going to bite right now.

11 MR. WAY: Anybody? Anybody?

12 So that was one concern that I
13 have is because obviously that could be a big
14 difference.

15 The McKenna's Purchase, I did
16 have kind of a hard time with that.
17 McKenna's Purchase, I had some concerns about
18 that. I know he went back and took a look at
19 that more so. The question I would have is
20 when we look at the Guaranty Program that's
21 been proposed, is McKenna's Purchase, since
22 it's not a single-family home, is that going
23 to fall into that agreement? Is that
24 something we can possibly request? Do we

1 want to request that? Because I think I
2 heard that the Applicant was fairly flexible
3 in how they're going to do that agreement.
4 They're willing to tailor it. But I think
5 we've got to look at what universe might not
6 be included in it right now.

7 CHAIRMAN HONIGBERG: You heard
8 the same thing I heard. I think there's -- that
9 as it was originally written up, it would not
10 cover McKenna's Purchase. But I sensed
11 flexibility and an openness to discussion of how
12 to improve that program if the Committee felt
13 that were important.

14 MR. WAY: I'd be interested in
15 doing that. I guess the question I have for the
16 Committee, and I'm not suggesting anything here,
17 but is everybody accepting the fact -- is it
18 straight face that there's not going to be an
19 impact on property values as a result of this
20 structure, this project?

21 CHAIRMAN HONIGBERG: I'm not sure
22 I understand the question. Ask that again,
23 because the way you framed it in the negative,
24 I'm not sure I understood what you just asked.

1 MR. WAY: That's a good point.

2 CHAIRMAN HONIGBERG: Was the
3 question do we think Chalmers is right?

4 MR. WAY: Thank you. Well, I
5 mean, there's no impact to property values
6 that's being proposed. Do we accept that as a
7 committee?

8 CHAIRMAN HONIGBERG: Commissioner
9 Bailey.

10 COMMISSIONER BAILEY: I think
11 that there were some significant errors in his
12 analysis that were pointed out. I think Ms.
13 Menard showed us some sales that he counted that
14 were, I'm not going to get the language right,
15 but had something to do with qualified sales and
16 unqualified sales. And I think that she showed
17 that he counted some sales between family
18 members, which really isn't a fair market value
19 price in his analysis. And so if you do that,
20 then you don't really get the impact on the
21 transmission line. If, you know, I sell my son
22 my property and he gives me whatever he's going
23 to give me because that's what he does, then
24 that's not a true market sale, I think. So, I

1 mean, that was one error. Unfortunately, I
2 didn't find Dr. Chalmers very convincing at all.

3 CHAIRMAN HONIGBERG: I think Ms.
4 Menard and others identified other flaws in Dr.
5 Chalmers' work, or the underlying work that went
6 into Dr. Chalmers' opinions, errors regarding
7 the subdivision studies, errors regarding
8 comparable sales, what should be included and
9 what shouldn't. He stuck by his opinions saying
10 that, even accepting some of those as errors,
11 which I think he had to in some instances, he
12 stuck by his guns. I, like Commissioner Bailey,
13 did not find him an especially credible witness
14 on this because of the mistakes that he did not
15 seem to recognize were mistakes until they were
16 put in front of him, some things that to hear
17 others who are in the industry just didn't make
18 sense.

19 Ms. Weathersby, then Mr.
20 Wright.

21 MS. WEATHERSBY: In addition to
22 the flaws and errors, I think Mr. Chalmers -- I
23 think there were also gaps in his analysis, and
24 I'm thinking particularly that his non-analysis

1 of commercial properties, particularly hotels,
2 commercial properties of a more residential
3 nature, hotels, bed and breakfasts, Percy Lodge
4 and campground, places that are primarily
5 tourist-driven, where people come to the areas
6 in part for the views and also, of course, for
7 recreation and other reasons, that those
8 properties were not analyzed. On the flip side,
9 I do want to point out that we did hear from the
10 developer of the Balsams Hotel, Mr. Otten, who
11 did say he didn't think that this project would
12 affect development of that resort. But I think
13 that Mr. Chalmers' failure to analyze commercial
14 businesses, second homes, specifically second
15 homes, that was a shortcoming.

16 CHAIRMAN HONIGBERG: Mr. Wright.

17 DIR. WRIGHT: Well, I was largely
18 going to go to the area of the second homes that
19 Ms. Weathersby just went to as what I thought
20 was somewhat of a flaw, and others have already
21 pointed out the other gaps. I don't know. My
22 gut reaction, and I don't know if I should say
23 "gut reaction," but the fact that the
24 conclusion's that would be no impacts outside of

1 things 100 feet away doesn't seem to me to be
2 credible. I'm not sure I can pinpoint something
3 to that, but it just doesn't seem credible to
4 me.

5 CHAIRMAN HONIGBERG: One other
6 witness I should have mentioned who was in
7 another way in this real estate area is
8 Mr. Sansoucy, who has lots of areas in which he
9 claims expertise. He had a number of criticisms
10 about the way Dr. Chalmers did his work,
11 presented some of his own work, arguing that
12 there would be more significant effects.
13 Personally, I don't find Mr. Sansoucy credible
14 in virtually anything. But that doesn't mean
15 he's necessarily wrong. But I don't credit much
16 of what Mr. Sansoucy says on this topic. But
17 we're hashing through other things that we all
18 found about Dr. Chalmers. Ms. Dandeneau.

19 MS. DANDENEAU: I just wanted to
20 say that I agree with what the Committee is
21 saying so far and that one other gap that kind
22 of stuck out to me was that Mr. Chalmers didn't
23 even evaluate some properties in some of the
24 municipalities that are going to be affected by

1 this project. So that was an additional gap
2 that I struggled with.

3 CHAIRMAN HONIGBERG: Ms.
4 Weathersby.

5 MS. WEATHERSBY: Just also
6 another gap was vacant land, particularly up
7 north that also wasn't in and I think that
8 should be.

9 CHAIRMAN HONIGBERG: Mr.
10 Oldenburg.

11 MR. OLDENBURG: I guess one of
12 the things in looking at the studies that were
13 done, I didn't get a -- I guess I didn't get a
14 warm and fuzzy feeling. You know, how much of
15 the line do you see? So I'll use the example of
16 McKenna's Purchase.

17 When we walked behind
18 McKenna's Purchase, much of the line, many of
19 the towers today are hidden by vegetation.
20 So if the new line goes in and you clear a
21 lot of that vegetation, some of those units
22 may see the line more than others. So do you
23 lump -- do you pick out those units
24 specifically that have a more significant

1 view and say what's the property value, or
2 the one next to it which may not see it at
3 all? I didn't -- it was almost like a look
4 at a whole subdivision. You had 12 lots, and
5 these are the sales of the 12 lots. I don't
6 remember the analysis of how much of the
7 transmission line was seen. I mean, maybe my
8 memory is shot. But, you know, that's the
9 way I'd look at it. Just McKenna's Purchase,
10 one unit next to the other, may sell for a
11 different price just because of the view of
12 the line, or there may not be a difference at
13 all. I didn't -- you know, to me, a lot of
14 it had to do with the property, the effects
15 of the property. I don't know how -- I
16 didn't understand how it was grouped
17 together.

18 CHAIRMAN HONIGBERG: Well, I
19 think one of the things Dr. Chalmers testified
20 to was that it is the change in view that is
21 significant.

22 MR. OLDENBURG: Right.

23 CHAIRMAN HONIGBERG: He agreed
24 with that proposition. And I think I even asked

1 him about this, that those who see something
2 today, if they see a little bit more tomorrow,
3 that's not as significant a change as someone
4 who sees nothing today and sees something
5 tomorrow. I believe his testimony was that he
6 didn't go to any of the properties to actually
7 see what can be viewed today, that he relied on
8 people on the ground here to talk about existing
9 properties and existing sales. And he relied
10 on, I don't know if it was computer analyses, or
11 other ways of determining what you can see today
12 or can't see today that you could see tomorrow.

13 DIR. WRIGHT: Am I wrong? I
14 thought there was some eyeball test done by Dr.
15 Chalmers or somebody with Dr. Chalmers.

16 CHAIRMAN HONIGBERG: In some
17 places I think.

18 DIR. WRIGHT: In some places.
19 And it was visible partially or not visible.

20 CHAIRMAN HONIGBERG: Right.

21 MS. WEATHERSBY: I think he
22 talked about the "windshield test" or something.

23 DIR. WRIGHT: Yes.

24 MS. WEATHERSBY: So he did go --

1 of course he went to McKenna's Purchase. He
2 didn't go onto the private property when he took
3 the -- looked at the places from the roadway,
4 calculated at the distance to the front door,
5 you know, that kind of thing. But he referred
6 to some of the studies. I think he did go to
7 the -- again, staying on public property, not
8 going onto private property and doing the
9 windshield test of how much they could see.

10 CHAIRMAN HONIGBERG: Mr. Way.

11 MR. WAY: I mean, did you get the
12 feeling like it wasn't like a real robust,
13 boots-on-the-ground type of exercise, though? I
14 mean, however this worked out, this wasn't
15 tracing the route and looking at every property
16 and looking at the visuals, because I don't
17 think he considered the visuals from DeWan
18 Associates in his assessment as well.

19 CHAIRMAN HONIGBERG: No, he
20 didn't. He testified to that.

21 MS. WEATHERSBY: I also think
22 when he looked at where there's existing
23 transmission lines, that a lot of those
24 properties weren't necessarily similar to what

1 the Northern Pass is going to look at. Like he
2 had that study -- one of the studies, there was
3 one in Portsmouth which I'm familiar with. And,
4 you know, there's no comparison between the
5 visual impact of that line which goes through a
6 very nice residential area. The houses will
7 sell for a fair amount of money, in part because
8 some of them are on the water. But my point, I
9 guess, is that the impact of that transmission
10 line versus Northern Pass, I don't think they
11 could be equated, and yet he used it as one of
12 the studies.

13 CHAIRMAN HONIGBERG: Commissioner
14 Bailey.

15 COMMISSIONER BAILEY: My
16 recollection is about some of the critique about
17 his "boots on the ground" or his "windshield
18 test." And I think -- and I don't remember who
19 this was -- but they suggested that, you know,
20 he went and he stood in the street and he looked
21 at the house and he looked at what the visual
22 impact behind the house would be to determine
23 whether the change would be significant or not.
24 But the criticism was that, and he couldn't have

1 possibly done this, but the view could be very
2 different from the bedroom window in the house
3 on the second floor, and that if somebody were
4 looking to buy a property, they wouldn't be
5 looking at it just from the street. They would
6 be inside the house, and if it felt like the
7 towers were inside the house, then that would
8 have an impact on property value. And he was
9 unable to deal with that because he didn't have
10 access.

11 MR. WAY: And if he went to a
12 property, as you said, and he's doing the visual
13 and he doesn't have a visual assessment, so a
14 lot of what he's looking at is can I see a
15 structure. And if I can see a structure, it
16 doesn't really matter because I've already
17 identified that the height of the structure
18 isn't going to impact my thoughts on this. He's
19 just trying to assess whether he'll see a
20 structure where he did not see before. That's
21 my understanding. And we're doing that without
22 a visual assessment at that point.

23 CHAIRMAN HONIGBERG: All right.
24 We need to take a lunch break. We will return

1 as close to 1:00 as we can, but it will probably
2 be a few minutes later.

3 (Lunch recess taken at 11:56 a.m. and
4 concludes the Morning Session. The
5 hearing continues under separate cover
6 in the transcript noted as Afternoon
7 Session.)

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C E R T I F I C A T E

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