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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

November 23, 2020 - 2:41 p.m.
Concord, New Hampshire

[Remote Meeting Conducted via Webex]

IN RE: SITE EVALUATION COMMITTEE:
Public meeting for Review and
Discussion regarding Antrim
Wind post-certificate filings:
(a) Request by TransAlta for
Waiver of N.H. Admin. R. Site
301.18(e)(5); (b) Peer Review of
the Acentech Winter 2020
Sound Montoring Report authored
by Cavanaugh Tocci Assoc.,
dated 9/4/20 (revised);
(c) Complaint validation sound
measurement report authored by
Cavanaugh Tocci, dated 9/2/20
(revised); and Any other
business that is lawfully
before the Committee.

PRESENT FOR SITE EVALUATION COMMITTEE:

- Chairwoman Dianne Martin Public Utilities Comm.
(Presiding as Presiding Officer)
- Cmsr. Kathryn M. Bailey Public Utilities Comm.
- Cmsr. Robert R. Scott Dept. of Environ. Svs.
- Cmsr. Victoria Sheehan Dept. of Transportation
- Will Arvelo, Designee Dept. of Business &
 Economic Affairs
- Michael York, Designee Dept. of Natural
 and Cultural Resources
- Susan V. Duprey Public Member
- George I, Kassas Public Member

ALSO PRESENT FOR THE SEC:

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

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 CHAIRWOMAN MARTIN: Good afternoon,
3 everyone. We're here today for a public
4 meeting of the Site Evaluation Committee.
5 The meeting is being held by remote access
6 due to COVID-19 concerns. We do have a hard
7 stop today at 4:30, so we will need to stay
8 on track. I have to read the DOJ guidelines
9 because this is a remote meeting.

10 As Chairwoman of the Site
11 Evaluation Committee, I find that due to the
12 State of Emergency declared by the Governor
13 as a result of the COVID-19 pandemic, and in
14 accordance with the Governor's Emergency
15 Order No. 12, pursuant to Executive Order
16 2020-04, this public body is authorized to
17 meet electronically. Please note that there
18 is no physical location to observe and listen
19 contemporaneously to this meeting which was
20 authorized pursuant to the Governor's order.
21 However, in accordance with the emergency
22 order, I am confirming that we are utilizing
23 Webex for this electronic meeting. All
24 members of the Committee have the ability to

1 communicate contemporaneously during this
2 meeting, and the public has access to
3 contemporaneously listen and, if necessary,
4 participate. We previously gave notice to
5 the public of the necessary information for
6 accessing the meeting in the Order of Notice.
7 If anybody has a problem, please call (603)
8 271-2431. In the event the public is unable
9 to access the meeting, the meeting will be
10 adjourned and rescheduled.

11 Okay. We have to take a roll call
12 attendance of the Committee. When each
13 Committee member introduces themselves, please
14 also state whether anyone is present in the
15 room with you; and if so, please identify
16 them. Let's start with Commissioner Scott.

17 COMMISSIONER SCOTT: Helps to
18 unmute. My name is Bob Scott. I'm
19 Commissioner of the Department of
20 Environmental Services. I'm vice-chair of
21 the Site Evaluation Committee, and I am alone
22 in my home library.

23 CHAIRWOMAN MARTIN: Okay. Thank
24 you.

1 Commissioner Sheehan.

2 COMMISSIONER SHEEHAN: Good
3 afternoon. Victoria Sheehan, Commissioner
4 for the Department of Transportation, and I
5 am alone at home in Nashua.

6 CHAIRWOMAN MARTIN: Thank you.

7 Mr. York.

8 MR. YORK: I'm Michael York,
9 representing the Department of Natural and
10 Cultural Resources. I'm alone in my office
11 at 20 Park Street in Concord.

12 CHAIRWOMAN MARTIN: Okay. Ms.
13 Duprey.

14 MS. DUPREY: Hi, I'm Susan Duprey,
15 public member. I'm at my home in Concord,
16 New Hampshire, in my home office. I have two
17 sons in the house milling around, but they're
18 not in my office.

19 CHAIRWOMAN MARTIN: Okay. Thank
20 you.

21 And Mr. Arvelo. You're on mute.

22 MR. ARVELO: There we go. Will
23 Arvelo, Director of the Division of Economic
24 Development, representing business and

1 economic affairs. I am home in my office
2 alone.

3 CHAIRWOMAN MARTIN: Thank you.

4 And Mr. Kassas.

5 MR. KASSAS: Good afternoon.

6 George Kassas. I'm in my home office in
7 Salem, New Hampshire. And I'm a full member
8 of the SEC Committee.

9 CHAIRWOMAN MARTIN: Okay. Thank
10 you.

11 And I am Dianne Martin. I am
12 Chairwoman of the Site Evaluation Committee,
13 and I am also alone.

14 Okay. Let's move on to the agenda.
15 Agenda Item 1 is the review and discussion
16 regarding the Antrim Wind post-certificate
17 filings. First we will take up Item A,
18 request by TransAlta for waiver of New
19 Hampshire Admin. Rule Site 301.18(e)(5). And
20 I'm going to ask our counsel, Attorney
21 Iacopino, to give an overview and background.

22 Attorney Iacopino.

23 MR. IACOPINO: Thank you, Madam
24 Chair. Just to lay this out for the

1 No. 3 in the turbine array was offline from
2 May through June of this year; so that
3 includes some of the spring season. And I
4 assume that's because they want to get an
5 accurate sound survey, and they could not do
6 that if all nine turbines were not operating.

7 They report that they believe they
8 will get better data if the spring survey is
9 deferred to 2021. And they may also -- they
10 report they may also be able to negotiate
11 with the landowner at Location No. 4 to
12 obtain her consent.

13 In addition to that request, the
14 request also asked the Committee to waive the
15 requirement that the post-construction sound
16 survey be taken -- in other words, that sound
17 samples be taken from the same exact
18 locations where they were for the
19 pre-construction survey. Specifically, they
20 asked that you waive the requirement that
21 they conduct -- that they sample data from
22 Location 4. Their reason for that is that is
23 the location of the homeowner who has denied
24 them access to her property.

1 So it's a twofold request. One is
2 to -- the first part of it is to defer the
3 spring study, and the second is to allow them
4 to do their future studies without Location
5 No. 4 if they cannot get the consent of the
6 landowner to go on the property.

7 Those are the requests that are
8 contained within the waiver request. So I
9 guess that's -- what the Committee must do is
10 you must determine whether or not you wish to
11 grant the waiver. In order to grant a
12 waiver, there is a requirement in our rules,
13 if I can get to it, just a second, that reads
14 as follows: "In order to grant a request for
15 a waiver, you must find that the waiver
16 serves the public interest," No. 1; and
17 No. 2, "that the waiver will not disrupt the
18 orderly and efficient resolution of any
19 matters before the Committee or the
20 Subcommittee."

21 The rule goes on to instruct you
22 that in determining the public interest, the
23 Committee or Subcommittee "shall waive a rule
24 if compliance with the rule would be onerous

1 or inapplicable, given the circumstances of
2 the affected person" -- in this case, that's
3 the TransAlta/Antrim Wind company -- "or the
4 purpose of the rule would be satisfied by an
5 alternative method proposed."

6 So that's the standard that applies
7 to waiver requests. I am happy -- I think
8 that lays out sort of what the request is,
9 what the factual allegations are, and what
10 the standard for your review is.

11 CHAIRWOMAN MARTIN: Ms. Duprey.

12 MR. IACOPINO: Should I -- I see
13 Ms. Duprey has raised her hand. Do you want
14 me to take the questions, Chairwoman Martin?

15 CHAIRWOMAN MARTIN: Is it a
16 question for Attorney Iacopino?

17 MS. DUPREY: It is.

18 CHAIRWOMAN MARTIN: Go right ahead.

19 MS. DUPREY: I'm sorry. I wasn't
20 paying attention to the second part of what
21 it was that we have to find. Could you say
22 that again?

23 MR. IACOPINO: Sure. The second --
24 I'll go over the whole thing.

1 You must find -- in order to grant
2 a waiver, you must find that the waiver
3 serves the public interest and that the
4 waiver will not disrupt the orderly and
5 efficient resolution of matters before the
6 Committee or Subcommittee. And then there's
7 a definition of "public interest" within the
8 rule which says that, "in determining the
9 public interest, the Committee or
10 Subcommittee shall waive a rule if compliance
11 with the rule would be onerous or
12 inapplicable given the circumstance of the
13 affected person" -- and in this case, the
14 affected person is Antrim Wind -- "or the
15 purpose of the rule would be satisfied by an
16 alternative method proposed."

17 CHAIRWOMAN MARTIN: Attorney
18 Iacopino, what's the standard --
19 (connectivity issue)

20 [Court Reporter interrupts.]

21 CHAIRWOMAN MARTIN: What's the
22 standard on the deferral, if any?

23 MR. IACOPINO: It is the same
24 standard. They are -- the deferral is the

1 first part of the request for a waiver of the
2 rule. The rule requires that the sound
3 studies be conducted, one in each season; so
4 one within three months after commercial
5 operation, and then one in each of the next
6 three seasons. They are seeking to waiver
7 from that rule to defer what would be the
8 Spring 2020 study, to defer that to Spring of
9 2021.

10 I would point out that the rule
11 that requires the studies does allow the
12 Committee also to change the timing if it
13 deems it appropriate. Let me get to the
14 correct rule here.

15 (Pause)

16 Site 301.18(e)(7)(b) allows
17 adjustments to the schedule, subject to
18 review by the Committee or the Administrator.

19 CHAIRWOMAN MARTIN: Okay. Thank
20 you.

21 Mr. Arvelo.

22 MR. ARVELO: So far, just see if I
23 understand timelines. So we've had a study
24 done in winter of 2020, summer and fall 2020?

1 MR. IACOPINO: The summer study
2 is -- my understanding is that they're in the
3 process of putting the data together from the
4 summer study, and they will -- I assume that
5 they will be proceeding to take their sound
6 samples for the fall.

7 MR. ARVELO: Okay.

8 MR. IACOPINO: And I only know that
9 from the various e-mails that have gone back
10 and forth. So the developer is in the
11 process of addressing both of the upcoming
12 studies.

13 CHAIRWOMAN MARTIN: Ms. Duprey.

14 MS. DUPREY: I'm just curious if
15 the rules require that these studies, these
16 seasonal studies, be done during certain
17 months. It's striking me that it's pretty
18 late to be called "fall" now. And I assume
19 that they're season-specific for a reason;
20 otherwise, they would have said "four times a
21 year."

22 MR. IACOPINO: I believe they are
23 season-specific for a reason, particularly
24 with respect to wind energy facilities,

1 because the weather can make a difference in
2 the level of the sound, as does things like
3 insects and foliage and whatnot. So, yes,
4 they are. But I don't -- I guess I don't
5 want to be misunderstood. I don't have all
6 of the details of the developer's status.
7 But I understand that they've been taking
8 measurements without going to Location 4.
9 It's just not yet been synthesized yet into a
10 report.

11 If you note, the Acentech report
12 that they filed from their first study was
13 fairly lengthy. And I assume it takes a bit
14 to put -- take the data and put it
15 together --

16 MS. DUPREY: Okay. Thank you.

17 MR. IACOPINO: -- into the report.

18 CHAIRWOMAN MARTIN: Commissioner
19 Scott.

20 COMMISSIONER SCOTT: Yes. So Madam
21 Chair, I had my virtual hand raised. Is that
22 working for me?

23 CHAIRWOMAN MARTIN: I do not see
24 virtual hands. Real hands are better.

1 COMMISSIONER SCOTT: Okay, then
2 I'll do it that way.

3 Thank you, Madam Chair. Couple
4 things. For the record, obviously, the
5 TransAlta waiver request cites 302.15 for the
6 waiver; it's 05, obviously.

7 But my real question was, if
8 Attorney Iacopino knows, it's hard to tell
9 from reading the materials, did they take
10 some data samples in spring of 2020? It
11 sounds like it.

12 MR. IACOPINO: I'm not sure. I
13 agree with you that it does sound as though
14 they did take some. I think that they have
15 two concerns about spring of 2020, and that
16 is one of the turbines was down for a good
17 part of the year -- or a good part of the
18 season, and the other was the access. So I
19 don't know if they went up and tried to take
20 samples from the remaining locations.

21 And Mr. Scott, I also don't know,
22 right off the top of my head, the orientation
23 of those locations to the turbine that was
24 down.

1 COMMISSIONER SCOTT: Okay. Thank
2 you. So that's -- I'm getting an echo on
3 myself. Don't know if everybody is on mute.

4 So that would apply to some spring
5 measurements for 2020 available on L2 and L5,
6 I believe, since L4 is not available and L3
7 had issues. So what I'm asking, I guess, is
8 they don't seem to indicate how they would,
9 if at all, incorporate that data if we
10 allowed them to defer or waive. Is that your
11 understanding, too?

12 MR. IACOPINO: I read the request
13 to defer the entire study -- in other words,
14 not to provide one for the spring of 2020 but
15 to defer it to 2021. And they hope that
16 maybe the landowner will allow them back to
17 Location 4, and also, obviously, they're
18 hopeful that all their turbines will be up
19 and running.

20 COMMISSIONER SCOTT: And finally,
21 to the extent we have a request for waiver
22 for the location, as you just said, and it's
23 in their letter, should the property owner
24 have a change of heart and allow that

1 monitoring, you know, then I read it as they
2 would, even if we granted a waiver, it would
3 be conditioned upon the property owner still
4 not allowing them in.

5 MR. IACOPINO: Yes, I think that is
6 correct. And if that is the inclination of
7 the Committee, we can certainly put that in
8 an order or a directive.

9 CHAIRWOMAN MARTIN: Mr. Kassas.

10 MR. KASSAS: Thank you, Madam
11 Chair.

12 Michael, two or three quick
13 question here. Are there any technical
14 reason for the deferral to Spring 2021?
15 That's one.

16 Two, what would be -- if the
17 deferral is -- or if the waiver is granted,
18 what would the duration be for that waiver?
19 Does it expire at a certain time?

20 And the third one. What if they do
21 not get any permission from the landowner to
22 conduct the study that they're hoping to
23 conduct? What would happen? Would that be
24 deemed insufficient completion? Or what

1 would the scenario look like?

2 CHAIRWOMAN MARTIN: You're on mute.

3 MR. KASSAS: I am. I went on mute.

4 MR. IACOPINO: I was on mute.

5 Sorry.

6 I'm going to answer No. 3 first.

7 Part of the rule that they're requesting us
8 to waive is so that they don't have to go
9 back to Location No. 4, L4, if the landowner
10 will not let them. So they're asking for
11 that waiver across the board. And what
12 Mr. Scott just referenced was that if the
13 landowner does let them, at least Mr. Scott
14 believes that we probably should require them
15 to do that location because you would get a
16 more complete sound study.

17 To answer your first question, the
18 technical reason that they put forth for not
19 having done the 2020 spring study and wishing
20 to defer it to 2021 is because Turbine 3,
21 which is in some proximity, that I don't know
22 the exact distance, to the various locations,
23 Locations 1 through 5, was not operating
24 because of a malfunction of some sort from

1 May through June of this year. And so the
2 technical reason is that you would not get
3 the full idea of what the noise actually is
4 when the facility is operating at
5 100 percent. And I forgot your second
6 question. I'm sorry.

7 MR. KASSAS: The duration for the
8 waiver. Is there like -- does it start and
9 expire at a certain time, or is it just
10 indefinite or what?

11 MR. IACOPINO: Well, no. The
12 waiver, what would it do -- I mean, the
13 waiver, as it is requested, they still intend
14 to provide three studies. They're just
15 deferring the spring one to next year, to
16 2021. They still intend to present a fall
17 study and a winter study. That's all that is
18 required under the rule. So, really, they're
19 just extending it to the spring study of
20 2021. And there would not be an expiration
21 of the waiver. The terms of the rule would
22 apply for those individual studies. They'd
23 still have to do the same type of study,
24 obviously without Location 4, if that's your

1 decision.

2 MR. KASSAS: Okay. Thank you.

3 CHAIRWOMAN MARTIN: I think Ms.
4 Duprey had her hand up next, and then I'll go
5 to you, Commissioner.

6 MS. DUPREY: Attorney Iacopino, who
7 else is affected by this Location 4? In
8 other words, is the information gathered from
9 Location 4 pertinent only to the homeowner
10 that's refusing to let us on the property, or
11 does it affect other homeowners as well?

12 MR. IACOPINO: I think the answer
13 is that it does affect that homeowner. It
14 may affect other homeowners. I can't say for
15 sure on that. But I think the one thing that
16 it does affect is, the way our rule is
17 written, is we have a pre-construction study
18 and then we have the post-construction
19 studies. And what the rule is trying to do
20 is replicate that pre-construction study
21 after the facility goes into commercial
22 operation to see if in fact it performs as
23 was advertised, if you will, in the
24 Application. And it also obviously gives a

1 built-in measure for the Committee, over the
2 course of a full year, as to whether or not
3 this facility is complying with our rule that
4 prohibits sound-pressure levels in excess of
5 45 dBA, or 5 above background at nighttime --
6 during the daytime and 40 dBA at nighttime.
7 So it's really twofold: Without Location
8 No. 4. You're not going to get an exact
9 replication of the pre-construction study --

10 MS. DUPREY: In that area.

11 MR. IACOPINO: -- and that's the
12 biggest concern. Right.

13 MS. DUPREY: So while I realize
14 that it wouldn't connect back to the
15 preapproval study, I don't understand why
16 another location isn't being offered in the
17 event that this one can't be negotiated,
18 because if it's affecting other homeowners,
19 it seems to me that the second part of the
20 reason for doing this is still applicable and
21 is the major reason, in my view. And it just
22 seems deficient to me to not be suggesting
23 another location if other homeowners are
24 affected by this failure to gaining approval

1 for Location 4.

2 MR. IACOPINO: I'm unaware of them
3 having suggested an alternate location for
4 L4, Ms. Duprey.

5 MS. DUPREY: Okay.

6 COMMISSIONER SCOTT: Thank you.
7 And for that last discussion, obviously, that
8 in itself would have required a waiver also
9 since it's not consistent with the original
10 monitoring location.

11 So having said that -- and again I
12 was talking earlier about any data that was
13 collected for spring of 2020 -- looking at
14 302.05, I do find that this does seem to meet
15 that requirement, that it would be onerous or
16 inapplicable. This is clearly for L4,
17 Location 4. This is clearly beyond the
18 control of the project if the landowner
19 doesn't want to -- you know, changed their
20 mind and doesn't want to participate anymore.
21 It's really outside their control. So I do
22 find that to be the case.

23 To the extent we grant a waiver,
24 which I think I am suggesting that we do, I

1 would make it, again, conditional that, as we
2 just discussed, that if the landowner changes
3 their mind, that they would proceed with L4
4 in the spring of 2021. And I'd also like to
5 see whatever data was collected in the spring
6 of 2020 presented when the 2021 data is
7 presented also, understanding that it may be
8 imperfect. Certainly the Applicant can put
9 whatever caveats and analysis on that. But I
10 would like to have that data in the public
11 record also as part of that. So that's my
12 feeling. I don't know if we're ready for
13 motions yet, Madam Chair.

14 CHAIRWOMAN MARTIN: The rule
15 requires, before we make a decision, that we
16 hear from other parties. So I think at this
17 point we should open it up for TransAlta
18 and/or any other party who would like to be
19 heard.

20 Mr. Wind, do you know if we have
21 anyone who's indicated they want to speak?

22 MR. WIND: No indications at this
23 point. But we can give someone a minute to
24 send me a message via the Q&A function. So,

1 send a message via Q&A to the PUC Web
2 Moderator.

3 CHAIRWOMAN MARTIN: Okay. Thank
4 you. Just pause for a moment.

5 (Pause in proceedings)

6 MR. WIND: So Mr. Getz has stated
7 he is available, so I think we can interpret
8 that as a request to speak.

9 So Mr. Getz, you are unmuted. You
10 may speak.

11 MR. GETZ: Thank you. Good
12 afternoon, Madam Chair. To the extent you
13 can see me, I apologize for not having
14 thought through in advance enough to put on a
15 coat and tie.

16 To respond to some of the issues
17 raised in the discussion, Antrim did not
18 propose an alternate location for
19 L4 because --

20 CHAIRWOMAN MARTIN: Attorney Getz,
21 can I just ask you to state for the record
22 who you represent?

23 MR. GETZ: Yes, Madam Chair. This
24 is Tom Getz from the law firm of McLane

1 Middleton, and I am representing Antrim Wind
2 in this proceeding.

3 CHAIRWOMAN MARTIN: Thank you. Go
4 ahead.

5 MR. GETZ: Just to address the
6 issue of why Antrim Wind did not propose an
7 alternate location, it's because there would
8 be nothing to compare it to. I think Mr.
9 Iacopino covered the issue of the purpose of
10 what pre- and post-construction reports are
11 is to make the judgment of whether, you know,
12 actual measurements were consistent with the
13 estimates or predicted measurements. And it
14 would be really difficult to come up with an
15 alternate location that would meet the
16 purposes of that. So that's why Antrim Wind
17 proposed to, first, postpone the Spring 2020
18 report to spring of 2021; and then also, for
19 the summer and fall measurements, to do the
20 reports based on those measurements, based on
21 the four locations that were available to it.
22 And it conducted the summer measurements, and
23 it's in the process right now of conducting
24 the fall measurements. But it takes some

1 time to compile the full reports, or the
2 "surveys" as they're referred to under the
3 rules, until you've collected all the data.
4 But that's basically the three things that's
5 covered under this request to adjust the
6 schedule and to waive the rule. But I'd be
7 happy to answer any other process-related
8 questions or technical issues, to the extent
9 I can. And Mr. Latour from the Company is
10 also available if there are any particular
11 technical questions.

12 CHAIRWOMAN MARTIN: Attorney
13 Iacopino, I saw your hand up first.

14 MR. IACOPINO: No, I'll give way to
15 Ms. Duprey. That's fine.

16 CHAIRWOMAN MARTIN: I think Mr.
17 Arvelo was actually before Ms. Duprey. I
18 apologize, Ms. Duprey.

19 Mr. Arvelo.

20 MR. ARVELO: Just trying to
21 understand the sequence of the testing. So
22 if L4 did not give permission for spring
23 testing, what happened in the summer and the
24 fall? I'm assuming that L4 also didn't give

1 permission for testing in the summer and
2 fall. Is that correct or --

3 MR. GETZ: That's correct. The
4 summer data includes four of the five
5 locations. The fall data will include four
6 of the five locations.

7 MR. ARVELO: So that leads me to
8 the follow-up question, that if you're
9 seeking a waiver -- part of the waiver is to
10 do a future study without L4. In a sense,
11 you're already doing that. You've gone ahead
12 and done the studies for summer and fall
13 without L4. So I don't get what the waiver
14 then is for if you're already doing that.

15 MR. GETZ: So the distinction is
16 between doing the measurements which the
17 Company has done in each of the seasons and
18 filing the report based on the measurements.
19 So, for the spring, Antrim did the
20 measurements, but there were two problems:
21 The one Turbine No. 3 that wasn't operating
22 and the lack of access to Location No. 4. So
23 Antrim was proposing, let's just defer the
24 report for that until next year. But they're

1 continuing to do the measurements as
2 anticipated. And they're asking that, for
3 summer and fall, that they can do the report
4 with just the four locations, and then that
5 would be deemed to satisfy the rule.

6 CHAIRWOMAN MARTIN: Ms. Duprey.
7 Unless Attorney Iacopino, did you need to go
8 in between?

9 MR. IACOPINO: I just had a further
10 answer to Mr. Arvelo's question.

11 I think the whole Committee should
12 know that the request for this waiver was
13 actually filed on July 24th, 2020, just so
14 you're aware of the timing. It's not -- I
15 wouldn't want the Committee to misperceive
16 that they just went ahead. They did ask --
17 they did file the request; albeit, there had
18 not been a response from the Committee to
19 them because we had to have this hearing.

20 CHAIRWOMAN MARTIN: And I'll add to
21 that. For those who were present on I
22 believe the July 29th public meeting, the
23 question of whether to address this did come
24 up, and we ended up deciding it was most

1 appropriate to hold off because of it not
2 being included in the agenda.

3 Okay, Ms. Duprey.

4 MS. DUPREY: Thank you. This is
5 directed to Attorney Getz, if this is
6 permissible, and his clients.

7 I'm wanting to know if other
8 homeowners are affected by Location 4. And
9 while I realize that there's no comparative
10 data to pre- and post, this is to determine
11 the level of sound, regardless of what it was
12 sold as. We know what the State's
13 requirements are, and we can measure the
14 sound out there. It still seems to me that
15 that's a valuable piece of information to
16 have. And I'd like to understand further why
17 we're not replacing "4" with another location
18 and why that couldn't be part of a motion
19 that we make.

20 MR. GETZ: Well, thank you. I can
21 I think address it this way, and I may not
22 have all of the information for this, but I
23 think it's most useful not to think in terms
24 of particular landowners. But the five

1 locations are chosen to, as best as possible,
2 represent the, you know, the whole perimeter
3 or area where sound could be measured. And
4 these five locations were agreed to. So
5 then, when you have now one location where
6 we're not allowed to go, so you don't -- you
7 know, you may not have as much coverage.
8 There may be a way that the Company could
9 describe for you what the lack of -- you
10 know, how that affects the actual coverage of
11 the whole area when you only have four out of
12 five. But if you're going to pick another
13 location, then you're not going to be able to
14 make that judgment of, in that area, is it
15 better or worse, does it conform to what was
16 predicted in the first instance?

17 So what you'll be able to tell is,
18 of the four locations that you could measure,
19 how does that match up to the four that were
20 measured pre-construction. Now, I understand
21 in the first report, you know, the original
22 winter report, all five locations were there.
23 You may be able to extrapolate from that.
24 But it's just that adding another fourth

1 location at a different place, it doesn't --
2 you know, it doesn't put you in a position to
3 make a judgment about the original estimates.

4 [Court Reporter interrupts.]

5 CHAIRWOMAN MARTIN: Ms. Duprey,
6 just continue until you're satisfied.

7 MS. DUPREY: Thank you.

8 So, Attorney Getz, thank you for
9 that. But are you saying that each of these
10 locations independently of the perimeter
11 don't have value, in terms of letting us know
12 who's affected by the sound of the wind
13 towers?

14 MR. GETZ: I think they have value
15 in telling you what, you know, what the
16 readings were during the times of the
17 measurements. But it doesn't have the value
18 of comparing pre- and post-construction
19 surveys.

20 MS. DUPREY: I do understand that.
21 And I guess what I don't understand is why,
22 just because you can't get the pre- and post,
23 there isn't still value to knowing what the
24 actual sound levels are today.

1 MR. GETZ: Well, I mean, they are
2 doing that for the four locations. And you
3 could pick other locations and require them
4 to make some measurements. That's some of
5 what's going on with the sound complaints.
6 But, you know, it doesn't address the purpose
7 of the original rule. And that's why the
8 inclination was to ask, you know, to defer
9 spring, and hopefully we'll see where we are
10 next spring in terms of will we get access or
11 not. Still an open question, but... the
12 surveys are already done, the measurement's
13 taken for the summer and fall. So --

14 MS. DUPREY: Right. I'm not
15 looking to have the Company go back, and
16 obviously you couldn't do that. I thought I
17 understood Attorney Iacopino to say that
18 there were two parts to the rule. One was
19 the pre- and post, but the other is current
20 readings. Is that not so?

21 MR. GETZ: Well, I guess I would
22 have to let Mr. Iacopino address that. But
23 the rule, as I understand it, this particular
24 section under post-construction monitoring,

1 was to use the areas that were -- where
2 pre-construction was done.

3 MR. IACOPINO: Yes, there are two
4 rules, Ms. Duprey. One is on the method
5 to -- that's 301.18(b)(7), which governs the
6 method by which the post-construction sound
7 studies must be accomplished. And the other
8 is just a rule, a standard across the board,
9 that no wind energy facility will operate at
10 nighttime in excess of 40 dBA, or 5 dBA above
11 the established background noise. And then
12 there's a daytime measure as well. Those are
13 two different things. We have had
14 complaints. And another item on your agenda
15 today is -- revolves around a complaint where
16 the Administrator hired an expert to go out
17 and take sound measurements that were
18 different in nature than the sound study.

19 MS. DUPREY: Right. So then you're
20 saying that there isn't a rule that values
21 the study just independently for today's
22 sound values, that its only import is with
23 reference back to pre-construction?

24 MR. IACOPINO: No, I don't think

1 I'm saying that at all. There is an
2 across-the-board limit on the amount of sound
3 that can be generated from a wind turbine
4 facility, but that exists any given day,
5 regardless of whether the sound studies, the
6 post-construction sound studies have been
7 done or not. In other words, if Antrim Wind
8 right now is operating those turbines and
9 they're in excess of 45 dBA or 5 dBA above
10 background, an enforcement action could occur
11 and actually could be taken by --

12 MS. DUPREY: Irrespective --

13 MR. IACOPINO: -- irrespective of
14 the sound studies.

15 MS. DUPREY: I get it. Okay. So
16 what you're saying is you're not permitted to
17 go above that sound. It's their issue
18 whether they want to have it measured in an
19 area to be able to respond to people --
20 Acentech's issue -- and that it's not
21 necessary to have another location for that
22 purpose.

23 MR. IACOPINO: Well, it's up to you
24 all to decide whether it's necessary to have

1 another location. That's a substantive
2 decision that you all can make. I'm just
3 pointing out that there are two levels of
4 rule here: One which is an absolute limit,
5 and the other is a rule that governs how the
6 post-construction sound study should be
7 accomplished.

8 MS. DUPREY: Okay. Thank you.

9 CHAIRWOMAN MARTIN: Can I follow up
10 on Ms. Duprey's question, Attorney Getz?

11 Do you know if Antrim Wind inquired
12 of any neighbors? Are there neighbors nearby
13 to this property, to see if they would be
14 willing to have the testing done there?

15 MR. GETZ: I don't know the answer
16 to that, Madam Chair. I can check.

17 CHAIRWOMAN MARTIN: Does your --
18 does the person with you know?

19 MR. GETZ: He should. Well, he's
20 not with me. But I think if Eric could let
21 him in, if you would like, he could probably
22 answer that question.

23 MR. WIND: So I have unmuted Mr.
24 Latour. So if you want to identify yourself

1 for the record.

2 MR. LATOUR: All right. My name --
3 can you hear me?

4 MR. WIND: Yes.

5 MR. LATOUR: Awesome. Thank you.

6 My name is Jean-Francois Latour.
7 You can call me "Jeff." I'm a employee with
8 TransAlta, and my role is environmental
9 advisor for the Antrim Wind Project. Do you
10 want me to answer the question?

11 CHAIRWOMAN MARTIN: Did you hear
12 the question, Mr. Latour?

13 MR. LATOUR: Yes, I did.

14 CHAIRWOMAN MARTIN: Okay.

15 MR. LATOUR: There has been
16 different communication between former
17 Administrator Pam Monroe and few landowners
18 that live nearby L4. And we haven't
19 necessarily offer doing measurement at those
20 location because there was contemplation of
21 complaint validation measurements, which
22 you'll review during your -- during this
23 Committee meeting, I think at your second or
24 third item on the agenda. So the duplication

1 of having measurement didn't seem to be quite
2 interesting in the spirit of comparing
3 pre-project and post-project sound levels.

4 CHAIRWOMAN MARTIN: Okay. Thank
5 you.

6 Does anyone else have questions for
7 Attorney Getz or Mr. Latour?

8 MR. IACOPINO: I just was going to
9 follow up on Mr. Scott's question about data
10 from the spring campaign.

11 Was there a spring campaign this
12 year; and if so, was there any data
13 collected? That was one of the questions
14 that Mr. Scott had.

15 MR. LATOUR: Do you want me to
16 answer this question?

17 MR. IACOPINO: Yes.

18 MR. LATOUR: So there has been data
19 collected for the spring measurement. The
20 dates, let me just check, between May 27 and
21 June 20. The Turbine 3, not to confuse with
22 Location 3, the Turbine 3 was offline because
23 of a maintenance that was ongoing, and we
24 needed to keep this turbine offline for a

1 long period of time during -- between May 27
2 and 18.

3 So the data was collected.

4 However, the data was -- due to the fact that
5 the Turbine 3 was not in operation, the data
6 collected is not under conditions expected to
7 results in the greatest turbine-related sound
8 at each location. And this is the reason why
9 we believe that it is in the public interest
10 that we defer this exercise to Spring 2021,
11 where we believe, or when we believe that we
12 will be able to satisfy all those
13 prescription of greatest turbine-related
14 sounds condition.

15 CHAIRWOMAN MARTIN: Sorry. I was
16 looking for my unmute. I think Mr. Arvelo
17 had his hand up before.

18 Mr. Arvelo, do you still have a
19 question?

20 MR. ARVELO: Madam Chair, yes, and
21 it's related to your question and comments as
22 it relates back to Ms. Duprey's concern.

23 The L4, is that a designation of an
24 area on the map, or is that a designation of

1 a specific residential property? And to me
2 they're different, because if it's an area,
3 it could incorporate additional residences
4 that might fall within L4. So I'm trying to
5 understand that.

6 MR. LATOUR: The L4 is actually a
7 point location with very precise GPS
8 coordinates that is located at a specific
9 land owned by a landowner that has refused us
10 access in the past. And so it's not an area,
11 it's really a point location.

12 MR. ARVELO: Thank you.

13 CHAIRWOMAN MARTIN: Ms. Duprey.

14 MS. DUPREY: I'd like to follow up
15 on Mr. Arvelo's question.

16 I do realize that it's a specific
17 location that you're testing from. But is
18 the test of that area -- of that point not
19 applicable to a geographic area? I mean, it
20 would seem to me that it has to be.

21 MR. LATOUR: The difficulty with
22 the pre- and post-project comparison is, and
23 especially in this area, is that the
24 background sound, the sound that comes from

1 the environment itself, could be important
2 depending on the time of the day and the wind
3 speeds, especially, and as you'll see later
4 on your second item of the agenda, the noise
5 generated by the foliage when the trees and
6 the leaves moves following the wind could be
7 important. So a measurement done at an
8 alternate location where we haven't had the
9 opportunity to do a pre-project measurement
10 doesn't give us much to compare with.

11 MS. DUPREY: I see.

12 MR. LATOUR: If there is a concern
13 that we're -- that the levels may step over
14 the line, there's always the complaint
15 validation process where we can assess with
16 the absolute limit of 40 dBA. But for the
17 purpose of performing not only attendant
18 measurement as it is done for complaint
19 validation, but also unattended measurement,
20 it's hard when you don't have the pre-project
21 data to distinguish between the
22 facility-specific noise and what is the
23 contribution of the environment. And that is
24 one of the main reason why we haven't

1 suggested an alternate in this case.

2 MS. DUPREY: Okay. Thank you very
3 much.

4 MR. LATOUR: Pleasure.

5 CHAIRWOMAN MARTIN: I believe we do
6 have Mr. Tocci available as well if those
7 questions -- if the Committee would like to
8 direct any questions to him.

9 Are you all set, Ms. Duprey, or
10 would you like Mr. Tocci to come on?

11 MS. DUPREY: I think I'm good.

12 CHAIRWOMAN MARTIN: Okay. Thank
13 you. Anybody else?

14 [No verbal response]

15 CHAIRWOMAN MARTIN: All right. Are
16 we ready to entertain a motion?

17 I want to confirm we haven't heard
18 from anyone else, Mr. Wind, that they would
19 like to speak?

20 MR. WIND: Correct.

21 CHAIRWOMAN MARTIN: Okay. Thank
22 you.

23 Do we have a motion? I was going
24 to say I'm looking at you, Commissioner

1 Scott.

2 COMMISSIONER SCOTT: I was just
3 looking for permission to speak. So, yes,
4 I'd like to make a motion that -- twofold:
5 That for the -- that we waive, in accordance
6 with Site 302.05, that we waive the -- we
7 grant the waiver for the location, again,
8 conditional upon property owner change of
9 heart for Location 5 -- 4, excuse me -- and
10 we also grant the waiver for the deferral of
11 the spring "campaign" -- I like that word --
12 with a caveat that the data that was
13 collected in the 2020 campaign for the spring
14 also be included with appropriate caveats, so
15 that way the data can still be made public.

16 CHAIRWOMAN MARTIN: Do we have a
17 second?

18 COMMISSIONER SHEEHAN: Commissioner
19 Sheehan. I'll second.

20 CHAIRWOMAN MARTIN: Okay. Any
21 discussion on the motion?

22 Okay. Oh, Commissioner Scott.

23 COMMISSIONER SCOTT: Maybe I don't
24 need to. So, again, looking at 302.05,

1 Waiver of Rules, 302.05(b)(1) talks about if
2 it's in the public interest, the Committee or
3 Subcommittee shall waive a rule if compliance
4 with the rule would be inapplicable given the
5 circumstances. And again, I think that's
6 what we're talking about. I think for the
7 property owner not granting access, that kind
8 of makes it almost impossible for -- well, it
9 is impossible, unless they violate the law
10 and trespass. Similarly with one of the
11 turbines down, they're not able to meet the
12 requirement for, you know, worst case, if you
13 will, for sound, since one of the turbines
14 was down during that earlier session.

15 CHAIRWOMAN MARTIN: So we would
16 find that it serves the public
17 interest because compliance with the rule
18 would be onerous or inapplicable --
19 (connectivity issue)

20 [Court Reporter interrupts.]

21 CHAIRWOMAN MARTIN: I said so we
22 would find that the waiver is in the public
23 interest because compliance with the rule
24 would be onerous or inapplicable. I see

1 Commissioner Scott nodding.

2 COMMISSIONER SCOTT: I agree.

3 CHAIRWOMAN MARTIN: Okay. And then
4 the second part is the waiver will not
5 disrupt the orderly and efficient resolution
6 of matters before the Committee. Any
7 discussion on that?

8 Mr. Arvelo.

9 MR. ARVELO: Just a question. If
10 we approve this, and then in the spring of
11 2021 they go to do the study and there's a
12 turbine or two or some turbine down, they
13 don't have access to L4, what does that do?
14 Does that kind of move it to the next spring,
15 or does that -- so the question in my mind is
16 what happens if those sort of scenarios
17 happen, where a turbine may be down at that
18 time?

19 CHAIRWOMAN MARTIN: Attorney
20 Iacopino, do you want to respond to that?

21 MR. IACOPINO: Sure. Presumably,
22 like with respect to any regulation, we would
23 expect that the regulated entity would make
24 contact with the Committee, advise of any

1 difficulty that they're having, and if
2 appropriate, file a request for a further
3 waiver, given whatever the circumstances are
4 at that time if they deemed it necessary. So
5 I think that would be something that would
6 depend upon what the circumstances are on the
7 given day. We always encourage those in the
8 regulated community, however, to communicate
9 with us. Hopefully by spring of 2021 there
10 will be a new administrator in place so that
11 it's easier for our community, our regulated
12 community, to communicate. But that is what
13 I would foresee the process being if that
14 were to occur, Mr. Arvelo.

15 CHAIRWOMAN MARTIN: Okay. So we
16 have, I think -- Commissioner Scott, did you
17 want to revise your motion to include the
18 findings?

19 COMMISSIONER SCOTT: I'm not sure I
20 follow the question, Madam Chair.

21 CHAIRWOMAN MARTIN: In other words,
22 do you want to move that the Committee find
23 that it's in the public interest and that it
24 will not disrupt the orderly and efficient

1 resolution of matters before the Committee?

2 COMMISSIONER SCOTT: Yes,
3 that's what -- I implied that, but I didn't
4 say it. But yes.

5 CHAIRWOMAN MARTIN: Okay. Attorney
6 Iacopino, do you have a full understanding of
7 the motion? You're on mute.

8 MR. IACOPINO: I believe I do.
9 Thank you.

10 CHAIRWOMAN MARTIN: Okay.
11 Excellent.

12 Commissioner Sheehan, would you
13 like to second the revised motion?

14 COMMISSIONER SHEEHAN: I'm happy to
15 second the revised motion.

16 CHAIRWOMAN MARTIN: Any discussion
17 on the revised motion?

18 [No verbal response]

19 CHAIRWOMAN MARTIN: Okay. Seeing
20 none, let's take a roll call vote, starting
21 with Commissioner Sheehan.

22 COMMISSIONER SHEEHAN: Yes.

23 CHAIRWOMAN MARTIN: Commissioner
24 Scott.

1 COMMISSIONER SCOTT: Yes.

2 CHAIRWOMAN MARTIN: Mr. York.

3 MR. YORK: Yes.

4 CHAIRWOMAN MARTIN: Mr. Arvelo.

5 MR. ARVELO: Yes.

6 CHAIRWOMAN MARTIN: Ms. Duprey.

7 MS. DUPREY: Yes.

8 CHAIRWOMAN MARTIN: And Mr. Kassas.

9 MR. KASSAS: Yes.

10 CHAIRWOMAN MARTIN: Chair votes
11 yes. It's unanimous. The motion carries.

12 Okay. Move on to Item B on the
13 agenda, which the peer review of the Acentech
14 Winter 2020 Sound Monitoring Report authored
15 by Cavanaugh Tocci Associates, dated
16 September 4th, 2020.

17 Again I'll ask Attorney Iacopino to
18 give us some background and overview.

19 MR. IACOPINO: Thank you, Madam
20 Chair. Consistent with the rule governing
21 the post-construction sound-pressure studies,
22 the Applicant -- or the developer, Antrim
23 Wind, filed on May 12, 2020, the Winter 2020
24 Post-Construction Sound Monitoring Report,

1 which was done by their contractor, Acentech.
2 That's A-C-E-N-T-E-H-C-H. It was a lengthy
3 report. There were some complaints heard by
4 the Administrator at the time. The
5 Administrator employed Mr. Tocci to do a peer
6 review of that report.

7 On September, I believe it's
8 September 2nd, Mr. Tocci filed with the
9 Committee a -- I'm sorry -- September 4th,
10 filed a letter with the Committee, giving the
11 Committee the results of his peer review of
12 the report. And essentially, that peer
13 review found that the report was compiled in
14 accordance with our rules and with the
15 standards set forth in our rules and that it
16 was likely that the entire wind array, wind
17 turbine array, was operating within a range
18 of 32 to 38 dBA. That's not at any
19 particular location, I do not believe, but
20 that's the way that that's written. But in
21 any event, Mr. Tocci found that the report
22 prepared met the standards of our rules and
23 the ANSI standards, A-N-S-I, and he
24 essentially endorsed its contents.

1 The one recommendation that he did
2 make was that, in the future, that there be a
3 better explanation of the way the data is
4 collected and the manner in which it is
5 reported so that it reads easier for a
6 layperson who may not have an engineering or
7 acoustic background.

8 There's no -- I mean, what's before
9 the Committee is simply to review that
10 report. You can determine whether you wish
11 to take any action at all. I can tell you
12 that the report is not popular with some of
13 the opponents to the project. And I do
14 understand that Mr. Tocci is available to
15 answer questions.

16 CHAIRWOMAN MARTIN: Ms. Duprey.

17 MS. DUPREY: Yes. In reading this
18 report, and, you know, it's fairly technical,
19 I don't really remember it addressing what I
20 sort of considered as the main issue raised
21 by the complainants, that being the interval
22 that the sound was measured in. The people
23 who object to the report say that it's
24 average in increments that are I think by

1 hour as opposed to, I think I thought it
2 should be seconds, as I'm recalling it. And
3 I'd like to understand where the -- what the
4 average actually was. When I looked at the
5 SEC rule, I saw something about .0125
6 seconds. And so I'm mixed up as to what the
7 standard is and how it got into whatever
8 increment it's in and why that's valid.

9 CHAIRWOMAN MARTIN: Attorney
10 Iacopino, do you have a response to that?

11 And also, I think perhaps we should
12 bring on Mr. Tocci, Mr. Wind, if you could,
13 so he's available for the Committee.

14 MR. IACOPINO: That was going to be
15 my suggestion as well. My answer would be
16 highly untechnical with respect to that, so I
17 would defer that question to Mr. Tocci.

18 MR. WIND: So I've made Mr. Tocci a
19 panelist.

20 So you can turn on your video if
21 you so choose and mute and unmute your own
22 feed.

23 CHAIRWOMAN MARTIN: Welcome, Mr.
24 Tocci. Can you hear me?

1 MR. TOCCI: Yes, I can, Chairwoman
2 Martin. Thank you for inviting me here
3 today.

4 I did prepare the report, sent to
5 Pamela Monroe on September 4, reviewing the
6 Acentech report on measurements done in
7 Winter 2020 of Antrim Wind Farm sound. And
8 the way I went about this is that the first
9 part of the report really touches upon the
10 technicalities of how measurements are to be
11 conducted. And just going through the report
12 and comparing it to the Site 301 standard,
13 301.18 standards, I found that, yes, the
14 procedure that they follow was generally in
15 line with those of 301.18.

16 The data that was reported -- sorry
17 you can't see me. I haven't got an
18 explanation for that. In any event, the data
19 that was presented, it's pages and pages of
20 sound-pressure levels. And I did not attempt
21 to re-analyze the data that was presented in
22 the report. I think that would have been
23 inappropriate. The purpose of a peer review
24 is to identify that the measurements were

1 done in accordance with the site standards.
2 And I reviewed their conclusions, and I see
3 that the logic and the analysis process was
4 correct and that the conclusion they reached
5 was also -- I agreed with that conclusion,
6 being turbine-only sound levels under
7 conditions meeting maximum sound were all
8 below the lowest sound limits for the
9 project. This is found to be the case for
10 all five sound monitoring locations, thereby
11 demonstrating the Project's sound compliance.
12 I had no reason not to accept that, based on
13 their discussion and the way that they -- the
14 description of the computations.

15 But in order to try to sort of
16 arrive at my own conclusion regarding sound
17 levels, what I did was to use a very small
18 amount of data that they had before and after
19 a turbine shutdown in order to estimate the
20 sound levels at that point in time, that
21 three-hour, four-hour window were. And my
22 conclusion was that they were -- they ranged
23 lower than what Acentech had determined, that
24 the sound levels ranged between, I believe it

1 was 27 and 38 dBA. And so that my
2 conclusion, independent of theirs, was that,
3 yes, although I had used a very limited
4 amount of data, that I agreed with them, that
5 the sound levels were acceptable.

6 And now there is a question that
7 has come up regarding the 125 millisecond
8 data. Can you hear me, by the way? Yes?

9 CHAIRWOMAN MARTIN: Yes, we can.

10 MR. TOCCI: The 125 millisecond
11 data. The way sound levels were predicted in
12 the environmental impact process was to use
13 the IEC standard for estimating sound power
14 levels produced by wind turbines. That sound
15 power level was used in a computer program
16 CADMA to estimate what the sound-pressure
17 levels would be at nearest residences, and
18 they were found to be acceptable. That was
19 in the Environmental Impact Statement. The
20 purpose of measurements was to say, well,
21 look, if that was the process, can that
22 process be verified after the facility is
23 built and fully operating? Those
24 measurements that were completed, were

1 completed using the averaging sound level,
2 the equivalent sound level, over I believe it
3 was one hour that they -- or 10 minutes that
4 was used by Acentech. I believe the IEC
5 standard was 10 minutes.

6 That throws into question, well,
7 what is this 125-millisecond measurement all
8 about? And what it's related to is what is
9 normally called "amplitude modulated sound."
10 This is pulsing sound that sometimes occurs
11 for a couple of reasons by wind turbines.
12 And though it's not loud in itself, it is
13 quite detectable and could be a source of
14 annoyance under certain circumstances.

15 The process of going from tower
16 measurements of a wind turbine made by the
17 manufacturer through the Environmental Impact
18 Statement process to measurements made
19 afterwards needs to have a consistent
20 measurement, a consistent measurement type,
21 which is an average sound level. That
22 doesn't take away the fact that you do get
23 detectable amplitude modulated sound. And I
24 think there's a bit of a disconnect that the

1 sound-pressure levels, though they were made
2 in accordance with site standards, Site
3 301.18 standards, may not have directly
4 looked at amplitude modulated sound. And
5 that's only a guess because that's what the
6 125-millisecond measurement may have been
7 pointing to. But it was not clear in the
8 standard, in the original Site 301.18
9 standard, as to how to use that data. It
10 does exist, but it doesn't align with the
11 other descriptors that were used throughout
12 the program.

13 I don't know if I've answered your
14 questions on that, but I'd be pleased to
15 discuss it with you.

16 CHAIRWOMAN MARTIN: Ms. Duprey,
17 you're on mute.

18 MS. DUPREY: Thank you. I don't
19 think you've fully answered it yet.

20 So you say that .0125, or whatever
21 you call it, that that's not the interval to
22 measure. What is the appropriate interval,
23 and where is that set forth?

24 MR. TOCCI: I believe it's a

1 10-minute interval. And I believe it's in a
2 standard. But I'm sorry. I can't -- I
3 should know it, but I can't point it out to
4 you right away. I could dig that out for
5 you --

6 MS. DUPREY: Excuse me. Is it an
7 ANSI standard or a site standard, the New
8 Hampshire regulation standard?

9 MR. TOCCI: Yeah, I believe it's
10 ANSI or IEC.

11 MS. DUPREY: Okay. So you're
12 saying that the sound would be measured, or
13 whatever, the measurement would be taken in
14 10-minute intervals. And then I take it, it
15 is averaged out over an hour; is that
16 correct?

17 MR. TOCCI: Yes, I believe so.
18 Yes, I believe so.

19 MS. DUPREY: And just as a point of
20 curiosity, when you look at the 10-minute
21 intervals, are those within the bounds of
22 what the state regulations require?

23 MR. TOCCI: Generally speaking,
24 they were.

1 MS. DUPREY: Well, I don't know
2 when you say "generally speaking" --

3 MR. TOCCI: There may be one or two
4 that exceed it sometimes for reasons not
5 related to the wind farm. Could be
6 extraneous noise.

7 MS. DUPREY: Okay. And I think I'm
8 correct in summarizing your statement with
9 respect to the interval that is set forth,
10 that it was something that was not connected
11 up with the rest of the rules, essentially?
12 Is that what I'm understanding you to say?

13 MR. TOCCI: I wasn't sure. It's
14 not clear to me in the rules how to use the
15 125-millisecond data.

16 MS. DUPREY: But you don't -- oh,
17 sorry.

18 MR. TOCCI: Yes, in light of the
19 fact that averaging over a much longer period
20 is what normally is done for wind turbine
21 sound.

22 MS. DUPREY: What exactly does that
23 rule say?

24 MR. TOCCI: The rule regarding 125

1 millisecond?

2 MS. DUPREY: Yeah.

3 MR. TOCCI: Yes. Hold on one
4 second. I'll dig that up. I don't have that
5 section in front of me. I would like to read
6 it directly from the site standard.

7 CHAIRWOMAN MARTIN: Ms. Duprey, I
8 could read it if you'd like.

9 MS. DUPREY: That would be great.

10 CHAIRWOMAN MARTIN: It says, No. 6,
11 "All sound measurements during
12 post-construction monitoring shall be taken
13 at 0.125-second intervals measuring both fast
14 response and Leq metrics."

15 MS. DUPREY: So that just sounds
16 pretty clear to me that you're supposed to be
17 measuring in that interval, Mr. Tocci. So
18 how is it that you feel otherwise? What am I
19 not understanding?

20 MR. TOCCI: Right. They are
21 measured in that interval. They just aren't
22 reported. To report 125-millisecond data
23 would require pages and pages of paper. It's
24 hard to use.

1 CHAIRWOMAN MARTIN: Ms. Duprey,
2 that was my understanding, was that they were
3 actually taken at .125-second intervals, but
4 they were not really used in that way. It
5 was very -- I think the requirement is clear.
6 I agree with you. But it wasn't clear to me
7 why it would be required to be done that way
8 if it wasn't meant to be used for a purpose
9 that way. Go ahead.

10 MS. DUPREY: And I raise it because
11 Ms. Linowes represented that she was part of
12 the rulemaking and that they were very
13 specific in wanting this interval. And
14 that's I think what's troubling me about this
15 situation, that here this is sitting in the
16 rule. Experts apparently aren't clear on how
17 it's supposed to be used. She was pretty
18 clear on how it was supposed to be used.
19 Acentech is clear on how it wasn't supposed
20 to be used. And here we are trying to sort
21 the whole thing out, and our expert can't
22 really give us an answer. And it's just
23 difficult and troubling.

24 CHAIRWOMAN MARTIN: Well, I think

1 to Attorney Iacopino's point, we don't have
2 to take a particular action today. Or our
3 action could be that we'd like to hear
4 comment from Ms. Linowes so we can get an
5 explanation.

6 Attorney Iacopino, you had your
7 hand up.

8 MR. IACOPINO: I just wanted to
9 point out, one factor is that the rule does
10 require that the data be accumulated in the
11 125-millisecond format; however, Subsection G
12 of the rule governs how it should be
13 reported. And that portion of the rule says,
14 "For each sound measurement period during
15 post-construction monitoring, reports shall
16 include each of the following measurements,"
17 and then it says LAeq, LA-10 and LA-90, and
18 LCEq, LC-10 and LC-90. So there is a
19 specific rule on how the data is to be
20 reported out and what average the reports are
21 supposed to include. As I understand --
22 well, I'll leave it at that, because what I
23 understand is really better in Mr. Tocci's
24 ballpark than mine.

1 MS. DUPREY: So are you saying,
2 Attorney Iacopino, that those various
3 standards, which I did read the description
4 in someone's report, I think it was Mr.
5 Tocci's report, went through what each of
6 those measurements in fact are? It didn't
7 seem to me that that specified an hourly, if
8 you will, average.

9 MR. IACOPINO: In the Acentech
10 report, there are a number of tables that
11 report both the A-weighted and C-weighted
12 sound metrics at the various locations. And
13 that's the same measurements -- or the same
14 reporting measurements that I read in the
15 rule, the LA-90, LAeq, LA-10 for the
16 A-weighted, and the LC-90 LReq, LC-10 for the
17 C-weighted. There are tables for each
18 location reporting out those hourly sound
19 level summaries --

20 MS. DUPREY: Right, but what's that
21 got to do with the interval?

22 MR. IACOPINO: Well, my only point
23 is that the rule doesn't require that all of
24 the 125-millisecond data be contained in the

1 report. That's all. I mean, the data exists
2 is my understanding.

3 MS. DUPREY: Yeah. But assuming
4 that what you say is so, isn't it also so,
5 that it doesn't say that it should be in an
6 hourly average or a 10-minute average either?
7 I mean, we're kind of at sea here.

8 MR. IACOPINO: I'm just pointing
9 out what was required to be reported, as
10 compared to the other portion of the rule, as
11 to the manner in which the data was to be
12 reported. That's all.

13 MS. DUPREY: So as I --

14 MR. IACOPINO: I'm not trying to
15 take a position one way or another.

16 MS. DUPREY: I'm just trying to
17 follow the logical conclusion of what you're
18 saying. And it seems to me that what you're
19 saying is that it could be any interval at
20 all because there's none specified.

21 MR. IACOPINO: No. I think that
22 goes back to the ANSI standard and the IEC
23 standard that are referenced in the rule as
24 well.

1 MS. DUPREY: Okay. Okay. All
2 right. Thank you.

3 CHAIRWOMAN MARTIN: I think my main
4 concern is I'm still not clear why they
5 required that in the first instance if it was
6 not a meaningful requirement. I think that's
7 what we're trying to get at here.

8 Ms. Duprey.

9 MS. DUPREY: I'm just wondering if
10 there's any legislative history. Or I guess
11 would there not be because it's a rule as
12 opposed to a statute?

13 CHAIRWOMAN MARTIN: Commissioner
14 Scott.

15 MR. IACOPINO: There was hearings
16 to adopt the draft of the rule that was
17 eventually submitted to the JLCAR Committee
18 for approval. I believe that there is a
19 transcript of those proceedings. How in
20 depth it gets into this issue, I don't think
21 it gets very much in depth to it at all. And
22 that's just from my recollection of being at
23 the hearing. But there is a transcript, and
24 it's probably on our web site. I have not

1 looked at it recently.

2 MS. DUPREY: Oh, the transcript is
3 on our web site?

4 MR. IACOPINO: I think it may be.
5 I have to double-check. But it's the
6 rulemaking from, I think it was approximately
7 2016 or 2017.

8 CHAIRWOMAN MARTIN: Commissioner
9 Scott had his hand up. I just want to check
10 in with him in case he was involved or has
11 additional information.

12 COMMISSIONER SCOTT: Well, only a
13 little bit to add. There was a work group
14 that was established, and I think the Office
15 of Energy and Planning, which is now OSI, had
16 a series of stakeholder meetings in --

17 CHAIRWOMAN MARTIN: Just a minute,
18 Commissioner. Ms. Robidas has a --

19 [Court Reporter interrupts.]

20 COMMISSIONER SCOTT: Office of
21 Strategic Initiative. So my understanding
22 is -- my recollection is that they had held a
23 series of work sessions that helped inform
24 our rulemaking. And I think Lisa Linowes was

1 part of that.

2 I will add that, you know, I was
3 part of the rulemaking once at SEC, and I
4 viewed this requirement to be merely an
5 attempt to make sure that the intervals
6 weren't so far apart, that spikes in sound,
7 if you will, were missed in the analysis. So
8 that was my understanding. But that's --
9 anyways, if that helps, that's the
10 recollection I have.

11 MR. IACOPINO: And that docket was
12 2014-04. It is on the web site. There were
13 a number of filings contained in that docket.

14 CHAIRWOMAN MARTIN: Ms. Duprey, any
15 other questions on this? Any suggestions as
16 to action -- (connectivity issue)

17 [Court Reporter interrupts.]

18 CHAIRWOMAN MARTIN: I said any
19 suggestions as to action? As Attorney
20 Iacopino said, we have no specific
21 requirement here. But the Committee could do
22 whatever it deems appropriate under the
23 circumstances. Gather more information?

24 Attorney Iacopino, what are our

1 options?

2 MR. IACOPINO: Further information
3 from either -- (connectivity issue)

4 CHAIRWOMAN MARTIN: Could you just
5 start over.

6 MR. IACOPINO: I'm sorry. You
7 could request further information from the
8 developer. You could request -- you could
9 have a further hearing and invite Ms. Linowes
10 and anybody else who the Committee believes
11 might have a view on how the rules should be
12 interpreted, and to determine whether or not
13 the Acentech report is acceptable. You could
14 encourage the Applicant to -- I mean, if it's
15 feasible to do, and as I understand, it's
16 probably not -- but you could encourage the
17 Applicant to put their report together in a
18 different manner going forward. I think that
19 the options for the Committee are undefined,
20 and, you know, you can do whatever you think
21 will help you understand these
22 post-construction studies. Help you better
23 understand them.

24 CHAIRWOMAN MARTIN: So if I'm

1 understanding it, Mr. Tocci, the data that
2 was collected which was required by the rule
3 has not been reported. So it's available,
4 but it's not reported; is that right?

5 MR. TOCCI: The 125-millisecond
6 data is available but not reported.

7 CHAIRWOMAN MARTIN: And you said
8 that would be pages of data. How many pages?
9 A thousand --

10 MR. TOCCI: Well, there's
11 probably -- let's see. Each 125 milliseconds
12 would be a line of data. And right now in
13 the Acentech report there is probably 30
14 lines of data. So at 125 milliseconds over
15 several days, it probably would be thousands
16 of pages.

17 Frankly, the way it's best reported
18 is either statistically as it has been or to
19 report it graphically.

20 CHAIRWOMAN MARTIN: Any questions
21 from the Committee? What is the will of the
22 Committee related to this?

23 Ms. Duprey.

24 MS. DUPREY: I was wondering if

1 someone with Mr. Getz, I'm not sure if it's
2 Mr. Tocci or the previous individual who
3 testified -- or who answered questions can
4 answer this question for me.

5 We had four noise complaints with
6 respect to the wind towers. And one person,
7 Erin Morrison, is saying that the noise is
8 intolerable, that it kept her up all night.
9 She describes what the noise is. Is that
10 level of sound something that falls within
11 the dBAs or the dBs that are allowed under
12 the standard?

13 MR. TOCCI: This is Greg Tocci.
14 The standard permits 40 at night and 45
15 during the day. Forty at night could make a
16 wind turbine sound predominant, and
17 especially in the absence of wind through
18 foliage and so forth -- or the foliage not
19 being present. That would possibly be a
20 mechanism of annoyance.

21 MS. DUPREY: So 40 dB would allow
22 for the something sound, a constant, uneven,
23 whooshing and thumping sound?

24 MR. TOCCI: It may be audible.

1 MS. DUPREY: Well, I think there's
2 a difference, excuse me, between audible and
3 what she's describing.

4 MR. TOCCI: Hmm-hmm.

5 MS. DUPREY: Are you saying that
6 that could be what she -- that that would
7 still fall within the standard?

8 MR. TOCCI: She may be describing
9 it correctly, and it may still fall within
10 the standard.

11 MS. DUPREY: I'm just looking
12 through the report quickly. My recollection
13 is that there was a -- and it was in the
14 Acentech, I think, report that talked about
15 different levels of sound for different
16 activities. I'm having a hard time getting
17 to that exact page. Could the previous
18 individual direct me to that particular
19 chart?

20 MR. IACOPINO: Page 7 of the
21 Acentech report.

22 MS. DUPREY: Okay. I got it.

23 MR. TOCCI: Yeah.

24 MS. DUPREY: I think I got two

1 Acentech reports, so let me see if I can get
2 to Page 7. Of course it's the last page.

3 All right. Forty. So I'm looking
4 at this chart. It goes from 110, rock band
5 and jet flyover, to -- as a high at 110, to a
6 low of 20, which is a broadcast and recording
7 studio, which I would assume is very quiet.

8 We're at 40, which is just about a
9 third of this level, which is quiet urban --
10 between library, quiet suburb nighttime, and
11 quiet urban nighttime, small theater, large
12 conference room background. This sound that
13 she's describing sounds a lot louder than
14 those things.

15 MR. TOCCI: The way you've
16 described it, I would guess so, yes.

17 MS. DUPREY: Okay. I just want to
18 be clear. I'm not describing anything. I'm
19 reading the chart that was provided by
20 Acentech, which I presume I got from
21 somewhere. It's A-weighted decibel levels.
22 Common outdoor and common indoor sound
23 levels, that's what the one end of the
24 spectrum to the other is in terms of

1 loudness. And I read directly from her
2 letter her sounds, which you told me that
3 those sounds would comport potentially with
4 40 dBs. But that's not anything like what
5 this chart is showing.

6 MR. TOCCI: Understood.

7 MS. DUPREY: I guess, Madam Chair,
8 that's what concerning me about this, that 40
9 dBs, according to the person who -- the
10 Company that runs this facility, their chart
11 is telling us that it's supposed to be pretty
12 quiet at night, and yet the descriptions that
13 we're getting from these folks is that it's
14 way worse than that. So I just am not sure
15 what we do with that. I'm not trying to
16 subject the Applicant to some, you know,
17 onerous standard that isn't required by the
18 regulations, but at the same time, people
19 ought to be able to live in their houses.
20 And certain representations were made. And I
21 assume that this chart was shown to folks
22 when they were ruling on this back at the
23 SEC. And I don't know what else to say. I'm
24 just -- the two pieces don't fit together for

1 me.

2 CHAIRWOMAN MARTIN: I think we
3 could -- we have, as Attorney Iacopino
4 indicated, we have sort of almost any option.
5 We could ask for the data to be given to us.

6 I assume, Attorney Iacopino, that
7 would be okay.

8 We could hold a further public
9 meeting and take public comments so that we
10 get both sides of the -- so that those
11 questions could be answered by the folks who
12 are raising the concerns. We could open an
13 investigation and make it more formal. I
14 think that's up to the Committee to decide
15 where they want to go with this.

16 Commissioner Scott.

17 COMMISSIONER SCOTT: Thanks. With
18 respect to Member Duprey's questions, I would
19 argue that that's almost a different process.

20 So we have, you mentioned, three
21 complaints. And I understand the language
22 used by the complainant. But there's a
23 process by which we're supposed to validate
24 complaints and have the Applicant do that.

1 And I see that as a little bit different than
2 the peer review that we're talking about
3 here. Obviously they're both talking about
4 sounds, so I don't mean they're totally
5 different things. But I see it almost as
6 apples and oranges. I think we have a peer
7 review. You know, is that good enough or
8 not? As you mentioned, Ms. Duprey, you know,
9 is the interval an issue or not? I don't
10 think it is, but that's a valid line of
11 inquiry. But my feeling is that the
12 complaints are a separate venue. It's
13 difficult, I understand, for the people doing
14 the complaining because now you need to
15 mobilize something or somebody to come out
16 and actually do some monitoring with
17 equipment, and that makes it harder. But I
18 see it as almost two different things. So I
19 just wanted to throw that out there, that
20 there is a venue for that.

21 CHAIRWOMAN MARTIN: Ms. Duprey.

22 MS. DUPREY: I really appreciate
23 that. And that makes this clearer.

24 Is Item 3 on our agenda what that

1 procedure is, Commissioner Scott?

2 COMMISSIONER SCOTT: I just lost my
3 agenda. Well, it's certainly closer to that,
4 yes. It's about validating the complaint
5 measurement in the report, yeah.

6 MS. DUPREY: So what is it that
7 we're supposed to do with this Item B? I
8 might be misunderstanding what our purpose is
9 here. Is it just to receive it, Madam
10 Chairwoman?

11 CHAIRWOMAN MARTIN: I think it's to
12 review it, discuss it, and see if the
13 Committee would like to take any other action
14 related to it.

15 MS. DUPREY: On that report.

16 CHAIRWOMAN MARTIN: Yes.

17 MS. DUPREY: Okay.

18 CHAIRWOMAN MARTIN: Attorney
19 Iacopino.

20 MR. IACOPINO: I was just going to
21 point out the same thing, in that it was
22 brought to the Committee's attention because
23 it's somewhat out of the norm, in that,
24 because of the complaints that we received

1 about the Acentech report, we did engage Mr.
2 Tocci, on behalf of the Committee, to
3 peer-review that. We've not had a dispute
4 over post-construction sound studies in the
5 past. So just to give a little background as
6 to why this was brought to your attention.

7 CHAIRWOMAN MARTIN: And I think the
8 interval issue, if I'm recalling the history
9 related to both post-construction monitoring
10 and complaint monitoring, that interval has
11 come up in both realms, although the rules
12 are different. And the rule, the interval
13 rule, is actually in the post-construction
14 monitoring.

15 MR. IACOPINO: That's correct. The
16 125-millisecond rule pertains to the
17 post-construction monitoring. There is a
18 separate rule for validation of noise
19 complaints that requires similar conditions
20 to the time of the complaint and gives the
21 Administrator of the Committee a little more
22 leeway in how to conduct a validation study
23 for a complaint.

24 CHAIRWOMAN MARTIN: Do any other

1 members of the Committee want to speak about
2 this or have thoughts about how to proceed?

3 Commissioner Scott. You're on
4 mute.

5 COMMISSIONER SCOTT: So on this
6 particular item, you know, again, my view is
7 we had a report. We had concerns raised
8 about the report. We hired a -- or
9 authorized the hiring of a specialist to do a
10 peer review. I agree that there's this time
11 interval question out there. But I think
12 we've done our due diligence. The peer
13 review has said that the original report was
14 sound, so I'm comfortable with accepting that
15 myself.

16 MR. YORK: This is Michael York.
17 If we have the data, does it not make sense
18 for us to publish that data and give it to
19 the person who was complaining about the
20 interval?

21 CHAIRWOMAN MARTIN: Attorney
22 Iacopino, is there any reason we couldn't
23 require that to be done?

24 MR. IACOPINO: I'm going to defer

1 to Mr. Tocci for a moment, because I think
2 that data was provided to Ms. Linowes. I'm
3 not sure. But Mr. Tocci was involved with
4 Administrator Monroe at the time.

5 CHAIRWOMAN MARTIN: Mr. Tocci.

6 MR. TOCCI: This is Greg Tocci.

7 Would you like me to respond to that?

8 CHAIRWOMAN MARTIN: Yes, please.

9 MR. TOCCI: Yes, we have the data.
10 I'm not sure I did issue it to Ms. Linowes.
11 But we can do that if required to do so. And
12 it would be delivered as an Excel file, and
13 then she would be able to analyze it or have
14 her consultant analyze it.

15 CHAIRWOMAN MARTIN: I just want to
16 make sure I heard you at the beginning. You
17 said that had not been provided to them
18 prior?

19 MR. TOCCI: I'm not sure if it was
20 ever requested from us.

21 CHAIRWOMAN MARTIN: Okay. Is that
22 something the Committee would like to
23 require? Ms. Duprey -- oh, I'm sorry.

24 Mr. Wind, let's just find out

1 what's --

2 MR. WIND: Mr. Latour would like to
3 respond to that.

4 CHAIRWOMAN MARTIN: Okay. Ms.
5 Duprey, would you like me to let him respond
6 and then go to you?

7 MS. DUPREY: No. I'd rather go
8 first, only because he might be able to
9 answer this question.

10 I understand from Mr. Tocci that
11 this is very voluminous, and which would make
12 sense. And I'm wondering if the data can be
13 filtered, such that it shows us every point
14 where it is above the standard for the times
15 that they measured it. So we don't have to
16 look at all the data, but we can see how
17 often it happened and for how long and draw
18 our own conclusion about that.

19 MR. TOCCI: That's not
20 unreasonable. We would have to come up with
21 an agreed way of filtering it. We'd be
22 filtering to remove -- in the case of the
23 measurements, which is in the next item, Item
24 No. 3, during July of 2020, we -- most of the

1 noise that was prevalent was windblown
2 foliage. That would not be true of the
3 winter measurements done by Acentech. That
4 data we do not have. That would have to be
5 requested through TransAlta, or we'd go back
6 to Acentech. The data that we have is for
7 the evening of July 26th.

8 MS. DUPREY: Right. But it's
9 available. The data is available.

10 MR. TOCCI: It is. Our data is
11 available through TransAlta, yes.

12 CHAIRWOMAN MARTIN: Commissioner
13 Sheehan.

14 COMMISSIONER SHEEHAN: So listening
15 to this conversation -- I am by no means an
16 expert when it comes to analyzing this data.
17 But as I read the report, I believe that the
18 post-construction sound monitoring was
19 performed in accordance with our rules. The
20 measurement was correct. And then you
21 analyze all of those readings. As is
22 outlined on Page 8 of the report, it says,
23 since sound fluctuates from moment to moment,
24 common practice is to condense the sound

1 level over a specific period of time into a
2 single value. And that's what these other
3 values are, the Leq, the L-10, the L-90. So
4 we're talking about reducing additional
5 reports that maybe show just the exceedances
6 of certain thresholds. But following the SEC
7 standards, you are accounting for any
8 fluctuations over specific periods of time.
9 For example, if we're looking at the L-90, a
10 one-hour measurement represents the quietest
11 six minutes. And it's all stated in the
12 report.

13 So I think having now asked Mr.
14 Tocci to validate the approach used by Antrim
15 Wind, you know, I am satisfied that their
16 methodology is appropriate. Now we have to
17 deal with Item 3 on our agenda -- or Item C
18 on our agenda, the actual accusations of an
19 exceedance at a particular time.

20 CHAIRWOMAN MARTIN: Mr. Latour had
21 wanted to respond before, and I didn't get
22 back to him.

23 Mr. Latour.

24 MR. LATOUR: Yes, thank you,

1 Chairwoman Martin. I just wanted to explain
2 that a campaign as we've done in the winter
3 and as we've reproduced in spring, summer and
4 fall, according to the rules, we need to do
5 attended and also unattended measurements.
6 And the unattended measurements, they last
7 for several days, as you've seen in the
8 winter report. So the total of data points
9 that are taken at an eighth of a second,
10 multiply 60 seconds per minute and so on,
11 those are a lot of data points. They could
12 not definitely, in a practical way, be
13 delivered in the report.

14 Moreover, the analysis of the data
15 needs to be done in conjunction with audio
16 files, since we are listening to the sound
17 that was happening at a certain time, to
18 identify either if it was the environment,
19 the environment and the turbines, or mainly
20 the turbines. And we need to recall that the
21 limit is applicable to the turbine sound
22 only. So we need to distinguish any
23 contribution from the environment or, quote,
24 unquote, "the background sound."

1 This is an exercise. And I think,
2 as Mr. Tocci has mentioned it in his peer
3 review, it is necessarily complex. I believe
4 that the report is somewhat clear, and it
5 could always be clearer on how this process
6 was undertaken. The measurement we're
7 taking, as required per rules, and taken
8 using similarly to a camera shutter setting
9 to the proper value, which is an eighth of a
10 second, but this data is aggregated and
11 compiled in such way that you can make trends
12 using statistical level, as the previous
13 member mentioned, using the L-10s and the
14 L-90s that represent the quietest or the
15 highest levels for a specific period. And
16 these values are the ones that we're using to
17 do compliance assessment. This is a trend
18 that is in the industry, and it's also
19 recognized in the ANSI referred to in your
20 rules.

21 So I wanted to provide this
22 clarification, because if we receive a
23 request to provide all the raw data, it will
24 be completely impractical at this point. I

1 will just shed some light on your reflections
2 on this subject.

3 CHAIRWOMAN MARTIN: I assume,
4 though, Mr. Latour, that the raw data was
5 provided to Mr. Tocci.

6 MR. LATOUR: No, this is incorrect.

7 CHAIRWOMAN MARTIN: Okay. So --

8 MR. LATOUR: The report was
9 provided, and his review is based on the
10 content of the report.

11 CHAIRWOMAN MARTIN: Okay. So he
12 didn't review any of the data, just the
13 report and compliance with the rule.

14 MR. LATOUR: Which report contains
15 the data in appendix, but not an eighth of a
16 second, because that would be impractical, as
17 we said.

18 CHAIRWOMAN MARTIN: Okay. Ms.
19 Duprey.

20 MS. DUPREY: I appreciate
21 Commissioner Sheehan's reminding me that the
22 levels talk about the six quietest minutes
23 and the six loudest minutes. I'd forgotten
24 that part of the standard. So that's helpful

1 for me to understand. And I agree with her
2 analysis of the report being prepared in
3 accordance with the regulations. So I think
4 I'm okay with the report itself at this
5 point.

6 I'm just struggling with the
7 disconnect between the standard being 40,
8 which is supposed to be pretty quiet, and the
9 reports of sound that we're getting in the
10 complaints. And I'm not sure what I want to
11 do about that. But at least for Item B, I'm
12 okay.

13 CHAIRWOMAN MARTIN: Commissioner
14 Scott.

15 COMMISSIONER SCOTT: I was just
16 going to ask for clarification. Is
17 presenting the data, if it was requested, is
18 it impractical just to present it, or is it
19 impractical to analyze it in any meaningful
20 way? I just want to get clarification from
21 the Applicant.

22 MR. LATOUR: Well, this is Jeff
23 Latour. It will be impractical to show it
24 probably in the paper version of a report, or

1 even Excel file, because as we've mentioned
2 in the previous letter, dated July 17, the
3 quantity of those data points, it's in the
4 vicinity of 60 million data points. So even
5 in the Excel file, where you're limited to
6 about a million-something rows, it's mainly
7 impractical as we saw. But the analysis, as
8 I mentioned, is done in conjunction by
9 listening to audio files that are gigs of
10 data as well. So it's quite a large amount
11 of data points and information that has been
12 analyzed by Acentech.

13 CHAIRWOMAN MARTIN: How does the
14 Committee want to proceed? From my
15 perspective, I hear what Mr. Latour is saying
16 about the need to analyze in conjunction with
17 the audio, which is very complex. I think if
18 it were just me, I would probably want to
19 hear from the other side, to get a better
20 understanding of why the rule required that
21 in the first place, and then decide whether
22 to get the data and have it provided.

23 Commissioner Scott.

24 COMMISSIONER SCOTT: If I could,

1 I'm wondering if -- right now we're not aware
2 of anybody asking for the data. You know,
3 we're conjecting that Ms. Linowes may want
4 it. But our understanding is no -- we don't
5 have any -- I'm not aware of anybody actually
6 asking for that full amount of data.

7 So I guess what I would suggest is
8 I would like to move that we accept the
9 peer-reviewed study, to put the matter of did
10 this report meet our rules or not to bed, and
11 then leave for another day -- if we do get a
12 request for that information, then requiring
13 it to be produced would be another question
14 for another day.

15 CHAIRWOMAN MARTIN: Before we move
16 off, I just want to make sure we're on the
17 same page on that. And unfortunately, we
18 don't have Administrator Monroe, because I
19 know she could answer that for sure. My
20 recollection was that there was a request
21 that that information be provided. But
22 Attorney Iacopino may know for sure.

23 You're on mute.

24 MR. IACOPINO: I am checking. I

1 was not involved at the beginning when there
2 was a flurry of communication between the
3 Administrator and Ms. Linowes. Hold on one
4 second, see what I can find.

5 (Pause.)

6 CHAIRWOMAN MARTIN: Go ahead,
7 Commissioner.

8 COMMISSIONER SCOTT: I was just
9 adding, while Attorney Iacopino was taking
10 time to look things up, what I think we are
11 sure of is that the Committee has not been
12 asked about this question, I believe.

13 CHAIRWOMAN MARTIN: I think that's
14 what Attorney Iacopino's looking at. I can't
15 say for sure. I know that there was some
16 communication. I don't think the Committee
17 would actually house this information. But
18 I'm not sure if it was to -- who it was to
19 and who it was from.

20 MR. IACOPINO: I can't find a
21 specific request for the data right now.
22 However, I can report that Ms. Linowes has
23 asked the Committee to schedule a technical
24 session to discuss the report.

1 CHAIRWOMAN MARTIN: Attorney
2 Iacopino, is a technical session --
3 (connectivity issue)

4 CHAIRWOMAN MARTIN: Is a technical
5 session something that the Site Evaluation
6 Committee has used in a non-adjudicative
7 setting?

8 MR. IACOPINO: No, we've never had
9 occasion to hold technical sessions, other
10 than in an adjudicative hearing generally on
11 an application. We have had work sessions,
12 but with respect to the promulgation of our
13 rules, where we've broken various aspects of
14 the rules down into committees to formulate
15 proposed rules, which were eventually
16 approved. But in terms of a technical
17 session to review technical details of a
18 particular project that was not in the
19 context of an adjudicative proceeding, we
20 have not had occasion to do that.

21 CHAIRWOMAN MARTIN: Ms. Duprey, you
22 had your hand up before.

23 MS. DUPREY: I did. I'm just
24 reading this letter from Lisa Linowes, dated

1 February 25, 2020, to Ms. Monroe. And on
2 Page 2, under Measurements, she says -- and I
3 don't know if she's quoting from a rule or
4 what -- she says, For the purposes of
5 transparency and repeatability, some logs and
6 audio wave form data will be made available
7 to the parties as requested. The rules call
8 for the supervisory control and data
9 acquisitions, SCADA system data, including
10 hub height, wind speed and turbine power
11 output to be reported for the purposes of
12 validating operating conditions and whether
13 the turbines are operating at full power.

14 She seems to be indicating that she
15 ought to be able to get this information.
16 And in that same paragraph, she's talking
17 about the .125 standard.

18 CHAIRWOMAN MARTIN: Attorney
19 Iacopino.

20 MR. IACOPINO: I would just point
21 out, I believe that letter was in the context
22 of Ms. Monroe presented a protocol for --

23 CHAIRWOMAN MARTIN: Ms. Duprey,
24 could you mute.

1 MR. IACOPINO: Ms. Monroe presented
2 a protocol for the validation of the noise
3 complaints. I believe that that is what was
4 the discussion point during that period of
5 time. I don't believe that there ever became
6 an agreement on the exact protocol to be
7 used. But we did have Mr. Tocci go out to
8 Location 4 and take measurements. That
9 occurred in July of this year. And that was
10 in response to the complaint from
11 Ms. Berwick, who lives at Location 4.

12 CHAIRWOMAN MARTIN: My recollection
13 is that the protocol was adjusted to clearly
14 state that, for that protocol which is in the
15 complaint scenario, it would be taken at the
16 .125 interval. But the same conundrum exists
17 there, in that it's taken in that interval
18 but not used in that interval.

19 MR. IACOPINO: It is not reported
20 in that interval. That's correct.

21 CHAIRWOMAN MARTIN: Would any of
22 the other folks on the line like to respond?
23 Attorney Getz? Mr. Latour?

24 MR. WIND: Both have indicated to

1 me that they have that information. So you
2 can decide which order to go in.

3 MR. LATOUR: This is Jeff Latour.
4 Is it possible to repeat the question?
5 Sorry. I'm not sure I quite understood what
6 you asked.

7 CHAIRWOMAN MARTIN: I'm not sure we
8 have a standing question at the moment.
9 We're discussing the issue of interval
10 requirements and whether -- oh, perhaps the
11 question that's on the table is whether Ms.
12 Linowes had asked the Committee for the data
13 collected at the .125 interval.

14 MR. LATOUR: To my knowledge, Ms.
15 Linowes filed a letter dated May 21, where
16 she requested the data to be provided in
17 electric format. And we have replied to this
18 letter, on July 17, with Section 3,
19 Independent Assessment of Winter 2020 Sound
20 Report. We provide an explanation why we
21 believe it is impractical to provide the raw
22 data. And it's mainly the reason why I just
23 provided minutes ago, about the quantity of
24 data points, the cross-check that needs to be

1 done with the audio file and so on.

2 CHAIRWOMAN MARTIN: Okay. Thank
3 you.

4 Commissioner Scott, Ms. Duprey,
5 does that answer your question?

6 MS. DUPREY: Yes. She wanted the
7 data, and she couldn't get it because it's
8 impractical, as I understand it, given the
9 volume. I'm still not sure why it couldn't
10 be filtered in the way that I suggested and
11 have a more manageable volume.

12 CHAIRWOMAN MARTIN: Would you like
13 Mr. Latour to respond to that?

14 MS. DUPREY: Sure. That would be
15 great. Thank you.

16 MR. LATOUR: The data that is -- so
17 providing a more filtering data, just looking
18 at the portion, let's say for what I believe
19 is suggested here, is to look at the values
20 that are above a certain threshold, you still
21 need to go through all the audio files, at
22 least at the specific time, to identify if
23 the samples -- imagine, an eighth of a second
24 sample is a very short duration. And you'll

1 need to make a determination if it's the
2 environment that contributed to these levels,
3 or the environment and the facility, which is
4 I'll say most probably often the case, or
5 just the facility, which is most often never
6 the case; it's more or less often a
7 combination of the two.

8 So filtering the data as it is
9 suggested is somewhat challenging because you
10 need to always go back and re-listen to those
11 samples. So I would, in my humble opinion,
12 believe it's still somewhat impractical.

13 CHAIRWOMAN MARTIN: Commissioner
14 Scott.

15 COMMISSIONER SCOTT: Thanks. Just
16 to elaborate on that, to me, maybe here is
17 the disconnect. To me, there's a difference
18 between the raw data, which I don't
19 understand why that can't be provided. I
20 understand it may be a lot of data, and data
21 that's been filtered. That I think I
22 understand what you're saying. But I don't
23 follow -- and maybe it wouldn't be of any
24 particular use to her, but that's her

1 decision. I think the raw data should be
2 made available. I don't understand why that
3 can't be made available.

4 CHAIRWOMAN MARTIN: Commissioner,
5 did you want a response to that from Mr.
6 Latour?

7 COMMISSIONER SCOTT: That was my
8 hope, yes.

9 CHAIRWOMAN MARTIN: Okay. Mr.
10 Latour, could you please respond to that.

11 MR. LATOUR: I'm not sure, sorry,
12 that I do understand what's your question,
13 Commissioner Scott.

14 COMMISSIONER SCOTT: I'm trying to
15 understand your statement that it can't be --
16 it's not practical to provide the data. And
17 what I'm suggesting is the raw data. So you
18 have a data set that was collected at these
19 intervals. It may be a large data set. Is
20 it -- what is the technical issue with
21 providing that raw data should she ask for
22 that?

23 MR. LATOUR: Well, in the report,
24 if we were to show those data in a table, the

1 table will make thousands of pages. If those
2 are shown on graph, again, probably hundreds,
3 if not thousands, of pages of graph. So
4 depends on the format. Those data are
5 crunched using proprietary softwares,
6 depending on the sound interval meter that is
7 used. So that's more probably the reason I
8 would state why I still believe it is
9 impractical to share and provide this data
10 for a complete, independent, impartial
11 review. Impartial review. Sorry.

12 COMMISSIONER SCOTT: Right. But if
13 I could elaborate --

14 CHAIRWOMAN MARTIN: Do you think --
15 go ahead. I'm sorry.

16 COMMISSIONER SCOTT: I don't think
17 it's for the Applicant to wonder or put
18 themselves in the requester's position. I
19 think what I'm suggesting is if you have a
20 data set, which you clearly do, and it may
21 not be of great use to anybody because it's
22 so large, and I don't know what the format of
23 it is, that's what I'm suggesting would be
24 made available. And I wouldn't want to make

1 that available unless it was asked for. But
2 I'm not following why that raw data wouldn't
3 be available, understanding from your
4 perspective it may be inappropriate to use it
5 in a certain way. That's a different
6 question than whether the raw data would be
7 made available. That's what I'm trying to
8 understand.

9 MR. LATOUR: I understand your
10 point. And if we are ordered to provide such
11 data, I think one of the first step will be
12 to agree on which format it will be produced.
13 As I said, we're talking about millions of
14 data point. Those will need to be
15 interpreted with the right context and how
16 they gather all -- how they also align with
17 the audio files, which are also several gigs
18 of data. So it's probably not impossible.
19 And we never pretended it's impossible. We
20 always and we're still believing that it's
21 impractical. I hope that answers your
22 question.

23 COMMISSIONER SCOTT: Thank you.

24 CHAIRWOMAN MARTIN: Commissioner

1 Sheehan. Oh, I apologize. Looks like
2 Commissioner Scott's done.

3 Commissioner Sheehan.

4 COMMISSIONER SHEEHAN: So while I
5 acknowledge that Ms. Linowes previously
6 requested the data, in her letter to
7 Administrator Monroe on September 23rd, she
8 doesn't request the data. She's challenging
9 how the data was analyzed. So I don't know
10 that there is necessarily value in providing
11 the raw data if it's not practical to analyze
12 it in the same way as the consultant
13 performing the analysis did. And even Mr.
14 Tocci didn't do analysis of the data itself.
15 He was validating methodology.

16 But in her letter, Ms. Linowes does
17 specifically call out some discrepancy she
18 believes between how the data was analyzed
19 and how it should have been evaluated if you
20 were to follow the ANSI guidelines. This is
21 the area where I would like to focus our
22 attention, is understanding she makes some
23 comments that some of the standards are
24 misapplied and misinterpreted. So I really

1 want to understand more about those
2 particular allegations so that we could make
3 sure -- I mean, that was part of the reason
4 that we wanted to have the independent
5 analysis done. But when it comes to the
6 actual noise exceedances and the complaints
7 that we have received, I would like to
8 understand what data is available and how
9 we're evaluating it, to know whether or not
10 it corroborates with what the abutters have
11 been actually experiencing in terms of
12 individual occurrences.

13 CHAIRWOMAN MARTIN: I understand
14 Attorney Getz also wanted to speak. Are you
15 there, Attorney Getz?

16 Mr. Wind, is he still with us?

17 MR. WIND: He appears to be, and
18 he's not muted at the moment.

19 MR. GETZ: Madam Chair?

20 CHAIRWOMAN MARTIN: Yes.

21 MR. GETZ: Well, it's been a little
22 bit of a moving target. I had first
23 indicated to speak because basically from
24 what Mr. Latour pointed out is that there was

1 a request about the data. So I'll move on
2 from that.

3 But seems to me that there's three
4 separate issues here: What's the status of
5 the peer review, what's the status of the
6 sound valuation reports, and what to do about
7 this other issue of the raw data?

8 With respect to the peer review, I
9 think it's pretty clear that Mr. Tocci finds
10 that the report is consistent with the rules
11 and the ANSI standards. There is this
12 underlying issue, dispute about the
13 eighth-of-a-second measurements versus how
14 the reports should be compiled. And I think
15 Mr. Iacopino covered that. And, you know,
16 there has been claims made by Ms. Linowes
17 that Antrim has replied to both on its own
18 and through the Acentech reports and by the
19 letter in August from Mr. Needleman. So
20 Antrim Wind believes that the measurements
21 and the reporting do not need to be any
22 different than they have been and that the
23 rule is satisfied. So we would hope that you
24 would accept this report and the peer review.

1 There is a separate issue which
2 hasn't been addressed yet about the complaint
3 validation. But Antrim Wind also supports
4 Mr. Tocci's conclusions about the specific
5 complaint validations.

6 And as for the data, of course, Mr.
7 Latour has already indicated that they're
8 prepared to provide it, that volume of data,
9 in some form that would probably have to be
10 worked out.

11 CHAIRWOMAN MARTIN: Okay. Thank
12 you, Attorney Getz.

13 Any further discussion from the
14 Committee? Does anyone want to make a
15 motion? Commissioner Scott.

16 COMMISSIONER SCOTT: Okay. I tried
17 to do it before. I didn't do it very well.

18 So I'd like to make a motion that
19 we accept the Tocci report, the peer review
20 of the Acentech report, and we accept it.

21 CHAIRWOMAN MARTIN: Is that the
22 whole motion?

23 COMMISSIONER SCOTT: Yes. I think
24 that's all we need.

1 CHAIRWOMAN MARTIN: Ms. Duprey, did
2 you hear the motion?

3 MS. DUPREY: That we accept the
4 report.

5 CHAIRWOMAN MARTIN: Yes. Okay. I
6 just wanted to make sure. I know you were
7 moving.

8 MS. DUPREY: Yes, I'm starting
9 packing in a minute. I'm flying out in an
10 hour and a half.

11 CHAIRWOMAN MARTIN: And I'll note
12 we don't have a second yet. Mr. Kassas has
13 his hand up. Mr. Kassas.

14 MR. KASSAS: I would second the
15 motion if we could just add to it, "accept
16 the report and publish it and make it
17 available to all parties involved."

18 CHAIRWOMAN MARTIN: The report or
19 the data? The report is already available.

20 MR. KASSAS: Well, it has a section
21 of the data in it; right?

22 CHAIRWOMAN MARTIN: It doesn't have
23 the raw data that we're talking about, just
24 the analysis.

1 MR. KASSAS: No. It has the
2 tabulated data. That's the one I'm referring
3 to.

4 CHAIRWOMAN MARTIN: Okay. I
5 believe the report is already public --

6 MR. KASSAS: Okay.

7 CHAIRWOMAN MARTIN: -- on our web
8 page?

9 MR. KASSAS: Then I second
10 Commissioner Scott's motion.

11 CHAIRWOMAN MARTIN: Okay. Any
12 discussion?

13 CHAIRWOMAN MARTIN: I think the
14 only piece I would add to this discussion
15 would be, as Attorney Getz described it, and
16 I think it was a good way to describe it,
17 there are three issues, the third of which is
18 the raw data question. I probably would add
19 to this motion "to require the production of
20 the raw data as requested."

21 Any other discussion?

22 [No verbal response]

23 MS. DUPREY: I agree with you.

24 CHAIRWOMAN MARTIN: Okay.

1 MR. KASSAS: Do we intend by "raw
2 data" -- I understand what we discussed about
3 it. But is it in the format of really raw
4 data or in the format of a trend or an
5 analytical meaning?

6 CHAIRWOMAN MARTIN: When I spoke of
7 it, I'm just referencing the raw data with no
8 analysis, no monitoring report, just the raw
9 data --

10 MR. KASSAS: Okay.

11 CHAIRWOMAN MARTIN: -- presumably
12 provided electronically.

13 MS. DUPREY: So is that part of the
14 motion or no?

15 CHAIRWOMAN MARTIN: It is not part
16 of the motion at the moment, unless someone
17 would like to modify the motion.

18 MS. DUPREY: I would modify the
19 motion to include the raw data.

20 CHAIRWOMAN MARTIN: It would have
21 to be Commissioner Scott.

22 MS. DUPREY: Sorry.

23 COMMISSIONER SCOTT: I prefer not
24 to, but I guess I could handle that as a

1 friendly amendment. I would want to add, if
2 we're going to do that, "upon request." But
3 what I don't want to incur is the Applicant
4 having to now massage things. When I talk
5 about "raw data," and it sounds like it would
6 be of little value even if it was requested,
7 is the format that it's in. That's analogous
8 to the people in state government, I think,
9 that if we get an information request, we're
10 not required to create something. We're just
11 required to give what we have, if you will.
12 So I wouldn't want the Applicant feeling
13 that, you know, to be -- I would prefer it to
14 be a separate requirement. But I could live
15 with that as a friendly amendment I suppose.

16 CHAIRWOMAN MARTIN: Ms. Duprey.

17 MS. DUPREY: Just in response to
18 Commissioner Scott. I thought that either
19 Mr. Tocci or Mr. Latour perhaps said that the
20 data actually had been requested.

21 COMMISSIONER SCOTT: That was
22 unclear to me. I thought it was the analysis
23 that was in question, not the raw data. But
24 I'll let them answer that.

1 MR. TOCCI: I don't recall having
2 received a request for data. And the only
3 data I have would be for our four-hour or
4 five-hour measurement on July 26th.

5 CHAIRWOMAN MARTIN: I think what I
6 heard may have been Mr. Latour, that there
7 was a letter dated May 21 requesting the data
8 to be provided in electronic format.

9 MS. DUPREY: Right.

10 MR. LATOUR: This is correct.

11 CHAIRWOMAN MARTIN: Commissioner
12 Sheehan.

13 COMMISSIONER SHEEHAN: I just
14 wanted to clarify that was a letter to Antrim
15 Wind. That wasn't a request of the SEC,
16 correct, unlike the subsequent letter in
17 September that was directed to the SEC
18 discussed the analysis? As long as --

19 [Court Reporter interrupts. Multiple parties
20 speaking.]

21 COMMISSIONER SHEEHAN: I just want
22 to make sure I understand whether the data
23 was requested of this body or of Antrim Wind,
24 so that, you know, you're giving responses to

1 a request versus an independent request that
2 went directly to Antrim Wind.

3 MR. GETZ: Madam Chair.

4 CHAIRWOMAN MARTIN: Is that
5 Attorney Getz?

6 MR. GETZ: Yes, Madam Chair.

7 CHAIRWOMAN MARTIN: Yes. Go ahead.

8 MR. GETZ: So the May 21 letter was
9 addressed by Ms. Linowes to Pam Monroe. And
10 that's at the bottom of Page 2 that talks
11 about the raw data.

12 But to the extent you go ahead on
13 the raw data issue, if Mr. Latour could speak
14 to that, because I think it's going to be one
15 of those issues about how would you actually
16 transmit it, what form, or leave it to Mr.
17 Iacopino or somebody else to mediate how that
18 data might be transmitted. Because I think
19 that could be a significant logistical issue.
20 But Mr. Latour may want to address that
21 further.

22 CHAIRWOMAN MARTIN: Okay. Thank
23 you.

24 Mr. Latour.

1 MR. LATOUR: As you can recognize,
2 those measurement are made by instruments
3 that have proprietary format. And therefore,
4 analysis of, in this case, RION-manufactured
5 sound level meters, a third-party would need
6 to have proprietary software to analyze those
7 data. So as I mention before, these data are
8 crunch and aggregated, and then statistical
9 analysis and averaging are done. As I
10 mention before, this is very unusual, to say
11 the least. And that's why a conversation on
12 what the format is expected from us will need
13 to, I believe, happen before we can even
14 start such exercise that is technically not
15 requested by the rules and inside a report
16 such as this one.

17 CHAIRWOMAN MARTIN: Okay. Thank
18 you.

19 Any further discussion?
20 Commissioner Scott, did you actually amend
21 your motion? Or where are we with your
22 motion?

23 COMMISSIONER SCOTT: Yeah, I'd
24 really rather address this as if we get a

1 request. There's enough complications with
2 it. I would rather keep my motion where it
3 is.

4 CHAIRWOMAN MARTIN: Okay. So we
5 have a motion and a second and we've had
6 discussion. So why don't we take a roll call
7 vote on that motion.

8 Commissioner Scott.

9 COMMISSIONER SCOTT: Yes.

10 CHAIRWOMAN MARTIN: Commissioner
11 Sheehan.

12 COMMISSIONER SHEEHAN: Yes.

13 CHAIRWOMAN MARTIN: Mr. York.

14 MR. YORK: Yes.

15 CHAIRWOMAN MARTIN: Mr. Arvelo.

16 MR. ARVELO: Yes.

17 CHAIRWOMAN MARTIN: Ms. Duprey.

18 MS. DUPREY: Yes.

19 CHAIRWOMAN MARTIN: Mr. Kassas.

20 MR. KASSAS: Yes.

21 CHAIRWOMAN MARTIN: And the Chair
22 votes yes. Motion carries.

23 Okay. I want to note the time. We
24 have now exceeded the hard stop by nearly a

1 half-hour. Are people available to continue
2 on to Item C at this point? We do need
3 everyone in order to continue.

4 MS. DUPREY: I have to catch a
5 plane tonight. I have a car picking me up in
6 an hour and I don't have a packed suitcase.

7 CHAIRWOMAN MARTIN: Okay. So that
8 sounds like a no.

9 Mr. Arvelo.

10 MR. ARVELO: Yes, I -- if we were
11 to continue, I would need 10-, 15-minute
12 break because I'm having back issues, so...

13 CHAIRWOMAN MARTIN: Fair enough.
14 But without Ms. Duprey, we would not have a
15 quorum to continue. And I do want to be
16 sensitive to people's schedules and try to
17 stick to the amount of time that we allotted
18 with this. So I think that we will have to
19 take up Item C and perhaps the issue related
20 to the raw data at another meeting.

21 Attorney Iacopino, anything else
22 that we really need to address before we
23 conclude?

24 MR. IACOPINO: I can't think of

1 anything you need to address. I will write
2 up an order memorializing the motions and
3 votes taken here today.

4 CHAIRWOMAN MARTIN: Okay. Thank
5 you.

6 And other than that, anything from
7 the Committee?

8 [No verbal response]

9 CHAIRWOMAN MARTIN: Thank you. We
10 are adjourned. I appreciate all your time
11 very much.

12 (Whereupon the meeting was adjourned at 5:00
13 p.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed
Shorthand Court Reporter and Notary Public
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certify that the foregoing is a true and
accurate transcript of my stenographic
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I further certify that I am neither
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Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
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N.H. LCR No. 44 (RSA 310-A:173)

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