

1 **STATE OF NEW HAMPSHIRE**2 **SITE EVALUATION COMMITTEE**3 **April 10, 2018** - 1:08 p.m.
4 Public Utilities Commission
5 21 South Fruit Street Suite 10
6 Concord, New Hampshire7 **IN RE: SITE EVALUATION COMMITTEE:**
8 **Public meeting regarding**
9 **Application and Filing Fees**
10 **and a Request for the**
11 **Administrator seeking**
12 **Committee approval to hire**
13 **legal support for post-**
14 **certificate representation,**
15 **and any other business that is**
16 **lawfully before the Committee.**17 **PRESENT: SITE EVALUATION COMMITTEE:**18 Chrmn. Martin P. Honigberg Public Utilities Comm.
19 *(Presiding as Chairman of SEC)*
20 Cmsr. Robert R. Scott Dept. of Env. Services
21 *(Vice Chairman of the SEC)*
22 Cmsr. Kathryn M. Bailey Public Utilities Comm.
23 Cmsr. Michael S. Giaimo Public Utilities Comm.
24 Cmsr. Jeffrey Rose Dept. of Resources &
 Economic Development
25 Cmsr. Victoria Sheehan Dept. of Transportation
26 Christopher Way (Designee) Dept. of Business &
 Economic Affairs
27 Patricia M. Weathersby Public Member
28 Susan V. Duprey Public Member29 COURT REPORTER: *Steven E. Patnaude, LCR No. 52*

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ALSO PRESENT: Michael J. Iacopino, Esq.
(Brennan Caron Lenehan & Iacopino)

Pamela Monroe, Administrator/SEC

Marissa Schuetz, SEC

Eunice Landry, Business Admin./PUC

John Conforti, Asst. Atty. Gen.
(N.H. Department of Justice)

Christopher Aslin, Asst. Atty. Gen.
(N.H. Department of Justice)

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P R O C E E D I N G

CHAIRMAN HONIGBERG: Good afternoon, everyone. We are here for a meeting of the Site Evaluation Committee. We have a couple of things to do on our agenda.

Before we do anything else, let's identify ourselves, because we have at least one new face, and maybe two new faces, who have not done anything with the SEC yet. So, let's start to my left.

MS. WEATHERSBY: Good afternoon.
Patricia Weathersby, a public member.

CMSR. BAILEY: Kathryn Bailey Public Utilities Commission.

CHAIRMAN HONIGBERG: Martin Honigberg. I'm the Chair of the Public Utilities Commission, which, by law, also makes me Chair of the Site Evaluation Committee.

VICE CHAIRMAN SCOTT: Bob Scott, Department of Environmental Services, and Vice Chair of the Site Evaluation Committee.

CMSR. GIAIMO: Michael Giaimo, New Hampshire Public Utilities Commission.

MR. WAY: Christopher Way,

1 representing Business & Economic Affairs.

2 CMSR. ROSE: Good afternoon. Jeff
3 Rose, Commissioner of the Department of Natural
4 & Cultural Resources.

5 CMSR. SHEEHAN: Good afternoon.
6 Victoria Sheehan, Commissioner for the
7 Department of Transportation.

8 MS. DUPREY: Susan Duprey, public
9 member.

10 CHAIRMAN HONIGBERG: Welcome,
11 Ms. Duprey and Commissioner Giaimo, to your
12 first SEC action.

13 Mr. Way, you're here for Commissioner
14 Caswell?

15 MR. WAY: Correct.

16 CHAIRMAN HONIGBERG: Do we have a
17 letter from Commissioner Caswell designating
18 you?

19 MR. WAY: You do.

20 ADMIN. MONROE: I do have a letter
21 here designating Chris Way.

22 CHAIRMAN HONIGBERG: All right.
23 Ms. Monroe, why don't you introduce yourself.

24 ADMIN. MONROE: I'm Pam Monroe. I'm

1 Administrator for the Site Evaluation
2 Committee.

3 CHAIRMAN HONIGBERG: I'll also note
4 the presence of Mike Iacopino, who often does
5 legal work for the Site Evaluation Committee,
6 and who is part of the agenda today. And I'll
7 also note that there are members of the
8 Attorney General's Office here if other issues
9 come up.

10 Ms. Monroe.

11 ADMIN. MONROE: Okay. Yes. This is
12 John Conforti, and he's here for Item 2 on your
13 agenda.

14 So, I sent out to you all an
15 analysis of the evaluation of the fees. RSA
16 168-a [162-H:8-a?] requires the Committee to do
17 an annual review of the fees. The last time we
18 did that was January of 2017. Specifically, in
19 RSA 162-H:8-a, III, requires the Committee to
20 "review and evaluate the application fees and
21 filing fees in the fee schedule at least once
22 per year". Then it provides that "the
23 committee may increase or decrease any amount
24 in the fee schedule by up to 20 percent with

1 prior approval of the fiscal committee of the
2 general court".

3 So, in order to do that, I've put
4 together an analysis for you as to the dockets
5 that have taken place since the updates to the
6 statute, 2014, 2015, and the new rules that
7 were developed and became effective in December
8 of 2015.

9 So, the first item -- the way I have
10 this organized are the completed dockets. The
11 first one was the Merrimack Valley Reliability
12 Project, and I've got a lot of information
13 there for you to kind of put it all in context,
14 the number of days of the hearing and the
15 intervenors. Relative to the Application Fee,
16 it was a \$104,000 fee under the statute as it
17 currently stands today. And the total -- I
18 just want to explain this. In a couple of
19 these dockets, there's a notation where it says
20 "Total charges billed" and then "Total charges
21 paid". The difference between those two
22 numbers is due to the fact that the Attorney
23 General's Office did not submit their request
24 for reimbursement in a timely fashion that

1 allowed for payment of those. So, that's --
2 so, in order for you to get the whole picture
3 of what was actually billed to what it cost, I
4 put that number in there.

5 CHAIRMAN HONIGBERG: Can you
6 elaborate on what you mean by "timely" in that
7 sentence?

8 ADMIN. MONROE: So, my understanding,
9 and I also have Eunice Landry here, our
10 Business Administrator, to back me up when it
11 comes to the numbers. But what's the
12 timeframe, Eunice, where they have to submit
13 their reimbursement, because the books close?

14 MS. LANDRY: We have an extended --

15 CHAIRMAN HONIGBERG: Eunice, use your
16 microphone.

17 MS. LANDRY: Sorry about that. I'm
18 not used to this.

19 We have an extended 12 months, which
20 is July, after the close of the year. And DOJ
21 did not submit invoices for '16 -- fiscal year
22 '16 and fiscal year '17, until fiscal year '18.
23 So, we were not able to reimburse them for '16
24 and '17.

1 CHAIRMAN HONIGBERG: What do our
2 rules say, Ms. Monroe, about the agencies and
3 the AG's Office submittal of the time for
4 reimbursement?

5 ADMIN. MONROE: Well, I don't know
6 that it's necessarily in the -- that this is
7 actually covered in the rules. But there is a
8 recordkeeping and recording procedure that I
9 was required to develop under the statute. And
10 what we've asked for is quarterly, that those
11 bills be provided quarterly.

12 I did also want to note that, when we
13 had the hearing back in January of 2017, Mr.
14 Roth was here for the DOJ, and it was pointed
15 out that their agency was behind with the
16 billing for the various dockets.

17 And I've reached out to all the
18 agencies on numerous occasions to try and get
19 those bills/invoices submitted to the SEC, so
20 that we could pay them.

21 CHAIRMAN HONIGBERG: Are any of the
22 other agencies behind?

23 ADMIN. MONROE: Yes. Mr. Way's
24 agency, they have not --

1 CHAIRMAN HONIGBERG: Whatever it's
2 called this year?

3 ADMIN. MONROE: Yes. Business &
4 Economic Affairs, BEA, Department of Business &
5 Economic Affairs. We've been back-and-forth on
6 numerous occasions to get the hours that
7 Mr. Way spent on the Northern Pass docket, and
8 we haven't got anything that we've paid to
9 date.

10 MR. WAY: And if I could? Yes.
11 We're working with the hours now. Ms. Landry,
12 you've been very helpful with our agency. So,
13 I anticipate that we will certainly make the
14 deadline.

15 But, as we moved to a new agency, we
16 had to work out a lot of the processes. And so
17 I expect that that will occur momentarily. And
18 I'm assuming that it has not happened yet.

19 ADMIN. MONROE: Correct. We need the
20 hourly rate and the --

21 MR. WAY: The overhead.

22 ADMIN. MONROE: I've sent the
23 procedure, the recordkeeping procedures.

24 MR. WAY: No, you've been very

1 thorough. I think the ball is in our court
2 right now.

3 CHAIRMAN HONIGBERG: All right.
4 Ms. Monroe, I distracted you.

5 ADMIN. MONROE: You did. Thank you.
6 I need it today.

7 Okay. So, back to MVRP, the 2015-05
8 docket number. So, the fee was 104,000. The
9 charges billed were -- that's the number you
10 should really, I think, focus on, 36,666. So,
11 significantly below the fee, the Application
12 Fee.

13 But turn to Page 2, which is the
14 Application of the Antrim Wind Project, Docket
15 2015-02. In that case, the Application Fee was
16 \$78,800. And the total charges billed were
17 \$164,534 in that particular docket. And again,
18 the difference between the billed and the paid
19 were the AG's Office late invoices on that.

20 Shall I just move right through them?

21 CHAIRMAN HONIGBERG: I think, if
22 people have questions, they should interrupt
23 you and ask.

24 ADMIN. MONROE: Okay.

1 CHAIRMAN HONIGBERG: But I think you
2 just proceed through the other items in this
3 memo.

4 ADMIN. MONROE: Okay. Then, the
5 third one was the SEC Docket 2015-07. This was
6 presented at the meeting last year. There's
7 been no change. That was a fairly quick
8 proceeding. It was the transfer of ownership
9 for a facility with a certificate. And there
10 were no intervenors. There was agreement by
11 the parties. So, the total Application Fee for
12 a three-member subcommittee is 3,000, and
13 billed and paid was 1,409.

14 Turning to Page 3, this is Item
15 Number 4. It was actually docketed. We've
16 received a notice that they were going to file
17 an application. This is Docket 2015-08, the
18 Tennessee Gas Pipeline. There was never an
19 application that actually was submitted in that
20 docket. But there was a requirement in the
21 statute that the Committee review and decide
22 whether or not they should intervene in the
23 Federal Energy Regulatory Commission
24 proceedings, there was a filing there. And the

1 Committee met to do that. And so, there were
2 charges against the SEC Fund, because there
3 were no fees submitted for that proceeding.
4 That was a statutory requirement. So, that was
5 a total \$2,935 charge to the SEC Fund.

6 Then, we had the rulemaking docket.
7 This was another statutory requirement that
8 required the Committee to adopt rules for the
9 siting of high pressure gas pipelines. And due
10 to the timing of that, in order to accomplish
11 that within the statutory timeframe, it was
12 necessary for me to hire a contractor to do
13 that work, and it was done on time. So, again,
14 those are charges to the SEC Fund to pay for
15 the contractor that assisted me in the
16 rulemaking effort. And that --

17 CHAIRMAN HONIGBERG: And, Ms. Monroe,
18 just to be clear, all of these charges are
19 actually to the SEC Fund. It's just a matter
20 of whether there was --

21 ADMIN. MONROE: A fee.

22 CHAIRMAN HONIGBERG: -- a filing fee
23 paid associated with it, right?

24 ADMIN. MONROE: Yes. Correct.

1 Correct. So, yes. In that event, so it was a
2 statutory requirement, and there was no
3 applicant, so there was no commensurate fee.

4 Then, we've got -- this was another,
5 2016-02, this was another petition to file
6 transfer to -- filed to transfer ownership of a
7 combined cycle gas plant. Those were about at
8 the same time. Public member Weathersby was on
9 both of those and served as the Presiding
10 Officer, so very efficient work there. So, the
11 Application Fee was \$3,000; total charges
12 billed were 502.

13 CHAIRMAN HONIGBERG: So, are you
14 recommending that Ms. Weathersby become the
15 permanent presiding officer for all proceedings
16 going forward?

17 ADMIN. MONROE: Well, her term's
18 coming -- is ending the end of this year. So,
19 I don't know.

20 MS. WEATHERSBY: I think she was
21 recommending that my rate increase.

22 ADMIN. MONROE: Okay. And then we
23 have 2016-03. This was a Petition for
24 Declaratory Ruling. And the Application Fee

1 for that is 3,000; total charges billed were
2 5,936. Now, this is something that the
3 Committee may want to take a look at. Because,
4 in that case, there was actually a filing for
5 rehearing of the Committee's decision, and that
6 filing -- we never met to consider rehearing or
7 how we would process that, and it was
8 eventually withdrawn.

9 But we've also got a recent filing,
10 just yesterday, under -- that is related to the
11 Antrim Wind docket for a Petition for
12 Declaratory Ruling. And again, that would
13 be -- there's some penny issues there. They
14 have asked to waive the fee. There's a
15 statutory fee requirement. Those have just
16 come in. But this is an area where it may
17 actually take -- the charges billed for these
18 things could, I think, significantly cost more
19 than the fee.

20 Then we have the two open dockets.
21 This is SEC Docket 2015-04. This particular
22 filing, this Application has been on hold, not
23 because of anything that the SEC itself has
24 done, but by the request of the parties. And

1 that will be starting to get active when the
2 process -- we've got a new procedural schedule
3 that was just issued last week. We're in the
4 process of scheduling the adjudicative hearings
5 on that. And so, that will be starting to move
6 along again.

7 At this point, the Application Fee
8 was \$88,700ed; and the total charges billed to
9 date are 10,994. Again, because that's been on
10 hold for quite sometime now.

11 And then, lastly, we have the
12 2015-06, the Joint Application of Northern
13 Pass. The Application Fee in that proceeding
14 was \$626,000; total charges billed to date
15 588,438. I imagine we'll be -- we've issued
16 the Order on March 30th. It will be -- I
17 assume we'll get motions for rehearing. So,
18 we'll have to convene the Subcommittee again in
19 that docket to address the rehearing in that
20 case. So, there's still more to come on that.

21 CHAIRMAN HONIGBERG: We're not nearly
22 as far off as I thought we would be. I mean, I
23 was -- there was a bunch of people who were
24 involved in the development of the fee

1 schedule. Craig Wright, from the Department of
2 Environmental Services, was heavily involved,
3 as were others.

4 But I think, if you had told that
5 group that was looking at the fees that we
6 would -- we knew we'd be wrong in many ways.
7 But, if you told us we would have come as close
8 as we did, I think we would have been surprised
9 to learn that.

10 I mean, do you feel like we are --
11 we're at least in the ballpark most of time?

12 ADMIN. MONROE: Yes. I think you're
13 in the ballpark. The one thing that these --
14 so, the numbers that you have here are the
15 reimbursement to the agencies, the
16 reimbursement to the public members, the
17 stipend that they get.

18 But this doesn't include my time or
19 Marissa's time, and the actual administration
20 and management of the Committee.

21 CHAIRMAN HONIGBERG: Is your salary
22 paid from the SEC Fund?

23 ADMIN. MONROE: Yes.

24 CHAIRMAN HONIGBERG: So, we are short

1 then.

2 ADMIN. MONROE: Do you have anything
3 to add, Eunice?

4 MS. LANDRY: Based on -- based on the
5 activity with the Northern Pass docket, in
6 early March we had to adjust the appropriation
7 and add another 185,000 to be able to properly
8 cover the public members and the agency
9 payments.

10 And I'm not quite sure what we're
11 going to see for the rest of the year. But DOT
12 has been averaging about \$5,500 a month; PUC,
13 for two members on Northern Pass, has been
14 averaging about 13.5 [13,500?]; DES about
15 7,500; and DOJ is 9,600 a month. And covering
16 those four agencies, we have 19 more months
17 that we could experience bills.

18 CHAIRMAN HONIGBERG: Well, except
19 Northern Pass is nearing its conclusion, so
20 that -- I mean, we're clearly not going to be
21 spending at the rate that we were.

22 MS. LANDRY: I wasn't aware whether
23 or not it was going to get reopened or --

24 CHAIRMAN HONIGBERG: Anything is

1 possible.

2 MS. DUPREY: I wanted to ask about
3 that as well, Mr. Chairman.

4 So, when and if it goes to the
5 Supreme Court, who represents the SEC there?
6 And is that something that's paid out of this
7 SEC budget?

8 CHAIRMAN HONIGBERG: I'll ask to be
9 corrected if I say anything wrong by the
10 lawyers out there. But the short answer is "no
11 one". There will be parties who have an
12 interest in the case who will argue for and
13 against the decision that the agency -- that
14 the SEC has made.

15 There are times when an agency, the
16 Public Utilities Commission, for example, will
17 have a representative argue a position in the
18 Supreme Court. There are circumstances where,
19 for one reason or another, an argument would
20 need to be made that the parties wouldn't make,
21 that the agency itself needs to make on behalf
22 of --

23 MS. DUPREY: Okay.

24 CHAIRMAN HONIGBERG: -- its

1 jurisdiction, its -- some position that it's
2 going to take that the parties wouldn't.

3 There are also situations where there
4 may be a private individual, who doesn't have
5 resources, who's the beneficiary of a decision
6 made by the Commission, the PUC. And in that
7 instance, the AG's Office has been representing
8 of that position --

9 MS. DUPREY: Okay.

10 CHAIRMAN HONIGBERG: -- in the
11 Supreme Court.

12 Mr. Aslin, did you want to say
13 something?

14 MR. ASLIN: Yes. Just to add to
15 that.

16 In the event that there's an appeal
17 of any docket, and Counsel for the Public
18 participates in the appeal, I haven't
19 double-checked the statute, but, since Counsel
20 for the Public is able to charge its time to
21 the Fund for SEC proceedings, that may also be
22 an additional charge on an appeal. I'm not
23 positive, though.

24 CHAIRMAN HONIGBERG: Nor am I, but

1 you're right to make that observation.

2 Is there anything I should add,
3 Mr. Conforti, Mr. Iacopino?

4 MR. CONFORTI: No.

5 *(Atty. Iacopino indicating in*
6 *the negative.)*

7 CHAIRMAN HONIGBERG: Commissioner
8 Bailey.

9 CMSR. BAILEY: Ms. Monroe, you didn't
10 say, but I assume that the charges billed
11 include the Committee's attorneys' fees or is
12 that wrong?

13 ADMIN. MONROE: No. Those are billed
14 to the applicant.

15 CMSR. BAILEY: Oh. They're billed
16 directly to the applicant?

17 ADMIN. MONROE: Mr. Iacopino's fees?

18 CMSR. BAILEY: Yes.

19 ADMIN. MONROE: Are billed to the
20 applicant.

21 CMSR. BAILEY: Okay. All right.
22 Thank you.

23 MS. DUPREY: A further question?

24 CHAIRMAN HONIGBERG: Ms. Duprey.

1 MS. DUPREY: So, just roughing this
2 out, quickly going through this, it looks like
3 we're short maybe \$31,000 on the closed
4 matters, and another -- and we're up maybe
5 \$38,000, not counting the Seacoast matter that
6 is still open. Is that approximately right?

7 ADMIN. MONROE: I haven't done that
8 math.

9 MS. DUPREY: Okay.

10 ADMIN. MONROE: But, if you have, I
11 would accept that.

12 MS. DUPREY: I think it's important
13 for us to have that math.

14 CHAIRMAN HONIGBERG: Yes. I think
15 that math is generally right, except I don't
16 think it accounts for the salaries to the --

17 MS. DUPREY: Right.

18 CHAIRMAN HONIGBERG: -- to the
19 employees of the agency.

20 MS. DUPREY: Yes. Which we need to
21 have. I mean, in order to figure this out, I'm
22 not really sure how we can do it without having
23 those numbers, whether we should raise the fees
24 or not.

1 CHAIRMAN HONIGBERG: Ms. Landry, are
2 you able to shed some additional light on this?

3 MS. LANDRY: I can't give you total
4 administrative costs easily. But I can tell
5 you what the employees have costed so far this
6 year.

7 This would be through the end of
8 March: Ms. Monroe is almost 78,000; our
9 part-time person is around 15,000; and the
10 benefits for those two are at 32,000.

11 CHAIRMAN HONIGBERG: So, that's from
12 July 1, 2017 through March 2018?

13 MS. LANDRY: March -- the end of
14 March, yes.

15 CHAIRMAN HONIGBERG: That's
16 three-quarters of a year.

17 Commissioner Scott.

18 VICE CHAIRMAN SCOTT: Administrator
19 Monroe, I was curious, in trying to come up
20 with what should have been the invoiced
21 amounts, you know, what's our cost, the fact --
22 correct me if I'm wrong, the fact that certain
23 entities haven't actually billed, doesn't
24 preclude you from an estimate, right? I mean,

1 you know how many hours the members spent in
2 deliberations, how many hours they spent in
3 hearings. What you don't know is other time.
4 But am I correct you could at least make an
5 estimate? You know, the AG's Office didn't
6 bill, fine, but you should have an idea of
7 roughly how much they could have billed, is
8 that correct?

9 ADMIN. MONROE: Well, it's reflected
10 in the "total charges billed". So, the
11 difference between the billed and the paid --
12 let's take Northern Pass, because that one is
13 significant.

14 So, the charges billed to date is
15 588,438; total charges paid: 455,819. The
16 difference between those two numbers is what
17 the Attorney General's Office billed, but were
18 not paid.

19 CHAIRMAN HONIGBERG: And what's
20 missing from the 588 number is the agency that
21 hasn't submitted all of its time. Although,
22 you can probably ballpark that based on what
23 the other agencies have billed. Yes?

24 ADMIN. MONROE: Yes. We could

1 estimate, make an estimate based on that, yes.

2 VICE CHAIRMAN SCOTT: Yes. That was
3 my point. Thank you.

4 ADMIN. MONROE: Yes.

5 VICE CHAIRMAN SCOTT: And help me
6 also, this is my bad memory. So, I'm assuming
7 SEA-3 is not on this list, that was before the
8 law change, is that correct?

9 CHAIRMAN HONIGBERG: I can answer
10 that. It was after the law changed, but before
11 the fee schedule was set. So, I don't think
12 SEA-3 had a fee associated with it.

13 ADMIN. MONROE: Yes.

14 CHAIRMAN HONIGBERG: That was when
15 all expenses were covered out of the money that
16 came from the Renewable Energy Fund, the seed
17 money, basically, for the SEC -- for the new
18 SEC.

19 ADMIN. MONROE: Yes. That was
20 before -- that was, I think, just when I
21 started, which was around, I think it was
22 ending, September 2015.

23 CHAIRMAN HONIGBERG: Do you have a
24 recommendation as to what fees might be

1 adjusted? Because we would -- we have
2 20 percent leeway, we would need to go to
3 Fiscal Committee to get prior approval. That's
4 what you read earlier, correct?

5 ADMIN. MONROE: Yes.

6 CHAIRMAN HONIGBERG: So, do you have
7 a recommendation as to where we might adjust?
8 It seems like Antrim Wind is a miss. So, --

9 ADMIN. MONROE: Yes. I think Antrim
10 Wind is a big miss. And also considering that
11 was the second time, granted, it was a new
12 subcommittee and a new set of rules, but it's
13 clearly a big, big miss.

14 CHAIRMAN HONIGBERG: When you say it
15 was a "second time", what you mean is that it
16 was the second time that a project called
17 "Antrim Wind", with some of the same
18 characteristics, had been before a Site
19 Evaluation Committee subcommittee?

20 ADMIN. MONROE: Yes.

21 CHAIRMAN HONIGBERG: Okay.

22 ADMIN. MONROE: And let me also add
23 before, that's on appeal up to the Supreme
24 Court. And the oral arguments took place the

1 end of January. We've yet to get a decision.
2 But I guess there's a chance that it could get
3 remanded back to the SEC. But I just -- I
4 don't know where the court will come down on
5 that. So, there could be additional charges.

6 VICE CHAIRMAN SCOTT: And as Attorney
7 Aslin just reminded us, and I don't know if
8 this is the case, but the Counsel for the
9 Public is part of that court case. So, in
10 theory, they could be charging also?

11 ADMIN. MONROE: They didn't -- I
12 don't believe they filed a brief, but they have
13 been filing additional post-Certificate
14 challenges to some of the filings that the
15 Antrim Wind has made in order to comply with
16 the Certificate. And those charges they have
17 been charging, those are included in here.

18 VICE CHAIRMAN SCOTT: Thank you.

19 CHAIRMAN HONIGBERG: Commissioner
20 Bailey.

21 CMSR. BAILEY: Do you think that
22 Northern Pass, although it looks good now, is
23 going to be about right? Or, I mean, we know
24 that it's likely to be appealed. Does that

1 count as a post-certificate challenge? Is that
2 what you called it?

3 ADMIN. MONROE: Well, I was referring
4 to the Antrim Wind, the filings that have been
5 coming in.

6 CMSR. BAILEY: But anything that
7 happens after the decision is made is called a
8 "post-certificate", is going to cost things?

9 CHAIRMAN HONIGBERG: Well, wait.
10 Let's just be clear, Antrim Wind, a certificate
11 was granted.

12 CMSR. BAILEY: Right.

13 CHAIRMAN HONIGBERG: And so, there is
14 oversight/administration issues arising from
15 activity because the Applicant has a
16 certificate.

17 Northern Pass is a different
18 situation. Northern Pass does not have a
19 certificate. So, it would be -- I expect,
20 although there's -- anything is possible, that
21 most of what we're going to see is going to be
22 related to the decision that was made in that
23 docket, and specifically to things that people
24 want to change in that docket. It's not a

1 certificated project.

2 CMSR. BAILEY: I see now.

3 ADMIN. MONROE: Thank you.

4 CMSR. BAILEY: So, do you think that
5 Northern Pass is close to right or is there
6 really no way to know yet?

7 ADMIN. MONROE: Yes. I wouldn't --
8 I've learned not to hazard a guess in some of
9 these things.

10 CMSR. BAILEY: So, we really can't
11 take anything from the numbers related to
12 Northern Pass. It's better to look at the
13 numbers for the closed dockets?

14 ADMIN. MONROE: For instance, I don't
15 know how much, you know, the AG's Office is
16 up-to-date on that, but I don't know how much
17 time they have been spending, you know,
18 their -- they're probably still spending time
19 reviewing, you know, the Certificate that was
20 issued and --

21 CHAIRMAN HONIGBERG: You mean the
22 order that just went out?

23 ADMIN. MONROE: I mean the order that
24 was issued, excuse me, the order that was

1 issued on the 30th. Sorry.

2 CHAIRMAN HONIGBERG: You just gave
3 Mr. Aslin a heart attack.

4 ADMIN. MONROE: I know he knows
5 what's in the order.

6 MS. DUPREY: So, aside from the wind
7 case, which is --

8 *[Court reporter interruption.]*

9 MS. DUPREY: Sorry. Aside from the
10 wind case, which is a miss by about \$85,000, it
11 seems like the other place where we're missing
12 is staff, which would be spread across all of
13 the applications. You know, and we had a
14 couple of wins, too. I guess the first docket
15 of the closed matters, and that -- that was it.

16 But it seems that really we need to
17 spread somehow, or I don't know how we normally
18 assess that, but we're not taking into account
19 the staff, or that's one argument, that we're
20 not taking into account the staff.

21 CHAIRMAN HONIGBERG: Well, let me
22 respond to Ms. Duprey real fast, before
23 Commissioner Scott goes into questions.

24 What you said is correct. I think

1 that there are limitations on what we're going
2 to be able to do in terms of changing the fees.
3 All we can do is raise or lower, we can't
4 restructure. Because it would seem like there
5 might be an opportunity, if we had free rein,
6 to maybe think about changing the way we treat
7 reliability projects, reliability transmission,
8 and maybe lowering the fee somehow there, if
9 something has been certified as a reliability
10 project.

11 But also I think one of the things we
12 thought might happen is that wind projects
13 would become more challenging than they had
14 been in the past. That's probably -- the
15 limited evidence we have so far says that's
16 true. And so, maybe wind projects should have
17 a higher filing fee.

18 ADMIN. MONROE: Well, on that, Antrim
19 Wind was below the jurisdictional threshold,
20 but the Committee took jurisdiction over it.
21 For the wind, there's two different charges.
22 If it were 40 megawatts or more, it would be
23 \$1,500 per megawatt. It was \$1,000 per
24 megawatt for the Antrim Wind, because it was

1 less than 40. You know, I don't know if that
2 500, if it were a larger project, if that \$500
3 per megawatt would make up the difference, if
4 you will. I don't know that the -- the actual
5 size of the project. I think, if the SEC has
6 jurisdiction over it, it may -- the fees may
7 not be high enough, I guess.

8 CHAIRMAN HONIGBERG: I mean, I think
9 one of the things we talked about in the
10 discussions that led up to the fee schedule had
11 to do with how many communities a project
12 affects, and that's one of the things that
13 increases costs. And if it crosses county
14 lines, that adds an element of additional cost.

15 Can one of you tell me what the rough
16 size is of some of the other wind projects that
17 have come, you know, Groton Wind and some of
18 the others that have come through?

19 Mr. Iacopino.

20 MR. IACOPINO: Sure. The largest is
21 the Granite Reliable Project, which we did
22 quite a few years ago, and I think that was at
23 99 megawatts. The Groton Wind, if I remember
24 correctly, is 48 megawatts. Lempster Wind was

1 under the jurisdictional threshold as well, I
2 believe that it was 24 megawatts. The original
3 Antrim Wind was 30, the original docket that
4 came on an application. The second docket for
5 an application called "Antrim Wind" was 28.

6 Did I miss -- I think that's all the
7 wind projects we've had. And we did -- we have
8 responded, and this isn't included in your
9 Application Fees, to requests for declaratory
10 rulings at very small wind projects up in the
11 Berlin area, were not subject to our
12 jurisdiction. That was before the fee
13 structure was in place as well. I think that
14 was called "Jericho Wind". It was very small,
15 like 4 or 5 megawatts.

16 So, as far as wind goes, I think that
17 wind -- the wind cases tend to get complicated,
18 because you have very large structures,
19 generally confined in a fairly small area that
20 affect a lot of people and draw significant
21 interest in the community, and under our new
22 statute and rules, significant attempts at
23 public participation.

24 There were I think, and I know that

1 Pam has listed the exact number, but there were
2 a number of intervenors in the Antrim Wind, in
3 every Antrim Wind docket that we've had. I
4 think that that's a concern. We had the same
5 issues with Groton Wind and with Granite
6 Reliable. Those -- they generated intervenors.
7 Granite Reliable was long enough ago that it
8 was at a time when we got very few intervenors.
9 And I think at that point we had four or five,
10 which was, at that time, unheard of. But
11 things have -- public participation has been
12 growing. And wind cases are, at least in my
13 opinion, the type of case that attracts the
14 local involvement.

15 I mean, in our wind cases, we've had
16 like the Board of Selectmen come in and take
17 one position, the Planning Board come in and
18 take another position. They get very
19 complicated. So, I would just point that out
20 for the Committee.

21 In addition to the fact that we
22 haven't had, other than the Granite Reliable
23 Project, we haven't had any truly large ones,
24 where you're talking 100 megawatts or

1 thereabouts, which is what some other of our
2 neighboring states from time to time face.

3 CHAIRMAN HONIGBERG: Thank you. That
4 was helpful.

5 Commissioner Scott.

6 VICE CHAIRMAN SCOTT: Thank you.
7 Attorney Monroe, so remind me, or maybe
8 Attorney Iacopino, if say we raise the fees,
9 the fee structure within the 20 percent that
10 the law allows and we get Fiscal Committee
11 approval, if we develop a surplus, what are our
12 options then? I assume we can lower it also,
13 correct?

14 ADMIN. MONROE: Yes. The statute
15 provides that, yes, once per year -- "may
16 increase or decrease any amount in the fee
17 schedule by up to 20 percent, provided any such
18 increase or decrease shall occur not more
19 frequently than once during any 12-month
20 period".

21 MR. IACOPINO: And you are required
22 to evaluate every year, --

23 VICE CHAIRMAN SCOTT: Correct.

24 MR. IACOPINO: -- what you're doing

1 here, so that the evaluation is required.

2 VICE CHAIRMAN SCOTT: So, I'm
3 suggesting, if we did do an increase, and we
4 guessed wrong, and suddenly we're developing a
5 surplus, we could correct the next year, is
6 what I'm suggesting. Is that correct?

7 ADMIN. MONROE: Yes.

8 VICE CHAIRMAN SCOTT: Also, I don't
9 know what your crystal ball shows. Let's
10 assume for a moment you go for a dry spell,
11 which I'm sure at the moment you would love to
12 have, where there's no applications in the
13 foreseeable future. We need a baseline for
14 staff, because we need to keep the capacity,
15 correct? I'm sure you agree, you'd like to
16 stay employed?

17 *[No verbal response.]*

18 VICE CHAIRMAN SCOTT: She didn't
19 answer "yes" to that.

20 *[Laughter.]*

21 VICE CHAIRMAN SCOTT: And, so, is
22 there a base amount of financing that we feel
23 we need, even if we don't get an application?

24 MS. LANDRY: I believe part of the

1 statute is that we can -- the SEC can receive
2 money from the Renewable Energy Fund in the
3 amount of 480,000. We would most likely need
4 that next year.

5 VICE CHAIRMAN SCOTT: Can you
6 clarify? You're saying, if we don't increase,
7 at the current burn rate, you would need to hit
8 some other funding source, is that what my
9 understanding is?

10 MS. LANDRY: Yes.

11 ADMIN. MONROE: Yes. I think what
12 she said, if no additional applications are
13 received, so no additional funding, that we
14 would need to burn into the REF funds next year
15 to fund.

16 MS. LANDRY: Especially if there's a
17 requirement to go out and do any analysis on
18 any of the approved applications, we would need
19 money for that.

20 VICE CHAIRMAN SCOTT: And are you
21 seeing, I don't need you to name names, are you
22 seeing activity as far as new applications?

23 ADMIN. MONROE: Yes. Actually, I was
24 out -- I went out to Fitzwilliam last week to

1 meet with the Planning Board there. They asked
2 me to come and just talk generally about the
3 process. But there is a -- and I've met with a
4 developer, Mike and I have met with them, for a
5 30-megawatt solar project in Fitzwilliam,
6 NextEra Energy.

7 And then the other project that I'm
8 aware of is the Granite Bridge Project, which
9 would be a pipeline from Manchester to Hampton,
10 down Route 101. It would be a gas pipeline,
11 with storage facility.

12 Those are the two that I'm aware of.
13 And there may be another solar project, too, in
14 Hinsdale. But my understanding is the
15 Fitzwilliam project is further along than the
16 project in Hinsdale. Those are the two I know
17 about.

18 VICE CHAIRMAN SCOTT: Thank you.

19 CHAIRMAN HONIGBERG: Do you have a
20 recommendation as to what we should do with the
21 fees? Should we request Fiscal Committee
22 approval to bump up some filing fees and some
23 of the variable fees, some of the base fees and
24 some of the variable fees?

1 ADMIN. MONROE: I think it would be
2 appropriate on the wind. I don't know what the
3 number should be. But I think it would
4 probably be appropriate to increase perhaps the
5 base, the base filing fee.

6 CHAIRMAN HONIGBERG: Well, we can
7 only do that by \$10,000. So, that only --

8 ADMIN. MONROE: Yes.

9 CHAIRMAN HONIGBERG: That 20 percent
10 would get us from 50 to 60.

11 ADMIN. MONROE: Right.

12 CHAIRMAN HONIGBERG: And we could
13 also do the variable part of it for the next
14 wind project. It would seem -- it would seem
15 like something we should strongly consider
16 doing.

17 ADMIN. MONROE: I would agree.

18 CHAIRMAN HONIGBERG: What about base
19 fees on some of the other types of projects?
20 I've forgotten, I don't have the statute in
21 front of me. Is it 50 pretty much for
22 everything, and then variable fees, depending
23 on what it is?

24 ADMIN. MONROE: Yes. It's a 50,000

1 base charge.

2 MR. IACOPINO: For a facility.

3 ADMIN. MONROE: Energy facility.

4 CHAIRMAN HONIGBERG: So that doesn't
5 distinguish between or among wind or any other
6 type of facility, because I'm looking at what
7 we can change. And we can change that number,
8 we can't change the statute in any other way,
9 right?

10 Somebody respond to that.

11 ADMIN. MONROE: It says "any amount
12 in the fee schedule".

13 CHAIRMAN HONIGBERG: "Amount".

14 ADMIN. MONROE: So, I would -- I
15 believe that would be the 50,000 base charge,
16 which is for electric generating facilities,
17 transmission facilities, and other energy
18 facilities. There's a 50,000 base fee for all
19 three of those. And then you've got the per
20 megawatt fees for the transmission per mile as
21 well, and for the wind per megawatt, then the
22 gas, gas pipeline.

23 CHAIRMAN HONIGBERG: How would a
24 large solar project fit into that? Would that

1 be considered a "generation facility"?

2 ADMIN. MONROE: I think it would,
3 yes, it would be "other energy facilities".

4 MR. IACOPINO: But there is nothing
5 above of the base fee, I don't believe, --

6 ADMIN. MONROE: No.

7 MR. IACOPINO: -- for a solar
8 facility.

9 ADMIN. MONROE: Right.

10 MR. IACOPINO: That was never worked
11 into the original schedule. So, the base fee
12 for a solar facility would be a \$50,000 filing
13 fee, at least according to my read of the
14 statute.

15 CHAIRMAN HONIGBERG: Commissioner
16 Scott.

17 VICE CHAIRMAN SCOTT: Attorney
18 Iacopino makes a good point. I think that
19 would certainly argue on my side that -- my
20 thinking that we should at least try to move
21 that \$50,000 base charge higher.

22 I shudder to think, if we had a huge
23 solar project, I don't know how much that would
24 cost. I don't know.

1 CHAIRMAN HONIGBERG: And I'd like to
2 move up the wind variable what we can, because
3 that -- I think it was not a surprise. I think
4 someone looked at the trajectory of how many
5 days wind projects have taken, from the first
6 wind project to the most recent one before the
7 fee schedule was developed, and saw an upward
8 slope in the number of days that those
9 hearings -- that those proceedings took to
10 hear. And certainly, Antrim Wind I think would
11 plot well on that upward slope.

12 MR. IACOPINO: Yes. The wind
13 proceedings got -- required more and more days
14 of hearings as the applications came in over
15 time.

16 ADMIN. MONROE: Well, and I would
17 argue that the rules, because the new rules
18 went into effect in 2015, there were additional
19 requirements in the rules for wind that I don't
20 believe were in there prior, which is the noise
21 standards. And so, those things take longer to
22 hash out through the adjudicative process.

23 CHAIRMAN HONIGBERG: All right. So,
24 I would like to see that changed as well. I

1 would like to see us up the per megawatt
2 charges by the 20 percent for wind projects as
3 well.

4 What else is a target out there that
5 might affect this? You mentioned "declaratory
6 rulings".

7 ADMIN. MONROE: Yes.

8 CHAIRMAN HONIGBERG: I mean, the most
9 we could move that would be what, \$600?

10 ADMIN. MONROE: Right.

11 CHAIRMAN HONIGBERG: I'm not sure
12 that's worth it.

13 MR. IACOPINO: Well, it's 2,000 on a
14 full subcommittee. Well, the petition for a
15 declaratory ruling for a full subcommittee is
16 \$10,500. So, it would be 20 percent of that.

17 If it's heard by a three-member
18 subcommittee, it's \$3,000. So, it would be
19 20 percent of that.

20 CHAIRMAN HONIGBERG: Ms. Weathersby.

21 MS. WEATHERSBY: Sure. Just a quick
22 question. For the declaratory rulings, it's my
23 understanding, and it may be a
24 misunderstanding, but they're filed to get a

1 ruling on an issue in an underlying docket.
2 And so, just structurally, I know we can't
3 change the structure, but could someone explain
4 to me why that is done separately and not part
5 of the underlying docket?

6 MR. IACOPINO: Actually, they're not
7 generally done to -- in an underlying docket.
8 If there's an underlying docket, the parties
9 should have the opportunity to address whatever
10 issues occur in that docket. Although, we did
11 have the one that's caused some damage to the
12 budget here, where the parties from Northern
13 Pass brought a declaratory ruling petition.
14 And I think one of the reasons that the
15 Committee denied it was because there was
16 already the underlying docket going on. So,
17 they're not always brought in the context of an
18 underlying application or some other docket.
19 They can be brought -- well, we have a separate
20 category now for changes of ownership and
21 things like that.

22 A classic case would be the case I
23 raised before, with the small wind farm up in
24 Berlin, I think it was called "Jericho Wind".

1 They came in because they had to convince their
2 financiers that they were not going to be
3 subject to the jurisdiction of the Committee.
4 So, they filed a petition for declaratory
5 ruling that they were not subject to
6 jurisdiction. And of course, that was before
7 there was fees. And I don't know if that
8 decision would change their calculus now. But
9 that was their decision at the time, to come
10 get that, so that they could convince the folks
11 that were financing their project that they
12 weren't going to have any trouble from this
13 Committee.

14 CHAIRMAN HONIGBERG: So, did the old
15 statute not have the exemption provision that
16 the current statute has? Because there is a
17 fee set forth here for petitions for exemption,
18 which is what they were presumably looking for,
19 right? Or, where they truly filed as a DJ,
20 saying "we're not subject to the jurisdiction
21 of"?

22 MR. IACOPINO: At the time, they
23 filed it as a DJ, as a declaratory ruling, yes,
24 as a declaratory judgment. Because they

1 clearly were not over 30 megawatts, so they
2 weren't -- it's not as though there was
3 jurisdiction and they were seeking to be
4 exempted from it. It was "We know we don't
5 have it. We want a declaratory ruling that we
6 don't." And that was their purpose.

7 And, of course, at that time, I don't
8 think there was any fees at all.

9 CHAIRMAN HONIGBERG: All right.
10 Anyone have any thoughts they want to offer up
11 about what we should do?

12 Commissioner Bailey.

13 CMSR. BAILEY: I'm not sure I
14 understand it, and I don't have the statute in
15 front of me that sets up the fee schedules.
16 But what I think I understand is that --

17 *[Admin. Monroe handing document*
18 *to Cmsr. Bailey.]*

19 CMSR. BAILEY: Thank you. That we
20 can only raise the application fees by \$10,000.
21 So that might get us, if we have two or three
22 applications a year, an additional \$30,000.
23 And that's certainly not going to cover the
24 expenses of the administrative -- of the

1 administrator and her --

2 CHAIRMAN HONIGBERG: Well, you didn't
3 have the benefit of having the statute in front
4 of you.

5 CMSR. BAILEY: Okay.

6 CHAIRMAN HONIGBERG: But, if you have
7 a chance now, you'll see that, for many types
8 of facilities, there's a base charge, and then
9 a variable charge, depending on how big it is
10 or how many miles it goes. And if you were to
11 add up the Northern Pass filing fee, the bulk
12 of that filing fee was associated with how many
13 miles that transmission line traveled. And so,
14 we could affect -- we could change both
15 numbers --

16 CMSR. BAILEY: I understand that.

17 CHAIRMAN HONIGBERG: -- on a
18 particular fee.

19 CMSR. BAILEY: But, on a 30-megawatt
20 wind farm, if we change the -- how much extra
21 revenue would that generate, if we change the
22 per megawatt fee? What's the per megawatt fee
23 on a wind farm right now?

24 ADMIN. MONROE: It's a thousand if

1 it's under 40.

2 CMSR. BAILEY: Okay.

3 ADMIN. MONROE: And it's 1,500 if
4 it's greater than 40.

5 CMSR. BAILEY: So, \$200 times
6 30 megawatts is 6,000? Or is it 60,000?

7 ADMIN. MONROE: Oh, you're asking me
8 to do math?

9 CMSR. BAILEY: Six thousand, yes.
10 Six thousand. That's not a whole lot of money.
11 It's not going to cover the expenses of the
12 Administrator. That's the point I'm trying to
13 make.

14 CHAIRMAN HONIGBERG: Well, but it's
15 not nothing.

16 CMSR. BAILEY: Right. Right, that's
17 the most we can do, except for if we change the
18 law?

19 CHAIRMAN HONIGBERG: Right. Which we
20 may well want to consider doing. But, again,
21 keep in mind, this is the -- this statute and
22 fee schedule have only been in place for a
23 couple of years. And we're supposed to review
24 it every year.

1 CMSR. BAILEY: Uh-huh.

2 CHAIRMAN HONIGBERG: And there are
3 many reasons why we might be loathe to go in to
4 the Legislature seeking a change to a statute.

5 CMSR. BAILEY: I agree. I was just
6 looking for what our range of options are.

7 CHAIRMAN HONIGBERG: Yes. One of the
8 options would be to request a change in the fee
9 schedule by statute.

10 CMSR. BAILEY: Or probably until
11 we've exhausted all other options, that's not
12 even a good idea to try.

13 CHAIRMAN HONIGBERG: Those were your
14 words.

15 Commissioner Scott.

16 VICE CHAIRMAN SCOTT: I suggest that
17 we do make a fiscal request for the
18 20 percent -- 20 percent, right?

19 CHAIRMAN HONIGBERG: Uh-huh.

20 VICE CHAIRMAN SCOTT: -- allowed on
21 the application, the base fee. And the other
22 thing is -- I agree, that's where I was going.
23 The Chair reminds me about the per megawatt fee
24 on wind, I would want that changed also.

1 And maybe as a parking lot, the Chair
2 just mentioned law changes. We see the
3 potential now, which I don't think was ever
4 envisioned, of very large solar installations
5 coming before us. I think it's fair to say,
6 when the statute was -- even this latest round,
7 that wasn't on the radar screen. I think we
8 ought to think about a legislative change, or
9 at least bringing that up as a potential,
10 because I see one or two things happening. A
11 large solar project coming in and not nearly
12 being able to cover the cost, in which case
13 it's effectively being subsidized by some other
14 fee payer or the Renewable Energy Fund, and I
15 don't think that was envisioned.

16 So, we could put that in the parking
17 lot for now, if you want. But I think that's
18 something we ought to be advocating for.

19 CHAIRMAN HONIGBERG: I have no doubt
20 that in the fall there will be any number of
21 legislators who would be interested in taking
22 out LSRs on issues related to the Site
23 Evaluation Committee.

24 Are there other fees on the schedule

1 that we should -- Ms. Weathersby.

2 MS. WEATHERSBY: I'm wondering if we
3 might want to raise the per mile fee, at least
4 on non-reliability projects. I think Northern
5 Pass, if we include the administrative staff,
6 we're probably pretty close to what has been
7 paid. And if that does continue, it will go so
8 far over, it will be crazy.

9 But, just for projects in the future,
10 I'm wondering if we do need to put a 20 percent
11 jump on the per mile fee for non-reliability
12 projects, where that might give us a little bit
13 more of a cushion. Because, for projects that
14 would be approved, there's not only the
15 approval process to get the certificate, but
16 also there's a lot of follow-up work that needs
17 to get done to make sure that all the
18 conditions are satisfied.

19 And that, you know, had Northern Pass
20 been approved, there would be no money left in
21 that account for a lot of ongoing work of some
22 of the conditions that were being considered.

23 So, I'm kind of thinking out loud,
24 but it seems to make sense to me to also

1 increase that fee, for at least for
2 non-reliability projects.

3 CHAIRMAN HONIGBERG: Two questions
4 for counsel or the Administrator in response to
5 that.

6 First, as I read the statute, we
7 can't distinguish between reliability projects
8 and non-reliability projects under the current
9 law, correct?

10 ADMIN. MONROE: Right.

11 CHAIRMAN HONIGBERG: So, we would --
12 that's another thing we might need a statutory
13 change to accomplish.

14 ADMIN. MONROE: I would just -- I
15 know the Merrimack Valley Project was a
16 reliability project, and it came in well under.
17 But, based on what I've seen in the Seacoast
18 Project, as of where we are right now, I don't
19 know that you can -- I would just caution you
20 about the fact that the reliability projects
21 might cost less, based on what I've -- how I've
22 seen the progression and the issues that have
23 come up in the litigation to date, and we
24 haven't even really moved the bar. So, --

1 CHAIRMAN HONIGBERG: So, a sample
2 size of one isn't good enough for you?

3 ADMIN. MONROE: No. I just throw it
4 out there as a caution.

5 MR. IACOPINO: The statute says that
6 you "may increase or decrease any amount" --
7 "any amount in the fee schedule", referencing
8 the former section. There is no distinction
9 between a reliability or non-reliability
10 project in the fee schedule right now. So, at
11 least on its plain language, it seems you would
12 need an amendment to the statute to make that
13 distinction.

14 CHAIRMAN HONIGBERG: Now, with
15 respect to the second part of what
16 Ms. Weathersby talked about, the monitoring and
17 consideration of post-certificate construction
18 or other issues, do the certificates, when they
19 are granted, and they contain conditions
20 related to construction, are those paid for by
21 the applicant? One would think so.

22 Ms. Monroe.

23 ADMIN. MONROE: As far as for my time
24 overseeing those? No.

1 CHAIRMAN HONIGBERG: What about other
2 conditions? If, for example, the Committee
3 delegated some oversight to the Department of
4 Environmental Services, would the Department of
5 Environmental Services get compensated by
6 anyone?

7 ADMIN. MONROE: I don't know. I
8 don't believe so.

9 CHAIRMAN HONIGBERG: What's the
10 history on this, Mr. Iacopino?

11 MR. IACOPINO: There is none.
12 There's really no history on it. We don't have
13 any recent or even older experience with these
14 types of fees and how they're applied,
15 especially after a certificate has been
16 granted.

17 We have had cases where we've had
18 post-certificate proceedings, such as
19 Granite -- Groton Wind, we had some
20 post-conviction -- "post-conviction" --

21 CHAIRMAN HONIGBERG: What kind of law
22 --

23 *[Laughter.]*

24 MR. IACOPINO: -- post-certificate --

1 CHAIRMAN HONIGBERG: What kind of law
2 do you practice on your day job again,
3 Mr. Iacopino?

4 MR. IACOPINO: Sorry, that's my
5 other -- that's my other hat, I'm very sorry.
6 But we have had some post-certificate
7 litigation in some other contexts. But not
8 where there's been a -- none under the present
9 statutory framework.

10 But it's certainly something you
11 should consider. And I don't think you can do
12 much about it, given the constraints of the
13 statute. But it may be something that the
14 Committee might want to consider, in terms of
15 suggesting future legislation.

16 CHAIRMAN HONIGBERG: All right.
17 Commissioner Scott, you had an idea there. Do
18 you want to make a motion?

19 VICE CHAIRMAN SCOTT: Oh, a motion?
20 I was going to go down this path.

21 CHAIRMAN HONIGBERG: If you want to
22 talk about something else before you make your
23 motion, you can talk about something else.

24 VICE CHAIRMAN SCOTT: Along the same

1 lines, and so just to recap what I think
2 Attorney Iacopino was talking about. If we go
3 back to Groton Wind, we had a case where one of
4 the citizens in the area, who happened to be an
5 intervenor earlier, if I remember correctly,
6 say that the Certificate conditions weren't
7 being met. So, effectively, they were the
8 moving party, I suppose, in that case.

9 MR. IACOPINO: Well, that was all
10 done in the same docket at the time. We never
11 opened up a new docket in Groton Wind for those
12 things. And the situation was that they
13 actually built -- the Applicant determined on
14 its own that they would build their control
15 center on the other side of a brook from where
16 we permitted it, and they decided that was a
17 minor modification. And most every other party
18 in the case disagreed with them about that.
19 And that then led to, as most of these cases
20 do, a lot of other complaints that came up, and
21 there was concerns about the -- about the
22 grade, whether the road was graded
23 appropriately, whether emergency vehicles could
24 get up there.

1 And ultimately, it came to a
2 settlement. But, yes, it got very complicated
3 afterwards.

4 VICE CHAIRMAN SCOTT: But my point
5 was, that was after the Certificate was issued.

6 MR. IACOPINO: Yes.

7 VICE CHAIRMAN SCOTT: Actually, the
8 facility was built. The Applicant -- I guess
9 the Applicant did come in and say "we need to
10 change our Certificate", I'm trying to
11 remember. But my question --

12 MR. IACOPINO: Eventually.

13 VICE CHAIRMAN SCOTT: Yes. My
14 question is this: As one of my concerns
15 generally is, under 162-H:4, powers and duties
16 of the Committee, we have a responsibility to
17 monitor construction and operation of any
18 energy facility granted a certificate to ensure
19 compliance with the certificate. And I'm a
20 little -- I'm not aware of much activity down
21 that path. This is probably the closest we
22 have, where we have -- which is Groton, where
23 we had some non-compliance, we ended up having
24 a proceeding that rectified that I think, at

1 least in my mind.

2 So, I guess I would ask,
3 Administrator Monroe, we're talking budgets and
4 maybe potential need for law changes. Help me
5 here. What's the plan? So, how do we know, as
6 a committee, that we're doing -- we're
7 executing our charge here?

8 ADMIN. MONROE: Well, I mean,
9 certainly, it's been a -- it's a priority of
10 mine at some point to get out and do some
11 compliance inspections of these facilities.
12 It's just been time at this point.

13 So, I mean, I've followed up on --
14 we've had various complaints from the
15 intervenor in the Merrimack Valley Reliability
16 Project. I went out there, DES went out there.
17 There was exchange of letters.

18 But, beyond that, there's been no
19 activity as far as oversight of the facilities
20 that have certificates to determine compliance
21 with those to date.

22 VICE CHAIRMAN SCOTT: And on the
23 potential need for a law change, when I look at
24 the application schedule, the fee schedule, if

1 you personally go out for us, as the Committee,
2 for the Committee, and you find a compliance
3 issue, and you effectively bring a certificate
4 holder in, who pays for that work?

5 ADMIN. MONROE: Well, there is, if
6 you look at H:12, V, if it ended up as an
7 enforcement action, it says "The full amount of
8 costs and expenses incurred by the committee in
9 connection with any enforcement action...in
10 which" -- so, you'd have to -- the person would
11 have to be "determined to have violated the
12 provision...shall be assessed...and paid by
13 that party to the committee."

14 But, if it wasn't successful, there
15 would be no payment, I guess is how I read
16 that. Your thoughts on that, Mike?

17 MR. IACOPINO: No, I agree with
18 Administrator Monroe. I'd just point out that,
19 in order to -- every compliance inspection
20 doesn't result in a violation. So, in fact, we
21 hope that our permit holders/certificate
22 holders are complying with the conditions, but
23 we have to check.

24 So, there's really no way to get

1 funding through enforcement for what we hope
2 every certificate holder does, which is abide
3 by the conditions of their certificate.

4 VICE CHAIRMAN SCOTT: So, let me put
5 this another way. So, we're talking budgets,
6 funding for the future. Do you, Attorney
7 Monroe, do you feel you need staff?
8 Consulting? Do you need extra funds? What do
9 you need to meet that requirement of the law?

10 ADMIN. MONROE: Well, I think it
11 would definitely be staff, or it could be a
12 consultant under the statute. I mean, I
13 pondered this a bit in my free time. And, you
14 know, I think -- I just thought generally about
15 kind of what type of skill set I would need
16 and, you know, what I know is what I equate
17 from what I did at Environmental Services. You
18 know, I probably need like an Environmentalist
19 4/Labor Grade 27. I had Eunice cost that out.
20 And, you know, fully loaded, with benefits, it
21 would be anywhere from 80,000 to a little over
22 100,000 a year for that staff person.

23 Now, could we do what we needed to
24 do? I don't know. But, certainly, I'm not

1 able to do it at this point in time.

2 MS. DUPREY: I don't know, it just
3 seems to me a full-time person is overkill for
4 what we need here. And I wonder if there is a
5 contract person we could use potentially. And
6 I wonder, if we're looking at changing the
7 statute, if, in fact, we should look to
8 institute some kind of an inspection fee, which
9 is traditional in towns and cities when they're
10 inspecting construction. And I know it
11 introduces a new element.

12 But, if we're expected to carry this
13 out, that's generally how it's done. And then
14 we wouldn't be in the business of guessing this
15 or over-employing. And then we should seek to
16 determine what is reasonable in terms of our
17 inspections.

18 ADMIN. MONROE: Well, and I would
19 add, that's why I haven't -- I've had a
20 part-time person that I've employed, because,
21 when I came here, I wanted to kind of get a
22 feel for what skill set I might need or what
23 the requirements are. So, that's the very
24 reason at this point in time why there isn't,

1 you know, --

2 MS. DUPREY: Thanks. I understand.

3 CHAIRMAN HONIGBERG: So, Ms. Monroe,
4 in addition, I guess, to statutory changes, as
5 the budget process is beginning to ramp up,
6 whether we should consider a position or a
7 part-time position in the SEC's budget. And
8 also then potential statutory changes to impose
9 inspection fees and authority to retain experts
10 or consultants for those. All of those things
11 should probably be on the table.

12 So, you're taking notes on all these
13 things we're doing?

14 ADMIN. MONROE: Yes.

15 CHAIRMAN HONIGBERG: All right.

16 MS. DUPREY: Mr. Chairman, would you
17 anticipate that were we to determine that we
18 needed statutory changes, that it would be in
19 the next year, not this year?

20 CHAIRMAN HONIGBERG: No, it would not
21 happen this year.

22 MS. DUPREY: Okay.

23 CHAIRMAN HONIGBERG: We're too far
24 into this session. Unless we had an emergency

1 situation, it would be highly unusual, I think,
2 for us to get --

3 MS. DUPREY: Okay.

4 CHAIRMAN HONIGBERG: -- changes made.

5 MS. DUPREY: Good. I would feel
6 better about that. Also, we have the close of
7 the third year. And it seems to me it would be
8 useful if we could look at the three years, and
9 the over/under each year, to better, you know,
10 analyze this. And then, by the time before
11 that year gets rolling, we'll have a sense of
12 what applications are coming in and know what
13 our commitments are to our staff and whatnot,
14 and what kinds of fees we'll have, and just
15 have more information. Thanks.

16 CHAIRMAN HONIGBERG: It's nice to be
17 optimistic.

18 MS. DUPREY: Yes, it is.

19 CHAIRMAN HONIGBERG: Commissioner
20 Sheehan.

21 CMSR. SHEEHAN: In light of the small
22 number of applications we're getting in each
23 category, I'm wondering if perhaps we would
24 want to increase our fees across the board by

1 the 20 percent that we have latitude to do so
2 with Fiscal concurrence?

3 I'm just looking at the fact that we
4 might have a pipeline project coming forward,
5 that would be 1,500 per mile. And since we're
6 not covering the cost of staff, would that be
7 the most straightforward way to handle this,
8 because we have the evidence of the application
9 fees aren't keeping pace with the cost of
10 supporting the projects?

11 CHAIRMAN HONIGBERG: That would
12 certainly be a plausible thing for us to
13 consider.

14 Would you like to turn that into a
15 motion?

16 CMSR. SHEEHAN: I would be happy to
17 turn that into a motion.

18 CHAIRMAN HONIGBERG: So, I think
19 Commissioner Sheehan's motion is to increase
20 all of the fees in the schedule by 20 percent,
21 or more precisely to request permission from
22 the Fiscal Committee to do that.

23 Is there a second for Commissioner
24 Sheehan's motion?

1 CMSR. BAILEY: I'll second.

2 CHAIRMAN HONIGBERG: All right.

3 Discussion?

4 Ms. Weathersby.

5 MS. WEATHERSBY: Just a quick
6 comment. It seems, though, on the requests
7 that we've had for change of ownership, that
8 those are coming way under the schedule. And I
9 don't know want to overcharge either and stifle
10 any kind of -- so, I'm just, rather than a
11 blanket 20 percent, I wonder if we want to
12 exclude transfer of ownership requests?

13 CHAIRMAN HONIGBERG: Similarly, I was
14 wondering whether we would focus on
15 applications, on the items that are in I guess
16 it's subparagraphs (a), (b) and (c).

17 CMSR. SHEEHAN: My only concern --

18 *[Court reporter interruption.]*

19 CMSR. SHEEHAN: I'm sorry. But my
20 only concern was we fell short with the
21 declaratory ruling. So, we do perhaps need to
22 change that one within the filing fee category
23 for administrative proceedings.

24 CHAIRMAN HONIGBERG: Other thoughts?

1 *[No indication given.]*

2 CHAIRMAN HONIGBERG: No one has any
3 other thoughts?

4 MS. DUPREY: I think we should raise
5 them across the board.

6 CHAIRMAN HONIGBERG: All right. I
7 think we're probably ready to vote then on
8 Commissioner Sheehan's motion.

9 Any further discussion?

10 *[No indication given.]*

11 CHAIRMAN HONIGBERG: Seeing none, all
12 -- oh, Commissioner Bailey. Just in time.

13 CMSR. BAILEY: I actually am
14 sympathetic to the certificate to transfer
15 ownership. If we are -- if we have been
16 overcharging for those, and we're going to
17 increase all the other fees, maybe we decrease
18 that one fee, just based on the experience that
19 we have. I don't know.

20 And if that's the way I thought it
21 should go, would I have to vote against
22 Commissioner Sheehan's motion?

23 CHAIRMAN HONIGBERG: Yes. I mean, we
24 could do this a bunch of ways. If Commissioner

1 Sheehan agrees with you, she could withdraw her
2 motion and make a new motion. Or, if what
3 people wanted to vote down Commissioner
4 Sheehan's motion, could bring a new motion.

5 But I think, before we get there, Ms.
6 Monroe.

7 ADMIN. MONROE: I would just like to
8 add one little food for thought. In that the
9 Antrim Wind facility, there has been -- I've
10 been notified by attorney for them that there's
11 a potential that, depending on -- there's lots
12 of contingencies, but depending upon what
13 happens with the Supreme Court decision, that
14 there may be a transfer, there may be a seller
15 coming in.

16 So, keep that in mind, given all the
17 litigation that's taken place in that case.

18 CHAIRMAN HONIGBERG: Ms. Weathersby.

19 MS. WEATHERSBY: And am I inferring
20 in your statement just for the record here that
21 that would probably be a contentious and more
22 involved and extensive proceeding than the
23 others that have come before us?

24 ADMIN. MONROE: Based on the filings

1 that I've seen to date, which relate to a
2 condition in the Certificate, and it has to do
3 with the equity and debt that was litigated in
4 the adjudicative proceeding, I would hazard a
5 guess in that case, but, yes.

6 CHAIRMAN HONIGBERG: Commissioner
7 Giaimo.

8 CMSR. GIAIMO: Just a question or a
9 clarification with respect to the motion.

10 Would that be only for projects or
11 proposals going forward, nothing for anything
12 that's in the queue?

13 CHAIRMAN HONIGBERG: Yes. We
14 couldn't impose a new fee on someone who has
15 already filed.

16 CMSR. GIAIMO: Just wanted to make
17 sure that's understood. Okay. Thanks.

18 CHAIRMAN HONIGBERG: Commissioner
19 Scott, then Commissioner Bailey.

20 VICE CHAIRMAN SCOTT: As much as I'm
21 loathe to increase fees anywhere, I do think
22 this is warranted, given the limited experience
23 we have that I've already identified. And this
24 is no reflection at all on the Administrator.

1 We haven't even fully touched everything that
2 the charge of the Committee is supposed to do.
3 I think the across-the-board increase is
4 warranted.

5 And I'll wish the Chair luck at the
6 Fiscal Committee.

7 CHAIRMAN HONIGBERG: I may be
8 unavailable that day. My Vice Chair may have
9 to go.

10 Commissioner Bailey.

11 CMSR. BAILEY: I'm all set.

12 CHAIRMAN HONIGBERG: All right.
13 Commissioner Bailey says she's all set.

14 Yes. I still maintain that, if you
15 had told me three years ago that we would be as
16 close as we were, I'd have been very surprised
17 that we are. But I, too, think that it makes
18 sense to request permission to increase the
19 fees across the board.

20 I anticipate some challenging
21 questions from Fiscal because of limited
22 experience and no experience in some of these
23 categories. But I think the knowledge and the
24 ability to demonstrate that we are under the

1 overhead requirements should be persuasive to
2 reasonable minds. We'll keep our fingers
3 crossed on that.

4 Is there any other discussion before
5 we take a vote on Commissioner Sheehan's
6 motion?

7 *[No indication given.]*

8 CHAIRMAN HONIGBERG: All right.
9 Seeing none, all in favor say "aye"?

10 *[Multiple members indicating*
11 *"aye".],*

12 CHAIRMAN HONIGBERG: Any opposed?

13 *[No indication given.]*

14 CHAIRMAN HONIGBERG: All right. The
15 "ayes" have it. It's unanimous.

16 Ms. Monroe, we have another agenda
17 item. And I believe, Ms. Duprey, you're going
18 to recuse yourself from any participation on
19 this?

20 MS. DUPREY: I am.

21 *[Microphone interference.]*

22 MR. CONFORTI: Sorry.

23 ADMIN. MONROE: Moving mikes, sorry.

24 CHAIRMAN HONIGBERG: Ms. Monroe.

1 ADMIN. MONROE: So, Item 2 of the
2 agenda, I sent out a post-engagement
3 certificate letter from Attorney Iacopino's
4 office.

5 CHAIRMAN HONIGBERG: Let's go off the
6 record for a minute.

7 *[Brief off-the-record discussion*
8 *ensued.]*

9 ADMIN. MONROE: So, this has come up,
10 again, not thinking about how these projects
11 would all unfold, but we've had issues, as I've
12 mentioned a little bit as we went through the
13 fees, relative to Antrim Wind. We've also had
14 the complaints related to the intervenor in the
15 Merrimack Valley Project. And some of those
16 pertain to legal issues of which I need advise
17 from counsel.

18 And so, I've looked at -- I sent a
19 request over to the Attorney General's Office
20 to look at whether or not there was authority
21 in the statute for these post-certificate
22 representations, as well as who would pay for
23 those.

24 So, I've asked Mr. Conforti to come

1 here, and if you have questions about that. I
2 think our position is that it's provided for in
3 the statute and rules.

4 CHAIRMAN HONIGBERG: Mr. Conforti.

5 MR. CONFORTI: Yes. I agree with
6 Ms. Monroe. We reviewed the statutes and the
7 administrative rules that are referenced in the
8 agenda. And it's our belief that the Committee
9 has the authority to have representation --
10 have the Administrator get legal representation
11 post-certification for review of your
12 jurisdiction that's set out in various statutes
13 relating to oversight of post-certification
14 activities.

15 So, I'd be happy to answer any
16 questions that you may have on that.

17 CHAIRMAN HONIGBERG: Is it clear from
18 the set-up who would pay for counsel's
19 representation?

20 MR. CONFORTI: Our interpretation
21 would be that the applicant -- I don't know if
22 it's appropriate to still call them an
23 "applicant" post-certification, but the
24 applicant who has been certified would still be

1 responsible for those fees post-certification.

2 CHAIRMAN HONIGBERG: Does anyone have
3 other questions for Attorney Conforti or for
4 Ms. Monroe?

5 *[No indication given.]*

6 CHAIRMAN HONIGBERG: So, what do you
7 need from us, Ms. Monroe? Do you need a motion
8 to --

9 ADMIN. MONROE: Yes.

10 CHAIRMAN HONIGBERG: -- to authorize
11 you to retain counsel?

12 ADMIN. MONROE: Well, the rules
13 require Committee approval to engage additional
14 technical/legal/administrative support. So, --

15 CHAIRMAN HONIGBERG: And is that
16 authorization to you or is it authorization to
17 the Chair?

18 MR. CONFORTI: I believe it's
19 authorization from the Commission to -- or, the
20 Committee, excuse me, to the Administrator.

21 CHAIRMAN HONIGBERG: Okay.

22 ADMIN. MONROE: Yes.

23 CHAIRMAN HONIGBERG: All right. Who
24 wants to make that helpful motion?

1 VICE CHAIRMAN SCOTT: So moved.

2 CMSR. BAILEY: Second.

3 CHAIRMAN HONIGBERG: Commissioner
4 Scott moves; Commissioner Bailey seconds.

5 Is there any further discussion?

6 *[No indication given.]*

7 CHAIRMAN HONIGBERG: Seeing none, all
8 in favor say "aye"?

9 *[Multiple members indicating*
10 *"aye".]*

11 CHAIRMAN HONIGBERG: Are there any
12 opposed?

13 *[No indication given.]*

14 CHAIRMAN HONIGBERG: The "ayes" have
15 it, noting the abstention of Ms. Duprey.

16 Ms. Monroe, I know you alluded to it,
17 but we received a Petition for Declaratory
18 Ruling. Do you anticipate this group having to
19 get together again or will we be dealing with
20 that through subcommittee or something else?

21 ADMIN. MONROE: Yes. I think, well,
22 what we've done is we've created a docket. We
23 got the electronic filing yesterday. And yes,
24 I assume we're going to have to -- I don't know

1 if I have to come back to the full Committee, I
2 haven't looked at that.

3 Mike, I don't know if you have any
4 thoughts on that?

5 MR. IACOPINO: I have thoughts on it,
6 but I would recommend that there be a
7 subcommittee appointed on it.

8 CHAIRMAN HONIGBERG: Well, there is a
9 specific reason I'm asking. Because this may
10 well be the last time Commissioner Rose gets to
11 participate in one of these events. Do we
12 think that this is the last time Commissioner
13 Rose is going to be here on this side of the
14 table, sitting as a member of the Site
15 Evaluation Committee? Ms. Monroe?

16 ADMIN. MONROE: I believe that once
17 your term, I think somebody has been nominated.

18 CMSR. ROSE: June 1 will be my last
19 day.

20 ADMIN. MONROE: Okay.

21 CHAIRMAN HONIGBERG: Well, if there's
22 no other business we need to transact, I'll
23 just take the opportunity to thank Commissioner
24 Rose for his service to the Site Evaluation

1 Committee. He put himself forward on a number
2 of occasions to do things that others did not
3 want to do. And we appreciate the effort that
4 he's put in, his cooperation throughout all of
5 these proceedings.

6 ADMIN. MONROE: And I'd like to add
7 that it's been a pleasure working with you.
8 And on behalf of the Site Evaluation
9 Committee, I know that The Common Man is near
10 and dear to your heart. You've done a lot of
11 work on the I-93 rest stop. So, you can go
12 have a cup o'joe on the Committee.

13 CMSR. ROSE: Well, thank you very
14 much. It's exciting to earn the merit badge
15 from the Site Evaluation Committee. I did not
16 anticipate that. But it is an important
17 function, one I took very serious. And I know,
18 as challenging as some of the issues are, that
19 the state is better served by having good
20 participation and good leadership to try to
21 help evaluate and try to see ourselves through
22 these complex matters. And I think, by and
23 large, the state is well-served by the efforts
24 of this Committee.

1 And it's been a pleasure to be a part
2 of it.

3 CHAIRMAN HONIGBERG: Is there any
4 other business we need to transact today,
5 Ms. Monroe?

6 ADMIN. MONROE: Not that I'm aware
7 of.

8 CHAIRMAN HONIGBERG: All right.
9 Commissioner Scott moves that we adjourn;
10 Commissioner Bailey seconds.

11 All in favor say "aye"?

12 *[Multiple members indicating*
13 *"aye".]*

14 CHAIRMAN HONIGBERG: Any opposed?

15 *[No indication given.]*

16 CHAIRMAN HONIGBERG: We are
17 adjourned.

18 *(Whereupon the public meeting*
19 *of the Site Evaluation Committee*
20 *was adjourned at 2:26 p.m.)*

21

22

23

24