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

Pamela Monroe, Administrator/SEC

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I N D E X

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MOTION BY CMSR. BAILEY to adjourn 40
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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, April 22nd. We have a few items on the agenda to deal with today.

And before we do anything else, let's identify who is here, starting to my left.

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

COMMISSIONER BAILEY: Kathryn Bailey, Commissioner at the Public Utilities Commission.

CHAIRMAN HONIGBERG: Martin Honigberg, Chair of the Site Evaluation Committee, Chair of the Public Utilities Commission.

CMSR. GIAIMO: Mike Giaimo, Commissioner at the PUC.

CMSR. SHEEHAN: Victoria Sheehan, Commissioner of the Department of Transportation.

MR. KASSAS: George Kassas, member of

1 the public.

2 CMSR. STEWART: Sarah Stewart,
3 Commissioner of Department of Natural and
4 Cultural Resources.

5 MR. WAY: Christopher Way, designee
6 for Business and Economic Affairs.

7 CHAIRMAN HONIGBERG: And we have a
8 letter from the Department designating Mr. Way
9 for today.

10 On the phone, we have?

11 MS. DUPREY: Susan Duprey, public
12 member.

13 CHAIRMAN HONIGBERG: Under RSA 91-A,
14 we are allowed to have Ms. Duprey participate
15 by phone, as long as we have a quorum
16 physically present. One provision of the law
17 that allows that to happen requires Ms. Duprey
18 to identify any person, besides yourself,
19 present in the location from which she is
20 participating.

21 MS. DUPREY: There are three people
22 in this location, although they are shortly
23 departing for the coffee shop: My father,
24 Arthur Vercillo, my son, Thad Duprey, and my

1 husband, Steve Duprey, are wandering around the
2 house.

3 CHAIRMAN HONIGBERG: Are they trying
4 to ignore what's happening around them? I
5 suspect they are.

6 MS. DUPREY: Yes. They're trying to
7 get out of my way, yes.

8 CHAIRMAN HONIGBERG: All right. I'll
9 have -- I'll recognize another public member,
10 who's not a full public member, but who's here
11 with us today for the first time. She was just
12 confirmed by the Council. That's Lisa Noe.
13 Welcome, Ms. Noe.

14 *(Ms. Noe nodding in the*
15 *affirmative).*

16 CHAIRMAN HONIGBERG: Also, we have
17 regular outside counsel to the Site Evaluation
18 Committee, Mike Iacopino. And the last person,
19 who I'll have introduce herself, is?

20 ADMIN. MONROE: Pam Monroe,
21 Administrator for the Site Evaluation
22 Committee.

23 CHAIRMAN HONIGBERG: All right. I
24 don't know what order you want to take things

1 in, Pam. I know that the statutory requirement
2 is that each year we take a look at how the
3 money is coming in and whether it's appropriate
4 to adjust the fees or request that the fees be
5 adjusted through the Fiscal Committee, as the
6 statute allows.

7 I'll just note that we did that a
8 year ago at this meeting, we voted to make that
9 request. We filed the request. It went
10 through the Fiscal Committee last fall. And
11 our rates were raised, at our request, last
12 year.

13 So, what can you tell us about these,
14 Pam?

15 ADMIN. MONROE: Before I start there,
16 I do have just two housekeeping items I would
17 like to take care of. One is, as Mr. Way
18 mentioned, he is a designee of the Department
19 of Business and Economic Affairs. I have a
20 letter from Commissioner Caswell designating
21 him in accordance with the statute.

22 The second item is Mr. Kassas. Most
23 of you probably remember, although maybe not in
24 a good way, the training that we had back in

1 November, is required by the statute that all
2 members be trained before engaging in any
3 Committee activities. I received authorization
4 from the Attorney General's Office to have
5 Mr. Kassas, because he was confirmed after the
6 training was done. We created a transcript of
7 the training, along with the slides and three
8 different modules, that I produced that to him.
9 He also signed a statement certifying that he's
10 reviewed that information. And he will attend
11 the next live training.

12 CHAIRMAN HONIGBERG: Better than
13 Netflix, I expect.

14 ADMIN. MONROE: You're going to have
15 to ask Mr. Kassas.

16 So, yes. So, without further adieu,
17 I did also -- I sent out to the Committee, I
18 believe I attached the Fiscal Committee
19 approval from last year, it was October of last
20 year, where the fees were approved. I also
21 sent, dated April 16th, 2019, a six-page
22 memorandum reviewing the current status of the
23 fees. It's divided into three sections. One
24 is -- or, four.

1 One is by dockets, Applications for
2 Certificates, which are, for those of you that
3 have been -- sat on one of those proceedings,
4 those are probably the most involved
5 proceedings that we have.

6 And the second designation, and I
7 don't know if this is the best way to do it,
8 but this is how I did it, we had a few dockets
9 to transfer certificates, for Committee -- for
10 projects that had been granted a certificate,
11 they have to, under the statute, go through a
12 proceeding in order to transfer that. So, I
13 broke those out.

14 Then, we also have these declaratory
15 rulings for various reasons that are -- the
16 criteria for those are in the rules and under
17 RSA 541-A.

18 And then, the very last is just kind
19 of a "Other Proceedings", like rulemaking. And
20 we recently had our first motion to modify a
21 certificate that was issued.

22 So, that's how the memorandum is
23 organized. So, would you like me to actually
24 give the dollars or what's the pleasure of the

1 Committee at this point?

2 CHAIRMAN HONIGBERG: Give us a sense
3 of how we're doing moneywise.

4 ADMIN. MONROE: Well, I think that
5 you'll see that probably most of the dockets,
6 the actual charges against, at least for the
7 application dockets, were significantly above
8 what the application fees were. You know,
9 we've only had one docket since we increased
10 the fees by 20 percent. That was the very last
11 one on Page 6, which was the Motion to Modify
12 the Certificate of Antrim Wind. The
13 application fee was \$3,600. It would have been
14 3,000. So, the 20 percent additional. There's
15 no charges that have been billed to date.

16 Under the statute, the Committee, the
17 agency members, if the proceedings are less
18 than three days, there's no reimbursement to
19 the agencies. There was a public member that
20 sat on this proceeding, and I haven't received
21 his invoice to date. So, --

22 CHAIRMAN HONIGBERG: Are the agencies
23 keeping themselves up-to-date on filing their
24 records for reimbursement?

1 ADMIN. MONROE: We are now pretty
2 much up-to-date. For the Seacoast docket, I
3 think the PUC has one. I haven't received
4 their bills yet. But we're pretty much up to
5 speed.

6 And then, last year, for those of you
7 that were here, there was an issue where the
8 Attorney General's Office had billed very late,
9 like two fiscal years behind. We've been able
10 to, through the Business Office, went back to
11 see if we can pay those fees. And we've met
12 with the Attorney General's Office. And we
13 actually were able to pay. We've paid up a
14 portion of those fees, to the tune of about
15 \$80,000. There's another 132 remaining for
16 Northern Pass.

17 What we've talked to the Attorney
18 General's Office about is to see where we're at
19 at the end of this fiscal year, and to pay them
20 as much as we can. I'm doubtful we'll have
21 enough money in the pot to cover the 132,000.

22 But we're pretty much up-to-date with
23 the agencies.

24 CHAIRMAN HONIGBERG: Commissioner

1 Scott.

2 VICE CHAIRMAN SCOTT: Thank you. Can
3 you remind the Committee, Ms. Monroe, what, if
4 there's not enough money in this account, what
5 happens? How does that work?

6 ADMIN. MONROE: For this fiscal year,
7 the other -- the other provision in the statute
8 was there was money in the Renewable Energy
9 Fund. We could go to the Fiscal Committee and
10 request that. We did that at the same time
11 that we requested the increase in the fees.
12 That was approved. So, there was I think it
13 was \$480,000 put into the SEC fund from the
14 Renewable Energy Fund. If there's any of that
15 money left at the end of this fiscal year, it
16 goes back into the Renewable Energy Fund. So,
17 now we'll be into the new fiscal year biennium.
18 And I believe there's like --

19 CHAIRMAN HONIGBERG: Well, as we sit
20 here today, there's no backstop --

21 ADMIN. MONROE: Correct.

22 CHAIRMAN HONIGBERG: -- for the next
23 fiscal year and beyond. The budget submitted
24 by the Governor to the Legislature contemplated

1 the General Fund as a backup for this. As,
2 again, I don't know that there's any -- there's
3 no law yet, there's no budget yet, there's no
4 trailer bill. So, we don't exactly know what's
5 going to happen.

6 Commissioner Bailey.

7 COMMISSIONER BAILEY: Ms. Monroe,
8 have you had a chance to take a look at what
9 the difference between the total charges and
10 the amount collected would have been, if the
11 20 percent increase were in place when all of
12 these projects were done?

13 ADMIN. MONROE: That's a good
14 question, and yes, I have. I actually looked
15 at -- I looked at what the fees were in total,
16 because I think this came up last year, I was
17 asked this question. And I didn't have those
18 numbers boiled down, and I think you asked it.

19 I took all the fees from the
20 applications for certificates that we had, and
21 then I compared those to, if those fees had
22 been 20 percent higher for each of those
23 dockets. And the difference is, for -- we were
24 \$116,430 negative under the old fee structure.

1 Had the fees been 20 percent higher, for each
2 of those application dockets, we would have
3 been \$63,000 in the good. So, that's the --

4 CHAIRMAN HONIGBERG: That's
5 encouraging.

6 ADMIN. MONROE: It is.

7 CHAIRMAN HONIGBERG: What's coming
8 down the pike, if anything?

9 ADMIN. MONROE: To my knowledge,
10 there are two projects, one is much further
11 ahead of the other one. There's an NextEra
12 solar project, 30 megawatts. So, it's a
13 jurisdictional project for the SEC. I had a
14 pre-application meeting with the interested
15 agencies for that project. And my
16 understanding is sometime in May they're
17 planning on filing their application. They
18 haven't had the pre-application meeting yet.
19 But I did have a call with them last week to
20 kind of just explain what the requirements are
21 and to answer any questions. So, there's one
22 project that's forthcoming.

23 The other project is the Liberty
24 Bridge Project, which is the natural gas

1 pipeline from Manchester, down 101. I've been
2 told maybe this fall. But I believe there's a
3 PUC docket, and I'm not quite sure where
4 they're at with that.

5 CHAIRMAN HONIGBERG: There is a PUC
6 docket. It's called the "Granite Bridge
7 Project". It also involves a storage facility
8 in the Town of Epping. Although, there's some
9 talk that they may change the location of that
10 across the line into Raymond. But we, like
11 everybody else, are the last ones to know stuff
12 like that.

13 ADMIN. MONROE: Okay.

14 CHAIRMAN HONIGBERG: Other questions
15 for Ms. Monroe regarding fees, projects? We
16 have other -- a few other agenda items, and we
17 can certainly circle back to this.
18 Commissioner Bailey.

19 COMMISSIONER BAILEY: It looks like
20 the smaller cases, where the application fee is
21 \$3,000, by increasing, I mean, I just sort of
22 eyeballed this, but it looks like, if we had
23 increased that to -- if those fees had been
24 increased to 3,600, which is the new rate, we

1 would still not cover the amount paid out. Can
2 we change those application fees? What kind of
3 authority do we have to increase that, from
4 like 3,600 to 5,000, or something like that?

5 ADMIN. MONROE: I believe you have
6 the authority under the statute to pick and
7 choose, if you will. No?

8 CHAIRMAN HONIGBERG: No. We have a
9 percentage limitation. I believe it's 20.

10 ADMIN. MONROE: Says "The Committee
11 may increase or decrease any amount in the fee
12 schedule by up to 20 percent." So, --

13 CHAIRMAN HONIGBERG: With approval of
14 the Fiscal Committee.

15 ADMIN. MONROE: Correct. So, the fee
16 schedule, are you talking about, for instance,
17 transfer of a certificate is 3,000?

18 CHAIRMAN HONIGBERG: And 3,600 under
19 the revised fee schedule.

20 ADMIN. MONROE: Correct.

21 CHAIRMAN HONIGBERG: And so, 20
22 percent on top of 3,600 would be whatever, --

23 ADMIN. MONROE: Right.

24 CHAIRMAN HONIGBERG: -- 4,320. So,

1 that's the extent of our authority under the
2 statute.

3 ADMIN. MONROE: Correct.

4 COMMISSIONER BAILEY: But we could
5 increase the \$3,000 fee and not increase the
6 certificate fees, if we think they're going to
7 be okay?

8 ADMIN. MONROE: Well, yes. It's
9 3,600 --

10 CHAIRMAN HONIGBERG: But I think what
11 Commissioner Bailey is asking is, we don't need
12 to make a move on all of the fees at the same
13 time. I think the way you read it, it says
14 "any of the fees".

15 Mr. Iacopino.

16 MR. IACOPINO: Yes. The statute says
17 just that the Committee may increase or
18 decrease "any amount in the fee schedule".

19 CHAIRMAN HONIGBERG: So, we could
20 pick and choose?

21 MR. IACOPINO: Yes.

22 CHAIRMAN HONIGBERG: Commissioner
23 Scott.

24 CMSR. SCOTT: I have a slightly

1 different question for the Administrator is,
2 you mentioned the Granite Bridge Project is a
3 potential. So, that's a linear project,
4 multiple towns. I understand, and hopefully
5 I'm correct in saying this, probably nothing is
6 the same as Northern Pass.

7 However, I just wonder if I could get
8 you to opine on, there's more difficulties and
9 I assume more costs for linear projects that
10 involve multiple towns. I was wondering if you
11 can give me a feel, should we be concerned
12 about that type of project with our existing
13 fee structure?

14 ADMIN. MONROE: Hmm. All the linear
15 projects have gone through multiple towns, some
16 more controversial than others. The Seacoast
17 project, there were four towns; two intervened,
18 two didn't. Two submitted letters that they
19 were for the project. I'm not quite sure I can
20 necessarily draw much from that.

21 CHAIRMAN HONIGBERG: I mean, the fee
22 schedule, as it's structured, has a per mile
23 component for linear projects. It has built
24 into it a "longer equals more" process

1 underlying it, doesn't it?

2 ADMIN. MONROE: Yes.

3 CHAIRMAN HONIGBERG: Mr. Way.

4 MR. WAY: Ms. Monroe, can I ask how
5 that works? How do you calculate it based upon
6 the number of communities? How does that work?

7 ADMIN. MONROE: We calculate it based
8 on the miles.

9 MR. WAY: On the miles.

10 ADMIN. MONROE: Right. It's per
11 mile. So, for instance, a transmission
12 facility, --

13 MR. WAY: Okay.

14 ADMIN. MONROE: -- the Seacoast
15 project, right now, with the fees increased by
16 20 percent, it's a 60,000 base fee, and, for an
17 electric transmission line, it's \$3,600 per
18 mile.

19 CHAIRMAN HONIGBERG: Off the record.

20 *[Brief off-the-record discussion*
21 *ensued.]*

22 MR. WAY: So, that's \$3,600 per mile,
23 that's an increase with the 20 percent --

24 ADMIN. MONROE: Correct.

1 MR. WAY: -- last year. All right.
2 Thank you.

3 CHAIRMAN HONIGBERG: Any other
4 questions on this topic for now?

5 *[No verbal response.]*

6 CHAIRMAN HONIGBERG: Seeing none. I
7 think you left us with copies of the random
8 draw procedure that we put in place, and had
9 actually implemented once?

10 ADMIN. MONROE: Yes, I did.

11 CHAIRMAN HONIGBERG: It was pretty
12 exciting.

13 ADMIN. MONROE: It was. Brought my
14 Red Sox hat.

15 CHAIRMAN HONIGBERG: You want to talk
16 about that?

17 ADMIN. MONROE: Yes. So, under
18 the -- under the change to the statute last
19 year, the number of public members was
20 increased from two and an alternate to five.
21 So, there's two full public members, that's
22 Mr. Kassas and Ms. Duprey on the phone.
23 They're designated as the full public members
24 at the time of their appointment. And then

1 there were three sub -- three other public
2 members that could, for instance, sit in the
3 case that Mr. Kassas isn't available, and he,
4 you know, or he has to recuse himself, then one
5 of those public members is available to sit on
6 a proceeding.

7 So, we developed this under the
8 statute, I provided that we could develop a
9 random draw procedure. It wasn't subject to
10 541-A, meaning it's not like a rulemaking
11 proceeding, that we could develop it, and this
12 is what we came up with.

13 CHAIRMAN HONIGBERG: Anybody have any
14 questions about the procedure?

15 MS. DUPREY: I do, Mr. Chairman.
16 This is Susan Duprey. I was just wondering, is
17 that procedure online?

18 ADMIN. MONROE: No. But I will send
19 it to you. I just need to, and it's not not
20 online because of there's a reason that I don't
21 want it there. It's just, I need to work with
22 the website person to find a place for it.

23 But I'm happy to post that up there.
24 And I can certainly send it to you.

1 CHAIRMAN HONIGBERG: It should be on
2 the website.

3 ADMIN. MONROE: Yes.

4 MS. DUPREY: I would appreciate it.
5 Thank you.

6 CHAIRMAN HONIGBERG: It definitely
7 should be on the website. And we'll make sure
8 that it gets up there in an appropriate place.

9 ADMIN. MONROE: Yes. Yes. I thought
10 it was already, and checking, it was not.

11 MS. DUPREY: Okay. And I will ask
12 you to please give a copy, that that would be
13 great. Thanks.

14 ADMIN. MONROE: Will do.

15 CHAIRMAN HONIGBERG: When you
16 mentioned --

17 MS. DUPREY: Excuse me. I had one
18 other question, because I didn't quite
19 understand the last part of the explanation
20 from Administrator Monroe. And that was, are
21 the full public members -- are all public
22 members, full or not, part of the drawing, if
23 you will, for being on a case? I felt like you
24 said that the three that weren't full members

1 would function like alternates, if either of
2 the two full public members couldn't sit. And
3 I didn't understand it to be that way. I'm
4 curious.

5 ADMIN. MONROE: Yes. I'm sorry, I'll
6 clarify. So, for applications or for motions
7 that are filed, where a subcommittee has to be
8 convened, the procedure would apply. And then,
9 I was also referencing another case where, for
10 instance, for the full public members, if they
11 couldn't sit for a proceeding, how that would
12 work.

13 CHAIRMAN HONIGBERG: But just, that
14 that's the confusing part of what you just
15 said. It's if the full Committee is meeting,
16 like today. If either of the full members were
17 not available today, we would do a random draw
18 from the alternates to fill that seat, and we
19 would use this process.

20 ADMIN. MONROE: Correct.

21 CHAIRMAN HONIGBERG: When forming
22 subcommittees, we'll use this process, and we
23 use all of the available names, right?

24 ADMIN. MONROE: Yes.

1 CHAIRMAN HONIGBERG: And then, if we
2 need to replace a public member on a
3 subcommittee, we'll use this process.

4 ADMIN. MONROE: Correct.

5 CHAIRMAN HONIGBERG: Okay. Does that
6 answer the question, Ms. Duprey?

7 MS. DUPREY: It does. Thank you.

8 CHAIRMAN HONIGBERG: Other questions
9 or issues with respect to that?

10 *[No verbal response.]*

11 CHAIRMAN HONIGBERG: You alluded to
12 RSA 541-A and the rules process. We love to
13 talk about rules. We love to do rulemakings.
14 Do we have -- do we have plans for a
15 rulemaking?

16 ADMIN. MONROE: Yes. I think my
17 thinking of it is that there are the procedural
18 rules, the Site 100 and Site 200 procedural
19 rules, that I think there's a need to start
20 some rulemaking on that. For one thing,
21 there's some statutory requirements that are in
22 the rules that have since changed. For
23 instance, the Department of Business and
24 Economic Affairs and the Department of Natural

1 and Cultural Resources didn't exist when those
2 rules were written. So, it cites the statute
3 in the rules.

4 There's also some procedural things,
5 like the number of copies that are -- hard
6 copies that are required. You know, we've
7 moved a lot into electronic filing, as I've
8 been in this position, and seen what it is
9 that -- how much paper we can save. So,
10 there's some real procedural aspects. I think
11 that we could get those done sooner, and then
12 work on -- set up some work groups with some of
13 the things that have come up in the
14 proceedings, for instance, you know, historic
15 sites and how you come up with those, there's
16 been questions about definitions.

17 I mean, there may be some opportunity
18 to work through a work group and come up with a
19 recommendation to the Committee. I could do a
20 lot of that work up front and present something
21 to you that's been vetted somewhat.

22 CHAIRMAN HONIGBERG: And when you say
23 "work groups", you are including, I think,
24 stakeholders, some of the folks who have

1 appeared in front of SEC subcommittees,
2 applicants, intervenor groups?

3 ADMIN. MONROE: Correct. As well as,
4 if agency representatives wanted to
5 participate, that would be helpful, too.

6 CHAIRMAN HONIGBERG: I'm correct, am
7 I not, that rulemaking is one of the functions
8 of the Committee that's a full Committee
9 activity, correct?

10 ADMIN. MONROE: Yes. That is
11 correct.

12 CHAIRMAN HONIGBERG: All right.
13 Commissioner Scott.

14 VICE CHAIRMAN SCOTT: Just on the
15 rulemaking front, and I don't know this is an
16 issue yet, but I just wanted to raise to the
17 Committee, the Governor signed a letter to the
18 Bureau of Ocean Energy Management earlier this
19 year, and some of the State agencies are
20 involved with the potential for leasing for
21 offshore wind development.

22 That brought a question in my mind.
23 We've done, obviously, we have a statute and
24 rules on wind. But, frankly, they're very

1 terrestrial-oriented. So, I don't know if we
2 will need to do anything, and we'll have some
3 years to deal with this. But I just wanted to
4 bring up, there's a potential that we may need
5 to revise or segment our wind rules.

6 CHAIRMAN HONIGBERG: Will we need an
7 "extraterrestrial" section of the rules?

8 VICE CHAIRMAN SCOTT: Yes. We'll
9 call it "ET". That's right.

10 ADMIN. MONROE: That's a good point.

11 CHAIRMAN HONIGBERG: Any other
12 thoughts or questions about rules?

13 ADMIN. MONROE: I would just point
14 out that there's -- that there's no fee
15 associated with rulemakings. So, the cost of
16 rulemaking reimbursement to the agencies is
17 through the SEC Fund.

18 CHAIRMAN HONIGBERG: Anything else we
19 need to do today, Ms. Monroe?

20 ADMIN. MONROE: I think that covers
21 it.

22 CHAIRMAN HONIGBERG: I think
23 Commissioner Scott has something he would like
24 to talk about.

1 ADMIN. MONROE: Questions?

2 CMSR. SCOTT: I had one more question
3 back to the fees. Is the Seacoast Reliability
4 Project billed out at this point, to the extent
5 that they have incurred costs or is --

6 ADMIN. MONROE: From all the
7 agencies, you mean? Except for the PUC.
8 There's like about probably 13, 12 to \$13,000,
9 if I look at where the other agencies billed.
10 So, there's a little bit more.

11 VICE CHAIRMAN SCOTT: Okay.

12 ADMIN. MONROE: But as far as the
13 rehearing has been done, the order has been
14 issued on rehearing. So, any appeals up to --
15 the Subcommittee has done its work.

16 CMSR. SCOTT: Okay. And on that
17 front, anything that's gone to court for
18 appeal, if it gets remanded, there's no new
19 fee. It all starts again without an additional
20 fee, is that correct?

21 CHAIRMAN HONIGBERG: I wouldn't
22 assume anything like that. I think it depends
23 on the terms of the remand. It depends on what
24 issues have to be dealt with. I can envision

1 drawn out legal proceedings about whether
2 anything that comes back has to be dealt with
3 as something new. It depends on how old and
4 stale the information is. I wouldn't make any
5 assumptions about that.

6 Mr. Iacopino, I guess I should
7 probably have counsel at least offer
8 preliminary thoughts on that.

9 MR. IACOPINO: I agree with what
10 you've just said, Mr. Chair. It all depends
11 upon what the order of remand, if a case is
12 remanded from the Supreme Court. Hopefully,
13 there will be no remands.

14 CHAIRMAN HONIGBERG: Also on fees,
15 picking up on what Commissioner Bailey was
16 asking you about. Are we comfortable with
17 where the lower fees are? Do we feel like we
18 should be asking for those to be raised? Or do
19 we feel there's (a) not very many of them, and
20 (b) not enough money in it to make a
21 difference?

22 ADMIN. MONROE: I mean, I guess one
23 side of that is the fees, you know, there was
24 just the submittal to the Fiscal Committee back

1 in October of this year. We haven't had a
2 project since then. That will probably weigh
3 towards not. It's hard to say.

4 And all the projects are
5 controversial, at least from what I've seen.
6 And they take a lot of time.

7 CHAIRMAN HONIGBERG: I guess one
8 thing that I think we talked about, maybe even
9 a year ago, was that "declaratory rulings",
10 that's a pretty broad category. And they can
11 look very different depending on what is being
12 asked by the person who's filing the petition.
13 That's someplace where I think we talked about
14 seeing whether we should be maybe trying to
15 increase the fee there. But a small 20 percent
16 increase isn't really going to cover the
17 problem we talked about when we identified it
18 as a potential issue.

19 I think we'd need a statutory change
20 to make a big enough dent there, right?
21 Because, I mean, the fee schedule is a statute.
22 We are given authority to adjust it with
23 permission of the Fiscal Committee. We have to
24 publish the new fee schedule so people can find

1 it. I think there's a -- is there going to be
2 a note in the statutes themselves? I think we
3 talked with -- did we talk with Legislative
4 Services about that?

5 ADMIN. MONROE: About?

6 CHAIRMAN HONIGBERG: So that, someone
7 who goes online to the statutes and looks for
8 the fee schedule in the RSAs will see a note
9 someplace?

10 ADMIN. MONROE: I talked to them
11 about that. And they said "well, they should
12 know to look somewhere else."

13 CHAIRMAN HONIGBERG: Oh, good.

14 ADMIN. MONROE: Yes. So, where this
15 is, this is prominently placed on the website.
16 And the first thing you see when you come to
17 the home page is a big box that says "Updated
18 fees as of October 2018". And then you open it
19 up and this is -- it's the annotated version of
20 the statute is how I did it.

21 But they weren't all that helpful,
22 let me put it that way.

23 CHAIRMAN HONIGBERG: Okay. Well,
24 that's really a tangent for the bigger question

1 about whether we should consider seeking
2 legislation to somehow identify a type of
3 declaratory ruling request that would require a
4 more significant fee. Because the potential is
5 out there for a declaratory ruling request
6 becoming quite expensive.

7 Mr. Iacopino, help me out here.
8 Because I think we talked about this in
9 connection with one of the declaratory ruling
10 filings that came in, and as I'm sitting here,
11 I can't remember the details.

12 MR. IACOPINO: I think it was the
13 Antrim Wind project, where some of the abutters
14 filed a petition for declaratory ruling, did
15 not file the application fee with it. And we
16 basically went back to them and said "you have
17 to file" -- "you have to pay an application
18 fee, and designate whether you want a full
19 Committee or a three-member committee, because
20 there's a difference in the fees." And then
21 they eventually paid the \$3,000 fee and sought
22 a three-member subcommittee. I think that's
23 the context that it came up in.

24 And I think that, as a Committee,

1 that's -- if you are inclined to discuss
2 raising those fees, one of those things that
3 you might discuss is "who are the people who
4 are likely to bring declaratory judgment
5 applications before you?"

6 CHAIRMAN HONIGBERG: So, who would
7 you say are the people likely to file requests
8 for declaratory rulings?

9 MR. IACOPINO: I would say they're
10 generally not companies, and they're generally
11 the class of intervenors that we have, which
12 are usually people who are affected by one
13 nature of -- by some nature of the project.

14 So, for instance, in the Antrim Wind,
15 it was a bunch of neighbors. And I would
16 imagine that that would be the same in other
17 circumstances as well. The Antrim Wind folks
18 managed to come up with the funds and pay the
19 application fee. They were a rather -- I think
20 there 12 or 13 named members in that group.

21 CHAIRMAN HONIGBERG: Commissioner
22 Scott.

23 CMSR. SCOTT: I'm comfortable with
24 not changing our fee structure at the moment,

1 with one caveat, that's really a management
2 question, I think, for the Chair and the
3 Administrator.

4 In the eventuality that where the
5 account's going negative or looks like it may
6 be, would I be assured that reimbursements for
7 State agencies would not supersede
8 reimbursements for the public members, meaning
9 we'd put them kind of first in the line? Does
10 that make sense?

11 ADMIN. MONROE: I don't know. I
12 don't know that it's really contemplated in the
13 statute.

14 CMSR. SCOTT: Either way, correct?

15 CHAIRMAN HONIGBERG: I think we'd
16 probably seek advice from the lawyers,
17 Department of Administrative Services, see if
18 there's an answer to that.

19 Mr. Kassas, I understand you have a
20 question?

21 MR. KASSAS: Yes, Mr. Chairman.
22 Thank you. The question is, do we have the
23 freedom and/or are there any restrictions on
24 the fees being a mix of fixed fees, as well as

1 the certificate licensing?

2 CHAIRMAN HONIGBERG: I'm not sure I
3 understand the question.

4 MR. KASSAS: So -- I'm sorry. The
5 scenario, for example, one, an application or
6 pre-application work that is being done, that
7 could be a fixed fee, whatever the numbers
8 might be. And it may go into further or may
9 not proceed forward. But, if it does, as a
10 project and as an operating project, is there a
11 way to make it -- the certificate associated
12 with a percentage of the business generated
13 from the project?

14 CHAIRMAN HONIGBERG: Oh. Well, I
15 mean, --

16 MR. KASSAS: Pay-as-you-go.

17 CHAIRMAN HONIGBERG: Understanding
18 that anything is possible, that's not the
19 statute we have right now. The fee structure
20 is provided in a section of the RSAs, and it
21 lays out a fee schedule for different types of
22 filings. The largest fees are associated with
23 applications for certificates. And I guess you
24 probably have the statute in front of you out

1 there, you could probably tell us that
2 structure and how it works.

3 But I will tell you that one of
4 the -- one of the things that came out of the
5 working group that recommended the fee schedule
6 that got adopted in large measure as it was
7 recommended was that applicants want some level
8 of certainty as to what the fee will be, and
9 were not -- would not support a fee structure
10 that would continue to go up as more work was
11 required.

12 Now, that's, you know, all decisions
13 are final until changed. But, in this
14 instance, those are decisions by the
15 Legislature that would need to be changed.

16 So, do you want to just go through
17 briefly how the fee schedule works? You've got
18 the statute in front of you.

19 ADMIN. MONROE: Right. So, there's a
20 base charge, for instance, for an electric, you
21 know, for a power plant, it's a 60,000 base
22 charge, and that increases depending upon,
23 there's a per megawatt fee, depending on what
24 type of facility you are. So, that's kind of

1 the adder.

2 And for most of -- actually, for all
3 the energy facilities themselves, that's the
4 base fee. So, there's a base fee, plus an
5 adder. So, a multiplier, depending on how many
6 miles if you're a gas pipeline, how many miles
7 if you're a transmission line, and they're
8 broken down in that way. And that's what you
9 get.

10 You pay it when you file your
11 application, and then it gets put in the SEC
12 fund, and then drawn down as the proceeding
13 goes. Because there's a lot of lag time
14 between when you actually get the fee and you
15 actually draw down the funds.

16 CHAIRMAN HONIGBERG: And that's not
17 the only thing an applicant pays. There's also
18 fees for the court reporter at hearings;
19 there's fees for transcripts; counsel,
20 applicants pay for outside counsel, if it's
21 needed by the SEC, and it typically is; Counsel
22 for the Public's experts are paid for by the
23 applicant.

24 And why don't you go through the

1 other types of proceedings that get filed and
2 the fees that are associated with those.

3 ADMIN. MONROE: So, the -- so,
4 petition for jurisdiction, and this could be
5 for -- this was similar to the Antrim Wind,
6 where it was below the 30 megawatts, they can
7 actually petition for the Committee to take
8 jurisdiction, that's \$12,600. Probably low,
9 compared to what those proceedings might
10 entail.

11 Would you agree with that, Mike?

12 MR. IACOPINO: Yes. I would say that
13 one's probably low.

14 ADMIN. MONROE: Then, we have the
15 petition for declaratory ruling, if it's heard
16 by a three-member subcommittee, that's 3,600,
17 or, by a 7-person -- all of the ones we've had
18 since I've been here have been a three-member
19 subcommittee.

20 And then, to transfer ownership, you
21 construct -- you get your certificate and you
22 sell the project, somebody comes in to buy up
23 the ownership interest, that is 3,600, if heard
24 by a three-member, and those have all been

1 three-member subcommittees.

2 And to request if you're exempt,
3 there's a provision in the statute that
4 essentially says "there are other permits that
5 you require and you have a proceeding that
6 you're not -- you're exempt from the
7 requirements of RSA 162-H, you'd have to have a
8 proceeding to determine that. You'd have to
9 convene a subcommittee. And that's probably a
10 little low, wouldn't you think, 3,600 for a
11 three-person and 12,600 for a seven-person.

12 And then, to modify a certificate,
13 which we recently did, the Antrim Wind, they
14 got all their permits. And then, when they
15 got -- they had to build a substation as part
16 of that project, when they went to do that,
17 they had temporary impacts on wetlands that
18 were not covered in the initial permitting,
19 they had to come in an modify. That was a
20 fairly quick proceeding, because they were
21 temporary impacts. And that's 3,600.

22 CHAIRMAN HONIGBERG: Any other
23 questions on that topic?

24 *[No verbal response.]*

1 CHAIRMAN HONIGBERG: All right. Any
2 other business we need to transact today?

3 ADMIN. MONROE: Not that I'm aware
4 of.

5 CHAIRMAN HONIGBERG: Anything anyone
6 has for Pam or counsel or me?

7 *[No verbal response.]*

8 CHAIRMAN HONIGBERG: All right. I'll
9 entertain a motion to adjourn?

10 COMMISSIONER BAILEY: So moved.

11 CMSR. GIAIMO: Second.

12 CHAIRMAN HONIGBERG: All in favor?

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

15 CHAIRMAN HONIGBERG: We are
16 adjourned. Thank you all.

17 ***(Whereupon the hearing was***
18 ***adjourned at 1:51 p.m.)***

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C E R T I F I C A T E

I, **Steven. E. Patnaude**, a Licensed Shorthand Court Reporter, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

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

Steven E. Patnaude, LCR
Licensed Court Reporter
N.H. LCR No. 52
(RSA 310-A:173)