

I N D E X

ORDERLY DEVELOPMENT, Continued

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P R O C E E D I N G S

(Hearing resumed at 10:15 a.m.)

PRESIDING OFFICER WEATHERSBY: Okay. Good morning, everyone. We're going to get started with what we anticipate being our last day of deliberations.

When we left off last week, we had suggested language for a Memorandum of Understanding. Over the weekend we have received a marked-up copy of that. I think the first order of business, we'll kind of go through the Memorandum -- sorry -- the Dispute Resolution Process and make sure we are all comfortable with the language there. If folks want to take out the marked-up version.

Before we get into the wordsmithing of it, I'd just kind of like to reopen the discussion. Since Friday, this has been troubling me a little bit how, the process that we developed. I'm concerned about access to justice and the \$300 may be too much for some folks. So as I was spinning this through my head over the weekend, I just want to reopen the discussion. I had a few thoughts.

1 One, perhaps we do away with a fee all
2 together on behalf of the property owner or
3 business owner.

4 Alternatively, if we do want them to have
5 some financial responsibility for continuing on
6 the process, have that come at the end
7 meaning -- my alternative thought was that the
8 mediation which we said was going to be 75/25
9 and \$300 cap, that that mediation process, the
10 third step, that the cost of that process be
11 borne by the Applicant but in the last step, so
12 that would, I think, encourage working,
13 encourage everyone to work things out early in
14 the process so that fewer people would get to
15 the last step. The SEC Dispute Resolution
16 Process. But if they get there, the thought I
17 had was the property owner, the business owner,
18 would pay sort of an Application fee, \$200,
19 whatever it is, we can talk about it, to start
20 that process. And then as part of that process,
21 the Dispute Resolution Administrator could, if
22 that person believed justice required it, refund
23 that money to the Applicant.

24 It may be too complicated, it may not be

1 what we want to do, we might want to leave it
2 alone, but at this point I thought I'd open it
3 up again because it was troubling me. It's one
4 of the few areas in which this Committee of very
5 reasonable people have disagreed. So that just
6 made me think further about it, and certainly I
7 appreciated the concerns of a couple of our
8 members about that it really may deny some folks
9 access to the process. So I'm throwing it out
10 there. Mr. Way?

11 MR. WAY: Thank you, Madam Chair. I'll
12 admit on this one I found as I was driving home
13 on Friday this one was the one that was playing
14 in my mind back and forth, and you could kind of
15 go either way.

16 I think one of the things, too, and
17 Counsel, correct me if I'm wrong, but I don't
18 think we've done this in other dockets where
19 we've parsed out the Dispute Resolution Process
20 or is that true?

21 MR. IACOPINO: We have had Dispute
22 Resolution Processes in other dockets that have
23 been discussed, some of which have been adopted
24 by a particular Committee at the time, but if

1 the question is about requiring anybody to pay
2 to participate in the process, I don't recall
3 ever requiring that as part of the process.

4 MR. WAY: All right. I thought about that.
5 Then I'm almost thinking about the universe here
6 of what we're dealing with. And also, too, I
7 think, you know, there's no way to sugar coat
8 it. A Dispute Resolution Process from the start
9 to the formal end is never a good anything for
10 anybody, I don't think, and there's always a
11 disincentive right there.

12 So I guess in thinking about it, I would, I
13 think I would actually change my position and I
14 would say and I would keep it simple and not
15 have a fee on the part of the other party. I
16 would not be in favor of, I think, splitting up
17 the Dispute Resolution Process because one, I do
18 think it may overly complicate it, and I think
19 it might set a precedent for future dockets that
20 we may have to address.

21 So I think I would opt to keep it simple
22 and have the Applicant pay for the process, soup
23 to nuts.

24 PRESIDING OFFICER WEATHERSBY:

1 Mr. Fitzgerald?

2 MR. FITZGERALD: As I mentioned Friday, I
3 think that there should be some reason to, some
4 incentive to avoid a continuous dispute, and I
5 believe that there should be some fee. An
6 alternate discussion, I guess, would be to keep
7 it the way that we had it and allow the judge or
8 whomever, the mediator, to have the authority as
9 you just mentioned to waive that fee if they so
10 felt that it would be okay, but I think going
11 into it, the individual should know that there's
12 some, they have some share in resolving this
13 dispute.

14 MR. SCHMIDT: I would concur with that, the
15 points that Mr. Fitzgerald made. I'm aware of
16 at least one large organization that enters into
17 a mediation with a 50/50 based. I'm not saying
18 we should go there, but I do think there's a
19 need to have an interest. I do like the idea of
20 the, basically the presiding officer being or
21 the mediator being able to waive it if needed.
22 I think what we came up with last week was a
23 reasonable compromise, and I guess I'm still
24 comfortable with that position.

1 PRESIDING OFFICER WEATHERSBY: Ms. Duprey?

2 MS. DUPREY: I feel the same. One of the
3 things that bothers me about your suggestion is
4 that I feel like people who actually get to the
5 Dispute Resolution Process, they are people who
6 have also suffered harm. So I'm less
7 interested, if you will, in imposing the fee on
8 them but not on other people who haven't
9 suffered harm as yet. So I'm not as comfortable
10 with that suggestion. I like it the way that it
11 is already so I'm still in that place. Thank
12 you.

13 PRESIDING OFFICER WEATHERSBY: Perhaps a
14 question for Counsel. The mediation, nonbinding
15 mediation step, can this Committee put in a
16 requirement into that process that a refund of
17 the fees to be paid or the fee split will be
18 different, basically that the property owner or
19 business owner would not have to pay up to \$300?
20 If that could be waived should justice require?

21 MR. IACOPINO: As a condition of a dispute
22 resolution plan, I believe that you could do
23 that, although I think that's a rather broad
24 thing, and if you remember on the nonbinding

1 session, you don't really have -- until you get
2 to the actual mediation step which a mediator
3 tries to get the parties to settle it, he
4 doesn't decide the case, you don't really have
5 somebody to make that determination as that
6 point.

7 PRESIDING OFFICER WEATHERSBY: I think
8 there should be a way -- and this is what
9 troubled me. There should be a way that if
10 somebody really doesn't have the ability to pay
11 that the fees or that perhaps and I don't think
12 this would happen, but perhaps Eversource's
13 position was they dug in their heels early,
14 refused to negotiate, again, I don't think
15 that's going to happen, but if there was some
16 sort of bad faith that the property owner, there
17 be some way to waive their fee. Without that,
18 I'm kind of uncomfortable with the discussion of
19 last week. Mr. Shulock?

20 MR. SHULOCK: So I've always been
21 uncomfortable with charging a fee to homeowners
22 and businesses for the mediation because this is
23 a Reliability Project. The entire region will
24 be benefiting from the additional reliability

1 that's being developed here, and the people who
2 suffer property harm and business harm aren't
3 going to get any additional benefit from that.
4 They get the same benefit as everybody else, but
5 they're being required to bear the slightly
6 higher burden than other people because their
7 property may be damaged and then they have to
8 spend money to defend it, right?

9 So I would rather see no fee or if there's
10 a fee an extremely modest fee, 25, \$50, just to
11 make people pause and think about what they're
12 doing but one that wouldn't preclude an average
13 property owner from participating.

14 We did complicate that a little bit in my
15 mind when the Committee decided to add mediation
16 of the mitigation plan, right? Because as I
17 originally looked at it, you know, they were
18 doing all of that really informally, right? So
19 the Applicant has been proposing mitigation
20 plans to people all along, right? And there are
21 some disagreements with that, but if every
22 single one of those gets mediated, that's a lot
23 of mediation, whereas if it's only, you know,
24 you're going to ruin my driveway or something

1 like that, there's a potential for some actual
2 harm or actual harm has occurred that could be
3 mediated before it goes into a Dispute
4 Resolution Process. But even with that, I think
5 that the fee should be modest, if it exists at
6 all.

7 PRESIDING OFFICER WEATHERSBY: Director
8 Muzzey?

9 DIR. MUZZEY: I remain on the side of a
10 very reasonable fee for mediation, if one at
11 all, as you just described. I think we have
12 also complicated matters by making item 17, 18,
13 19, 20 mandatory for both people who are trying
14 to resolve what they feel will be impacts from
15 construction or operation prior to it happening
16 along with people who have had actual problems
17 or assert that they've been damaged by the
18 construction or operation. If we had kept to 17
19 to 20 as originally written dealing only with
20 potential impacts or anticipated impacts, we
21 have potentially a smaller number of people
22 going through the process, and so if we ask the
23 Applicant to bear the entire cost of that it
24 would be with a smaller number of people. So

1 that is one thing I had thought about over the
2 weekend.

3 I also am not quite as concerned as Mr.
4 Fitzgerald and Mr. Schmidt about people who will
5 be sort of dragging their feet or continuing to
6 go through this process when good solutions are
7 possible earlier and they just want to continue
8 through the process. I don't imagine if you're
9 a property or business owner this process will
10 be terribly enjoyable. I would imagine that
11 people, I'm just, I don't imagine that a lot of
12 people will become involved with this process
13 unless they truly feel that there is either a
14 potential impact or actually feel that their
15 property or business has been damaged. So I'm
16 less concerned with imposing a fee in order to
17 stop that type of behavior.

18 PRESIDING OFFICER WEATHERSBY: Director
19 Muzzey, a question? Did I just understand you
20 to say that you think this process should only
21 deal with anticipated harm?

22 DIR. MUZZEY: When I read 17 to 20, 21, as
23 written, I felt they were addressing property
24 and business owners who were anticipating that

1 their properties would be damaged but the
2 construction wouldn't have happened yet. And
3 then I read the dispute resolution clause to be
4 property or business owners who were asserting
5 damage once construction and operation had
6 become, were underway, and so we changed that
7 because we thought oh, well, let's encourage
8 everyone to go through 17 to 20. It seemed like
9 a good idea.

10 I'm not so sure it is. Certainly if the
11 group feels it is, that's fine with me. I'm
12 assuming once construction and operation are
13 under way, and someone feels their property or
14 business has been damaged, they'll want fairly
15 quick resolution of that and they will work with
16 the company anyway to try to resolve those
17 damages without getting involved with a Dispute
18 Resolution Process. It's only the cases where
19 there's something really unique going on, I
20 think, where the Dispute Resolution Process will
21 be needed.

22 So I remain open to how the entire group
23 reads these two processes, but I think we could
24 go back to that and go back to making 17 to 20

1 anticipatory and the dispute resolution for
2 actual damage.

3 PRESIDING OFFICER WEATHERSBY: Ms. Duprey?

4 MS. DUPREY: I'm just a little confused
5 because I'm looking at the Dispute Resolution
6 Process, and it says that you have to have gone
7 through steps 17 to 19 so I don't think I'm
8 quite understanding what you're saying.

9 DIR. MUZZEY: I apologize. I was talking
10 to Counsel. Can you repeat what you just asked?

11 MS. DUPREY: Sure. I'm just looking at the
12 dispute resolution process and it says that you
13 can't go through it unless you've been through
14 steps 17 to 19.

15 DIR. MUZZEY: Are you looking at the
16 version that we received this weekend?

17 MS. DUPREY: No. I'm looking at Exhibit
18 268.

19 DIR. MUZZEY: Okay.

20 MS. DUPREY: The actual Dispute Resolution
21 Process.

22 DIR. MUZZEY: Let me go there.

23 MS. DUPREY: My only point is I don't see
24 that we changed this. That's what the document

1 says.

2 DIR. MUZZEY: Where are you at in the --

3 MS. DUPREY: First sentence.

4 DIR. MUZZEY: So again, I see the word may
5 here, may be initiated.

6 MS. DUPREY: It's dispute resolution may be
7 initiated, not paragraph 17 to 19.

8 DIR. MUZZEY: Right. Right.

9 MS. DUPREY: My only point is, and I don't
10 know that this is that critical. My only point
11 is we did not change this. This is how it came
12 to us. It's what was agreed upon between the
13 Counsel for the Public and the Applicant.

14 PRESIDING OFFICER WEATHERSBY: I personally
15 think it's a good idea to have everyone go
16 through the process. I think it safeguards a
17 business or property owner. It is a safeguard
18 for them knowing that the Applicant must respond
19 to their request for information, proposal to
20 address their claim. I think no one should be
21 able to skip steps, personally. Mr. Shulock?

22 MR. SHULOCK: I think it makes actually far
23 more sense to have people mitigate what will
24 happen if they actually experience harm. I

1 think those are the people who should not be
2 excluded from mediation, and it would be better
3 to have those mediated before they go to an
4 Arbitrator, I think.

5 PRESIDING OFFICER WEATHERSBY: You're
6 saying the opposite of Director Muzzey as far as
7 what should be included. It helps to include
8 everybody's concerns if we have everybody.

9 MR. SHULOCK: But okay then, include
10 everybody.

11 MS. DUPREY: Madam Chair, is there a
12 possibility of, just sort of thinking a little
13 bit more along the lines of what you were
14 suggesting, but it's not what you were
15 suggesting. If the claimant got an award from
16 the SEC that was higher than what had been
17 offered by the Applicant that then the \$300 fee
18 is refunded.

19 PRESIDING OFFICER WEATHERSBY: That's kind
20 of along the lines of what I was thinking that
21 they pay a fee in that last stage, not in the
22 mediation stage and that there will be some
23 opportunity for it to be refunded.

24 MS. DUPREY: Yeah, that's not what I was

1 suggesting. I'm suggesting that they do pay it
2 at the mediation stage, but that if they then
3 proceed to the dispute resolution so this is
4 only going to fix it for people who get into
5 dispute resolution, but then if they get into
6 dispute resolution and the Administrator awards
7 a number that is higher than what has been
8 offered by the Applicant that then they get
9 their fee back.

10 PRESIDING OFFICER WEATHERSBY: We could do
11 it that way. I worry a little bit that it would
12 be an incentive not to resolve things at the
13 mitigation level but to take their chances at
14 the next level where the Applicant has to pay
15 everything and they might get their money back.

16 MS. DUPREY: Okay. Everywhere we turn.
17 And I agree with you. So I don't think we're
18 going to come to consensus on this, on the fee.
19 So --

20 PRESIDING OFFICER WEATHERSBY: I think we
21 may have a consensus on that the process applies
22 to both prospective harm and actual harm. I see
23 nodding heads. Is there anyone who doesn't feel
24 as though we have a consensus on that? Director

1 Muzzey?

2 DIR. MUZZEY: I agree that's fine. I do
3 have a different way of wording "actual harm"
4 because I feel it could use some clarification.

5 PRESIDING OFFICER WEATHERSBY: Let's deal
6 with this issue before we get to the fee. Go
7 ahead. How would you like to change it?

8 DIR. MUZZEY: This is based on earlier in
9 our proceeding where we know at least one of the
10 Intervenors was asserting some damage had been
11 done to stone walls by the Applicant in the fall
12 of 2017 and the Applicant felt the harm had been
13 done much earlier than that. So I think it's
14 sometimes questionable what actual harm or
15 impact may be and if people are involved in a
16 mitigation or a mediation Dispute Resolution
17 Process, there even may be disagreements about
18 the nature and timing of the harm.

19 So instead of saying potential and actual
20 impacts of construction or operation, my
21 suggestion would be to, for instance, at the
22 beginning of the first sentence of 17, further
23 order the Applicant shall publicize on its
24 website through its outreach communications

1 contact information for business and property
2 owners concerned about the potential impacts of
3 construction or operation of the Project or for
4 any business or property owner asserting harm as
5 a result of the construction or operation of the
6 Project to communicate their concerns.

7 PRESIDING OFFICER WEATHERSBY: Ms. Duprey?

8 MS. DUPREY: I don't feel comfortable with
9 that language just strictly from a legal
10 standpoint. I feel like actual harm is a
11 concept in the law that is understood, and I
12 feel like we're getting off into territory that
13 is actually more difficult to legislate. So for
14 my part, I'd rather stick with terms that I feel
15 like are more known quantities.

16 DIR. MUZZEY: I actually took that language
17 out of the Dispute Resolution Procedures under
18 item b, the first sentence, which describes what
19 an eligible Application and Applicant are.

20 MS. DUPREY: Can you read your suggested
21 change again?

22 DIR. MUZZEY: So this is in item 17 and it
23 could be -- anywhere actual harm is mentioned in
24 the 18, 19 or 20 I would use the similar

1 language.

2 So contact information for business and
3 property owners concerned about the potential
4 impacts of construction or operation of the
5 Project or for any business or property owner
6 asserting harm as a result of the construction
7 or operation of the Project.

8 PRESIDING OFFICER WEATHERSBY: My concern
9 with that is that you're taking the potential,
10 those who have concerns about potential impacts,
11 doesn't tie it back to their business or
12 property. So it could be someone, could be
13 somebody in Seabrook that says hey, you know,
14 they have a concern. I think it does need to be
15 tied directly to the person's business or
16 property in order to participate in this
17 process. I don't think we have a disagreement
18 there.

19 DIR. MUZZEY: No.

20 PRESIDING OFFICER WEATHERSBY: Mr. Way?

21 MR. WAY: I don't necessarily have a
22 problem with expanding on the language in 17.
23 My personal feeling is I think 17 is fine the
24 way it is. As I'm listening to all this it

1 seems like our wordsmithing is taking us down
2 greater and greater rabbit holes. I think for
3 myself, I'm more than fine sending people back
4 to the mediation process. I want a process
5 that's nimble and responsive and it's open to
6 people that really can, that really need it, and
7 then pushes you into a dispute resolution if
8 that's warranted.

9 I think the only thing that I see before us
10 is do we have a fee or do we not have a fee.
11 And I mean, to go much beyond that what the
12 Counsel for the Public and the Applicant have
13 already come up with for an agreement, and I
14 think as Ms. Duprey suggested we're just going
15 to get logger jams. We can keep making it
16 better, but I'm not sure we are.

17 MR. SCHMIDT: I would agree with that. I
18 think we need to stick to the question that
19 started this whole thing.

20 PRESIDING OFFICER WEATHERSBY: I agree. I
21 think the word actual there does what it's
22 intended to do. I'd be in favor of moving on.
23 Does anyone want to belabor this, the language
24 here concerning actual harm further?

1 (No verbal response)

2 PRESIDING OFFICER WEATHERSBY: Let's move
3 on to the fee issue then. I think we have a
4 couple suggestions. No fee at all for the
5 affected business or property owner or a fee
6 imposed as we had suggested last Friday, 75/25
7 split during mediation with the \$300 cap, and
8 then there's an alternative to that that the
9 \$300 paid during mediation if it goes on to the
10 next stage can be refunded. I think those are
11 the three.

12 So I'm just going to poll, I guess, for
13 let's start with the first one. No fee at all.
14 Mr. Fitzgerald? How do you feel about that?
15 Are you in favor or not in favor --

16 MR. FITZGERALD: No, I don't agree with
17 that.

18 PRESIDING OFFICER WEATHERSBY: -- of having
19 no fee for the business or property owner.

20 MR. FITZGERALD: I don't agree with that.

21 MS. DUPREY: Not in favor.

22 MR. WAY: In favor.

23 MR. SCHMIDT: Not in favor.

24 MR. SHULOCK: In favor.

1 DIR. MUZZEY: In favor.

2 PRESIDING OFFICER WEATHERSBY: I'm also in
3 favor. So it sounds like there will be no fee
4 for the property owner. I'm not going to
5 belabor it.

6 Okay. Anything else about the wording of
7 any major changes to the process as outlined in
8 7 to 21 of the redlined version that came to us?

9 I just had one change, and that's in
10 paragraph 17 where the -- it's the Applicant
11 shall publicize on its websites and through its
12 Project outreach communications the contact
13 information. I would just like to add there
14 after outreach communications, a summary of the
15 process for resolving disputes and Applicant's
16 contact information. So that rather than just
17 saying if you have a concern, here's our phone
18 number, if you have concerns, we have a process.
19 Doesn't have to be detailed. Just there is a
20 process, involves three steps, and here's our
21 contact information. Just a very brief summary
22 of the process so that folks who may not be
23 reading our transcripts understand that there is
24 a process. That's my only change.

1 MS. DUPREY: Could you say that again? I'm
2 sorry.

3 PRESIDING OFFICER WEATHERSBY: This is what
4 I got, 17, further ordered that the Applicant
5 shall publicize on its website and through its
6 Project outreach communications, and now adding,
7 a summary of the process for resolving disputes
8 and Applicant's contact information for business
9 and property owners, blah, blah, blah.

10 MR. SCHMIDT: I think that's an important
11 addition. I agree with it.

12 MR. FITZGERALD: I'm fine with that.

13 MR. WAY: Fine.

14 DIR. MUZZEY: Fine.

15 PRESIDING OFFICER WEATHERSBY: Anyone not
16 want to add that language?

17 (No verbal response)

18 PRESIDING OFFICER WEATHERSBY: Okay. So
19 we'll add that language.

20 Anything else about in Dispute Resolution
21 Process on 17 through 21?

22 (No verbal response)

23 PRESIDING OFFICER WEATHERSBY: Does anyone
24 have any suggestions or changes concerning the

1 Dispute Resolution Process with the SEC found on
2 Applicant's Exhibit 268?

3 The only item I thought of when I went
4 through this was that sometimes it's really
5 important in certain circumstances to have a
6 view. To actually have the person go out and
7 take a look. And as I read that process, it
8 doesn't seem to allow for a site visit by the
9 Dispute Resolution Administrator. Is that
10 something that would be implicit or something we
11 should add, Counselor?

12 MR. SCHMIDT: I think it's an important
13 add-on as well.

14 MR. IACOPINO: It's up to whether you want
15 to add it or not. I would recommend that you
16 give as much detail as possible to your Dispute
17 Resolution Administrator so that she or he may
18 know that they are free to take a view if that's
19 what you would want to be part of their
20 authority.

21 PRESIDING OFFICER WEATHERSBY: I would want
22 it to be up to the discretion of the
23 Administrator to decide whether or not that
24 person thinks it would be helpful to go take a

1 look. At the same time, I don't want to make it
2 a huge process where it has to be noticed or --
3 I mean, the person could just go take a look.
4 Right? Maybe by filing the Application everyone
5 agrees the person can go on their property and
6 go take a look. But or does it have to be more
7 formal than that? Sort of the Zoning Board
8 approach.

9 MR. IACOPINO: Presumably, if the property
10 owner participates in this process they've
11 implicitly provided permission for the neutral
12 to be involved so you may want to specify it so
13 that when somebody gets involved in this process
14 they're aware that they be authorizing
15 implicitly the neutral to go to the property to
16 see what they're talking about.

17 My guess is that most cautious neutrals
18 wouldn't do it without both parties present
19 anyway so I doubt that it would become an issue,
20 but in the sake of being complete you may want
21 to have that authority contained in the Dispute
22 Resolution Process and so that all parties are
23 aware of what may occur.

24 MS. DUPREY: So I just have the question of

1 this is a process that is for actual harm. Do
2 we not feel like photos would be sufficient?

3 PRESIDING OFFICER WEATHERSBY: I always
4 feel like there's nothing like seeing the real
5 thing. I think, I've certainly seen that in my
6 practice and my life in zoning work, et cetera,
7 and also in this Committee. When you look at a
8 photo sim and you haven't actually been there
9 and then you go there and you see the
10 surroundings, I think a photo is great and what
11 it captures is informal, but I think if the
12 Dispute Resolution Administrator desires more
13 information by way of a site visit that they
14 should be able to go out and take a look and
15 inform themselves, not only to the one view of
16 the poles, for example, but you know, maybe
17 there's the bay next door or how close a
18 commercial business is to the right. I think
19 it's important to get context.

20 MS. DUPREY: Well, it would seem to me that
21 it ought to be at the request of one of the
22 parties, not just the neutral. I mean it's
23 their case and it's their evidence and if
24 they're not asking for it, I don't feel like the

1 Administrator should on their own decide that
2 they want to go out there. I mean, I'm tempted
3 to say that they only go out if the claimant
4 wants to and then you don't have the issue about
5 whether you can be on the property or not.

6 PRESIDING OFFICER WEATHERSBY: I'd be fine
7 with that as well.

8 MR. WAY: Could we just say, for example,
9 at number 5 which says each party shall be
10 permitted to present witnesses and evidence, et
11 cetera, that site visits may be requested with
12 the neutral party at the discretion of either
13 one of the parties. Something like that.
14 Instead of once again, going to such lengths.
15 Just putting a simple statement like that that
16 opens the door for site visit.

17 MS. DUPREY: I would only say that this
18 process was developed with the Applicant. They
19 did not ask for that. So I don't know that we
20 need to include their request.

21 MR. SCHMIDT: I think it's a good idea to
22 keep the door open. If not a requirement for a
23 site visit have at least the opportunity
24 available.

1 DIR. MUZZEY: I would agree that a site
2 visit could be very helpful in some specific
3 cases and that if the door is left open and the
4 parties involved can request or agree is a good
5 idea and a sound addition.

6 PRESIDING OFFICER WEATHERSBY: All right.
7 So I'm sensing some consensus that folks think
8 having, the ability of, having the Dispute
9 Resolution Administrator have the ability to
10 have a site visit at the request of either/or
11 both parties would be beneficial to the process.
12 Seems as though a majority feel that way. Do
13 you want me to poll? Do you nod heads? Does
14 anyone want to talk about that further?

15 (No verbal response)

16 PRESIDING OFFICER WEATHERSBY: I like
17 Mr. Way's suggestion of just adding a sentence
18 to number 5 to that effect.

19 MR. IACOPINO: I just have one question for
20 Madam Chair. Did you want it to say that at the
21 request of the party and in the discretion of
22 the Dispute Resolution Administrator?

23 MR. FITZGERALD: I was just going to
24 suggest that it be up to the Dispute Resolution

1 Administrator to decide whether to grant a site
2 visit or not.

3 MR. IACOPINO: Thank you.

4 PRESIDING OFFICER WEATHERSBY: I also think
5 that would be helpful in certain cases that
6 might be requested and really not necessary so I
7 think leaving that discretion is helpful.
8 Anyone disagree?

9 (No verbal response)

10 PRESIDING OFFICER WEATHERSBY: Okay.
11 Anything else about the Dispute Resolution
12 Process including Exhibit 268?

13 (No verbal response)

14 PRESIDING OFFICER WEATHERSBY: Let's end
15 that discussion then.

16 So we'll take up our next subject which is
17 property values.

18 MS. DUPREY: I would just remind us that we
19 are still operating under section of the statute
20 RSA 162-H:16 IV(b) which states that after due
21 consideration of all relevant information
22 regarding a potential siting or routes of a
23 proposed energy facility including potential
24 significant impacts on benefits, the Site

1 Evaluation Committee shall determine if issuance
2 of a certificate will serve the objectives of
3 this chapter. In order to issue a certificate
4 the Committee shall find that the site and
5 facility will not unduly interfere with the
6 orderly development of the region with due
7 consideration having been given to the views of
8 municipal and regional planning commissions and
9 municipal governing bodies.

10 Then the reason that we get to this
11 particular topic is through our rules which is
12 Site 301.09 which states all of the information
13 that an Applicant must include which
14 subparagraph (b)(4) is the effect of the
15 proposed facility on real estate values in the
16 affected communities. So this is part of the
17 economy section, looping back to the main topic
18 which is undue interference with the orderly
19 development of the region. So that's the
20 background.

21 There was a lot of information given on
22 this particular topic. The expert testimony was
23 given by Mr. Chalmers who was the expert witness
24 of the Applicant. I do note that there was no

1 other expert testimony provided to us. There
2 was a lot of criticism of his report, but it
3 wasn't by any experts. So I just think that
4 that's something that we need to keep in mind a
5 little bit as we go through this.

6 So Mr. Chalmers originally submitted
7 materials to the Committee in Prefiled Testimony
8 and the report that was later updated in 2018,
9 largely, as I gathered, in response to the
10 Northern Pass decision having come down. And at
11 that point, he submitted new Prefiled Testimony
12 and an updated report dated July 27, 2018, and
13 it's found at Applicant's Exhibit 147.

14 So I am going to really summarize this
15 report which is 4,500 pages long or thereabouts
16 which, you know, was very thorough and had all
17 of his studies. He mentioned that each one of
18 the cases that he put in of the new cases
19 required 30 or 40 person hours of work so it was
20 a very intensive effort on his part.

21 His study includes a variety of types of
22 information. One is literature on this subject
23 which he did an extensive search on that
24 literature. Then he had case studies, market

1 research and subdivision studies. And what he
2 did with his 2018 report was add a bunch of new
3 materials related to both New Hampshire and also
4 to Connecticut and Massachusetts, and what he
5 was trying to do with this additional
6 information was to beef up the portions of his
7 report that specifically related to New England,
8 I think in an effort to try to find properties
9 that were more similar to the ones that could be
10 affected here than to other parts of the
11 country.

12 So that effort I think was helpful, but I
13 would just say that it still a fairly small
14 study, and, again, I'm not an expert. It's hard
15 for me to critique this so I'm not really going
16 to critique it, but I think something else
17 critiqued it by it being a small study.

18 Basically, what he did was after doing this
19 study, which I'll talk about the findings of in
20 a moment, he then went through the Project,
21 segment by segment, to discuss what it was that
22 we were looking at in each particular segment.
23 And I think that I'm not overly generalizing by
24 saying that he categorized the properties into

1 four categories.

2 One was resolution which is the one that
3 we're probably the most involved with here.
4 Commercial and industrial as a category
5 together. Undeveloped lands. And then UNH.

6 And he found that in each of those types,
7 other than residences, that there would not be
8 harm to the property, to the properties' values.

9 And I don't think it's, it was, I guess I'm
10 going to say a bit conclusory on the other
11 categories other than residential. I don't
12 think he put as much effort, if you will, into
13 those segments. He felt that with respect to
14 UNH that the Project had been undergrounded and
15 a vital part of it. That it had, other parts of
16 it were in areas that were more commercialized
17 already such as where the train station is and
18 whatnot, and from that he found that there
19 wasn't harm.

20 With respect to the undeveloped properties,
21 he, in linking with Mr. Varney's testimony, made
22 the determination that those properties weren't
23 likely to be developed and thus didn't feel that
24 there was going to be harm to those.

1 And the commercial and industrial
2 properties were areas that we've looked at from
3 aesthetics and whatnot. The mall, the
4 industrial area in Newington, which weren't
5 areas that people had complained about and had a
6 good bit of this type of facility already
7 located in them. So his concentration, I think
8 it's fair to say, is on the residential
9 properties.

10 So his newest study, the conclusions are
11 not different than the old study, but what he
12 would say is that they support his old study.
13 And again, this is largely about residences.

14 And what he found as a result of all of the
15 various things that he has looked at is that
16 there were three factors in particular that
17 affected whether a property was going to have an
18 adverse price impact.

19 One was its proximity to the facility. So
20 if you were within 100 feet of the facility, you
21 were far more likely to experience an adverse
22 price effect than as soon as you got outside of
23 hundred feet. There were impacts on two of the
24 properties that he looked at between 100 and 200

1 feet. They were, both of those properties were
2 fairly close to 100 feet and once you got over
3 200 feet, nobody was affected.

4 Then another factor of the three factors
5 was its proximity, the fact, whether the
6 property was impacted by the right-of-way.
7 Whether the right-of-way ran across the
8 property.

9 And the third which relates to me and to
10 the first was whether there was a view. And I
11 think that this was probably the most
12 controversial of his three categories. And it
13 was controversial not because of the two
14 extremes, one where there was no view and one
15 where there was a clear view, but with respect
16 to the category of partial. And I don't think
17 folks felt this they could get their arms
18 around, from our questions, arms around partial,
19 what it meant, and I think what people did
20 realize in listening to the cross-examination of
21 Mr. Chalmers was that it could be a fairly
22 significant change from a minor partial view to
23 a major partial view, that that category
24 incorporated a whole lot of views that I think

1 that people didn't feel terribly comfortable
2 about that impact and his description of the
3 impact.

4 Once he finds that there is an impact, he
5 claims that it's around, I think it's around 55
6 percent of the properties will have an adverse
7 impact, and the range of impact that they could
8 have is 1.6 percent to I think it was 17 and a
9 half, some 17.8 percent, under 18 percent. So
10 between 1 and a half percent and 18 percent
11 which is a fairly large swing, and those impacts
12 from his studies were all over between that
13 area. He takes an average of them and says it's
14 around 7 and a half percent.

15 So in looking at his materials, I found two
16 charts in particular to be useful, and Dawn,
17 hopefully you'll be able to put them in. One
18 was Table 1 found at page 7, that's real page 7
19 so it might be page 8 electronically.

20 DAWN GAGNON: What's the exhibit number?

21 MS. DUPREY: I'm sorry. It's exhibit
22 number 147 which I'm informed is electronic page
23 8. Can everybody see that? Can they pull it up
24 themselves?

1 So one little item that I found confusing
2 on this is the word "yes." And the word "yes"
3 means you have a view. So if you look at this
4 table, and I'm just walking you through this
5 because I think that this is really central to
6 his evaluation of properties.

7 He starts with the properties that are not
8 visible, and as you can see that he then says
9 that they have, none of them have any effect on
10 the purchase price. Then he gets into the
11 category of partially visible, and you can see
12 of 13 properties that were within 100 feet,
13 that's the first column, that were within 100
14 feet of a facility, six of those properties had
15 partial visibility -- I'm sorry. Six of those
16 properties experienced an effect. I'm sorry, I
17 was using the wrong category for yes. Yes is
18 experienced an effect. And so approximately 46
19 percent. Am I doing this right? It says I am.
20 And clearly visible, there were 29 properties
21 that were clearly visible. 17 had an effect or
22 59 percent. So when he goes through all of
23 this, you know, he's ultimately getting over to
24 the totals column which shows, in his theory,

1 that with 29 properties that are affected, 25,
2 I'm sorry, this can't be right. I think yes is,
3 sorry about this. I've looked at this so many
4 times you would think I would have this down by
5 now.

6 Yes is having a view. Yes is having a
7 view.

8 So he concludes in the end that he's looked
9 at 100 properties, 29 of them have a view and 25
10 percent of those are adversely affected price
11 wise.

12 (Discussion with Mr. Fitzgerald)

13 MS. DUPREY: I was doing my math wrong.
14 I'm sorry. So that is the study that he did,
15 that's an overview of the study that he did.

16 So then Dawn, if you could pull up and this
17 is way at the end, it might be the last page of
18 the study. It's Attachment D.

19 MR. SCHMIDT: Electronic page 4389.

20 DIR. MUZZEY: Which page?

21 MR. SCHMIDT: I believe it's 4389. You
22 said Attachment D, correct?

23 MS. DUPREY: I did.

24 MR. SCHMIDT: 4389.

1 MS. DUPREY: So this list is the list of
2 properties that he finds are within 300 feet of
3 the right-of-way. Now, given our last
4 discussion, I do want to caution that he, while
5 he went out to all of these properties if they
6 were within 300 feet, he did not go on the
7 properties. He was not able to go on. He
8 didn't have permission to do that. So he was
9 making his determination not of what was within
10 300 feet, but he was making his determination of
11 what would have a view based on his standing at
12 the edge of the property, standing in roads at
13 times, from aerial evidence that he was able to
14 get, GIS evidence that he had, but it has been
15 pointed out by some as a weakness that he wasn't
16 actually on the property.

17 So what he did was he developed this list
18 of 63 residential properties. Now, we're only
19 talking residential because he has excluded
20 undeveloped, UNH, and commercial/industrial
21 properties from having, in his mind satisfied
22 that those properties weren't going to have an
23 effect.

24 He concedes that properties that are

1 residences will have an effect, especially if
2 they're within 100 feet so he does his study
3 based on these categories of 100 feet, 200 feet
4 and 300 feet away from the facility. And this
5 is the list of all of the properties that are
6 affected. And you can see on the very far
7 right-hand side, just a couple of interesting
8 things here. He, number one, breaks it down by
9 town. And from that, you can see that there are
10 very few in Newington and the bulk of these
11 properties that have the potential to be
12 affected in his view are in Durham.

13 Then he also has a column, the fourth
14 column which I also found interesting was the
15 distance of feet away from the facility that
16 they are. And I would say roughly half of them
17 were 150 or less and half of them are 150 or
18 more. So since to some degree we're making our
19 own judgments about these things, I just thought
20 it was useful to point that fact out.

21 Then the last column is split in two and it
22 talks about the visibility of the Project, both
23 before and after it's built. And the left-hand
24 column shows those who had a view of the

1 existing facility out there before. And then
2 the ones who will have a view of it after,
3 whether it be partial or whether it be a clear
4 view, and he's noted that in these columns.

5 So I spent a little bit of time studying
6 that, and I just thought it was interesting the
7 way he had categorized all of these things and I
8 would again say that I think that the discomfort
9 in terms of having a solid foundation came from,
10 of this Committee in questioning him and on
11 cross was in the partial category.

12 All right. Dawn, then if you could pull up
13 page, electronic page 22 of that same exhibit.

14 MR. SCHMIDT: Can I just ask you a
15 question? Where it says clear view versus
16 partial view, did he make any adjustments for
17 the additional clearing of the right-of-way or
18 anything that you saw?

19 MS. DUPREY: He did. I mean, that's how
20 your view became clearer. So yes.

21 MR. SCHMIDT: So it wasn't based on the
22 size of the structure? It was based on the
23 clarity of it?

24 MS. DUPREY: Right. Right. Now, I will

1 say also that when he went out to look at these
2 properties, he used the aerial evidence for both
3 leaf-on and leaf-off conditions, but when he
4 physically was on the properties it was a
5 leaf-on condition. So I just alert you to that.

6 So Table 9 is a summary of the visibility
7 in relationship to the distance away, and you
8 can see here that of these 63 properties, 13 of
9 them are going to have some view if you're
10 within 100 feet. 13 of the people within 100
11 feet. So that's 13 of 14. There are 14
12 properties within 100 feet, and 13 of them are
13 going to have some view.

14 Then when you move to 101 to 200 feet,
15 there are 25 properties. 12 of them are going
16 to have some view, 13 will have no view.

17 And then once you're out to 200, from 200
18 to 300, there are a total of 24 properties, four
19 of them are going to have some view and 20
20 won't.

21 So adding this all up because I thought
22 this was important, of the 63 properties that he
23 finds within 300 feet, 29 of them are going to
24 have some view of this. So I think if you buy

1 into his analysis that it's distance, it's
2 whether you're affected by the right-of-way in
3 that it crosses your property, and your view, if
4 you accept that premise that that's a legitimate
5 premise upon which to determine whether or not a
6 property's value is going to being affected,
7 there are 63 properties in this universe, 29 of
8 them are going to have a view.

9 He then does some engineering of that
10 number, I'm going to say, that I will admit I
11 did not fully buy into to reduce it down to a
12 much lower number. I think he got to maybe six.
13 But I thought it was important for us to look at
14 this as, you know, we're really talking about 29
15 properties here. Again, if you accept his
16 theory of how to determine who's going to have a
17 view.

18 I in my own mind did not make a distinction
19 between partial view and clear view because I
20 just felt like it wasn't settled enough, and I
21 didn't have confidence about what partial meant
22 so, therefore, I felt like I had to take it to
23 its worst extreme and I did. And so that's the
24 parameter that I personally judged this from. I

1 felt very comfortable with the 100 feet, 200
2 feet, 300 feet distance. The whether the
3 right-of-way was on the property or not, I have
4 to say for me personally didn't matter a whole
5 lot. Whether they had a view mattered
6 substantially to me. That was probably the most
7 important factor. So that's why when I say in
8 summarizing this, I look at 63 properties in the
9 universe, 29 of them have a view. I feel like
10 that's the group that we're dealing with here.

11 If we didn't have the Dispute Resolution
12 Process, I think that this would be a lot more
13 concerning than it is, but when I personally
14 take into account the fact that the standard is
15 the region, it's hard for me to say, even I
16 guess if we didn't have the Dispute Resolution
17 Process, the 29 affected properties constitutes
18 the region. Or enough to affect the property
19 valuation of the region.

20 I think the fact that there is the Dispute
21 Resolution Process gets us over that hurdle.
22 And I would tell you that in looking at Counsel
23 for the Public's brief who was quite critical of
24 Mr. Chalmers' report, one, for feeling that it

1 was too coarse of a measurement, and, two, for
2 not being physically on the property, feeling
3 that there should have been photosimulations or
4 whatnot, in the end he makes the statement that
5 he feels that the Dispute Resolution Process
6 mitigates that issue for him.

7 So I felt that way, too. I throw it open
8 to you to ask me any questions. I will tell you
9 I am not an expert in this, none of us is an
10 expert in this, we only had one expert and that
11 was Mr. Chalmers himself, but I'll do my best to
12 answer any questions, and other than that, I'll
13 let you deliberate on this.

14 PRESIDING OFFICER WEATHERSBY: Director
15 Muzzey?

16 DIR. MUZZEY: So following through the
17 suggestion by Counsel for the Public that if a
18 property owner feels their real estate values
19 have been diminished by the construction or
20 operation of the Project, thinking of our
21 Dispute Resolution Process, what type of
22 evidence or application materials would a
23 property owner need to bring to that process in
24 order to make the case? Just trying to assess

1 how the Dispute Resolution Process would work
2 for that property owner and how, well, basically
3 how it would work.

4 MS. DUPREY: So initially that property
5 owner would have gone through the steps 17
6 through 19 so they're going to get in contact
7 with Eversource. They're going to bring their
8 claim to Eversource in that first stage.
9 Eversource is required to respond to them within
10 ten days. If that doesn't work it gets bumped
11 up a notch at Eversource. If that doesn't work
12 they go through the mitigation process which
13 we've now determined there won't be any fee
14 related to.

15 If they fail in mitigation to persuade
16 Eversource to their point of view, then they
17 enter the Dispute Resolution Process which
18 specifies what the information is for this type
19 of a case.

20 First off, I would say that there are
21 things that you could bring into this that are
22 in other sections of this such as photos and
23 whatnot or potentially a site visit, but D(3)
24 specifies what you're going to bring in to prove

1 diminution in the value of real property owned
2 by the applicant, the applicant not being this
3 Applicant, the applicant being the claimant.

4 So you're going to have an appraisal of the
5 affected property indicating the value of the
6 property with and without existence of the
7 Project performed by an independent licensed New
8 Hampshire real estate appraiser under USPAP
9 standards and a description of the property
10 prior to the Project and the associated loss of
11 value after Project mitigation and restoration.

12 DIR. MUZZEY: So would the property owner
13 then need to have an appraisal done prior to
14 construction if they felt damages may be
15 warranted, and then again postconstruction as
16 well as mitigation and/or restoration efforts if
17 they're offered?

18 MS. DUPREY: I'm going to say no to that.
19 I think an appraiser can determine what the
20 value was before the damage based on studies in
21 the area. I mean, that's what they do. So no,
22 I don't think so. You could have one appraisal
23 that shows the before and the after.

24 DIR. MUZZEY: It's interesting. So, you

1 know, thinking of our previous discussion about
2 some sort of cost sharing for a property owner
3 to have an appraisal done does represent some
4 cost sharing.

5 MS. DUPREY: True.

6 PRESIDING OFFICER WEATHERSBY: Mr. Way?

7 MR. WAY: I'm not sure where you want to go
8 with this from this point forward. I agree with
9 Ms. Duprey's conclusion. I thought it was a
10 very good summary. I felt a level of comfort
11 through the testimony and the report.

12 I do wish that the site visit had been a
13 little bit more fit to the property, you know,
14 doing it from the street view a lot of times
15 didn't do it for me when I looked at the
16 visuals, but that I think I'm still comfortable
17 where we ended up.

18 I think the Dispute Resolution Process is
19 in place to address these issues. I agree with
20 Director Muzzey that, yeah, appraisal isn't a
21 cheap thing, and now that I'm hearing that I'm
22 feeling even better about what we did this
23 morning.

24 So I'm not sure where you want to go from

1 here, but I think I'm fairly persuaded we've got
2 a system in place, and that's not to negate what
3 I believe will be some impacts. There are going
4 to be some that are going to experience it, and
5 thankfully, hopefully, it doesn't seem like
6 there will be a great number, but it doesn't
7 diminish those that do.

8 PRESIDING OFFICER WEATHERSBY: Mr. Schmidt.

9 MR. SCHMIDT: I am concerned on a couple of
10 things. Primarily, that he didn't do a site
11 visit. I'm not sure how familiar he is with the
12 economy of that area. You can do research, you
13 can look at things in the market, but that's
14 only part of the equation when you're doing an
15 appraisal. My sense is, and I'm not sure if I
16 agree with his emphasis being on just the
17 distance to the right-of-way. I think there's
18 other factors that an appraiser should take into
19 account. But with that said, with the
20 weaknesses, I do think the appeal process will
21 accomplish specific property issues that may
22 come up whereas we may not have the knowledge or
23 the expertise, I think it, the criteria is in
24 place where a site specific analysis could be

1 done.

2 MS. DUPREY: So I just wanted to
3 distinguish, and I think that Mr. Schmidt is
4 probably making this distinction, but I just
5 wanted to be certain. He did go to every
6 property, but he couldn't go on the property.
7 He had to stand at the edge of them. Thanks.

8 PRESIDING OFFICER WEATHERSBY: So I'll just
9 add my two cents. I think I'm pretty much of in
10 agreement with what others have said. I found
11 Mr. Chalmers' analysis lacking in at least four
12 ways.

13 One, in his analysis about how many feet
14 from the right-of-way is all based on the
15 location of the house and not whether the
16 property was within a certain amount of feet.
17 For example, Mr. Fitch whose house we -- or Mr.
18 Frizzell. I always get them mixed up. The one
19 in Newington whose property we visited. His
20 house I don't think he said he will make the
21 cut.

22 Second point is that the view of the
23 Project had to be from the house and not
24 somewhere else on the property in that he

1 couldn't go to the houses to look. So it was a
2 bit of a -- and I understand he didn't have
3 access, property rights, et cetera, but it was
4 a, he did the best he could with that, but I
5 don't think it really was sufficient.

6 I, too, have trouble with his potential
7 visibility category. It was so broad it felt
8 like you could have a view of a tiny bit of the
9 top of one structure or you could have partial
10 visibility of many, and the fact that it wasn't
11 a clear view or no view, everyone was lumped
12 together, and I thought there should have been
13 graduations there.

14 And my fourth criticism was I don't think,
15 I could be wrong, but I don't think he did any
16 analysis of the property owners' views affected
17 by the concrete mattresses.

18 So I question his analysis. I didn't find
19 his conclusions very reliable. But the Dispute
20 Resolution Process kind of saves the day because
21 if he is wrong there is a way for folks to get
22 compensated. So I feel as though that basically
23 does result in there will be an adverse effect
24 on those property owners, but it will not be an

1 unreasonable adverse effect on them nor as you
2 elevate it to the region.

3 MR. WAY: I would agree with you as well
4 that testimony was lacking when it came to the
5 concrete mattresses. I thought the conclusions
6 were more just opinion, opinion that any of us
7 might offer, and have just as much weight. I
8 didn't get the sense that he had really put a
9 lot into that.

10 Just as you mention, and I think like I
11 said earlier, I agree with in terms of a
12 perspective. You know, where you're able to
13 view from was certainly lacking, and then I
14 think also, too, when you look at some of the
15 vacant lands and the value from those properties
16 as well. But once again, I think the Dispute
17 Resolution Process, I think, helps to address
18 some of that.

19 PRESIDING OFFICER WEATHERSBY: Anyone else
20 care to comment concerning real estate values?
21 Mr. Fitzgerald?

22 MR. FITZGERALD: I just wanted to note that
23 as you did I agree, I thought the analysis was
24 actually fairly thorough. There's some points

1 that could be argued one way or another such as
2 the ones that you brought up relative to whether
3 it was a distance from the home or the property
4 value, what the view was, et cetera.

5 I think in general the conclusion is valid
6 that there are relatively few properties that
7 will have a tangible significant price effect,
8 and, second, that the Dispute Resolution Process
9 does provide for those situations.

10 And I just wanted to note that that was
11 pretty much the observation of the Counsel for
12 the Public as well. They did not contest the
13 study, they did not feel the need to hire their
14 own expert, and they noted that the Dispute
15 Resolution Process would be the appropriate
16 mechanism for ensuring, and I just wanted to
17 understand how that would -- am I to assume that
18 if you got this appraisal considering the view
19 with and without and it determined that there
20 was, say, a \$50,000 difference in your price
21 that you would be awarded that differential? Is
22 that, I mean, I know it's up to the Dispute
23 Administrator, but in general, is that the
24 theory? Or would you have to wait until the

1 sale of your home?

2 PRESIDING OFFICER WEATHERSBY: I think how
3 it would work, the applicant, the applicant
4 being the property owner --

5 MR. FITZGERALD: Right.

6 PRESIDING OFFICER WEATHERSBY: -- would
7 present evidence including an appraisal from a
8 licensed appraiser about the effect of the
9 Project on their property value. No doubt
10 Eversource will also have an appraisal with
11 information that most likely shows a different
12 and probably lesser number. And then the
13 mediator or in the end the Dispute Resolution
14 Administrator will weigh all of that evidence,
15 perhaps go take a look, and make a determination
16 that one of those numbers is correct or neither
17 of those numbers is correct, maybe it's higher,
18 maybe it's lower, but then a determination will
19 be made based on all of evidence. So they're
20 not necessarily guaranteed the \$50,000 in your
21 example.

22 MR. FITZGERALD: So at that point he would
23 assign a value and a payment would be made. It
24 doesn't, it's not contingent about waiting until

1 the property is actually sold or some actual
2 damage has -- I guess the diminution of property
3 value is actual damage, but --

4 PRESIDING OFFICER WEATHERSBY: They would
5 not need to sell the property in order to
6 receive damages.

7 MR. FITZGERALD: Okay. Good.

8 MR. SHULOCK: I would just hope that the
9 Administrator would not accept this study as
10 evidence of the effect on any one particular
11 property. You know, I'm having problems
12 accepting this as a study for the region, let
13 alone a person's individual residence.

14 MS. DUPREY: Can I just ask Mr. Shulock
15 when you say that you don't accept the study for
16 the region, are you thinking that there are
17 going to be a lot more properties affected in
18 the region than what he's saying?

19 MR. SHULOCK: Well, I agree with all of the
20 criticisms that have been made by Counsel for
21 the Public and the people on this panel which
22 makes me question how accurate the outcomes of
23 his study are. So there may be more houses
24 along the way that are affected, but the actual

1 swath that it cuts through the region is only a
2 small portion of the region as a whole to begin
3 with. So, you know, I'm able to get past those
4 criticisms for this Project, but only because
5 there's a Dispute Resolution Process, and I
6 would hope that this study is not used as
7 evidence in that process.

8 MS. DUPREY: Okay. The only reason I raise
9 it is I think that --

10 MR. SHULOCK: I acknowledge that I have no
11 control over that.

12 MS. DUPREY: Okay. That wasn't really my
13 issue so much as I think it's important with
14 respect to this finding that the finding be that
15 there is not an undue interference with the
16 orderly development of the region. And I would
17 just caution that I think that that should be
18 separate, I think it should be separate from the
19 Dispute Resolution Process. I think the Dispute
20 Resolution Process is great and it reimburses
21 everybody, but I think the finding needs to be
22 and maybe, attorney Iacopino, you feel
23 differently than that, that it's not affecting
24 the region.

1 MR. IACOPINO: The ultimate determination
2 that the Committee must make is whether or not
3 the Application as proposed with whatever
4 amendments that have been made and any
5 conditions that you find, whether or not the
6 siting, construction and operation of the
7 facility will unduly interfere with the orderly
8 development of the region.

9 In coming to that conclusion you have the
10 considerations that are required by our rules
11 that you must consider of which property values
12 is one of them. It is up to the Committee as to
13 how you ultimately come to the Final Decision on
14 whether or not the process will interfere with
15 the orderly development of the region. It's not
16 a checklist. You have to consider property
17 values though under your rules.

18 MR. FITZGERALD: I recall we had some
19 discussion, but I'm not sure it was resolved,
20 what we consider the region. To me the region
21 is not just the right-of-way with the easement
22 and the 13-mile line. It's broader than that.
23 So I guess I wonder if others feel the same way.

24 DIR. MUZZEY: I've been looking at the

1 right-of-way as the Project area and believe the
2 Project area even extends a little beyond the
3 right-of-way given activity outside of the
4 right-of-way for this Project. And we've heard
5 a number of definitions of region. The one that
6 has resonated for me and that I am using in my
7 mind is the idea is that it's the region served
8 by the Project.

9 MR. SCHMIDT: That's been my approach as
10 well.

11 PRESIDING OFFICER WEATHERSBY: Director
12 Muzzey, could you clarify by what you mean by
13 area the Project serves?

14 DIR. MUZZEY: Specifically, I would need to
15 go back to my notes to remember the exact area
16 served by this Project, but roughly, the
17 Seacoast of New Hampshire and portions to the
18 west that are also served by the Project, not
19 extending into the Merrimack Valley. Does that
20 make sense?

21 PRESIDING OFFICER WEATHERSBY: It does. I
22 just wanted to understand how broad you were
23 going with interconnections, electric
24 interconnections.

1 DIR. MUZZEY: Right.

2 PRESIDING OFFICER WEATHERSBY: Certainly in
3 my mind the Seacoast region. It's the Seacoast
4 Reliability Project. It's enhancing reliability
5 for the Seacoast, Portsmouth, Newington, Durham,
6 in particular, but I think it is broader than
7 those towns. I think it extends out through the
8 Seacoast region. Ms. Duprey?

9 MS. DUPREY: There's a plan at Applicant's
10 Exhibit 46 that, it doesn't show the whole
11 thing, but it describes what's called the
12 Seacoast Region Substation. So I just caution
13 you I don't know what I'm talking about, but
14 anyway, that's the title of the plan.

15 PRESIDING OFFICER WEATHERSBY: So as far
16 north as Rochester, as far west as Barrington,
17 Nottingham, Raymond, little bit of Chester,
18 Sandown, and then over to the coast, and then
19 back up along the Maine border.

20 Wrapping up the effect on real estate
21 values, are you ready for a straw poll of how
22 people are feeling? I get the sense -- I'll
23 just poll everyone as to whether you feel as
24 though the Seacoast Reliability Project will

1 have an undue adverse impact on real estate
2 values of the region.

3 DIR. MUZZEY: Can you say it again?

4 PRESIDING OFFICER WEATHERSBY: I'll try.
5 Whether the Seacoast Reliability Project will
6 have an undue adverse effect on the real estate
7 values of the region. Would you like me to --

8 DIR. MUZZEY: I just don't know that we're
9 doing "undue adverse effect." Aren't we doing
10 undue -- interference?

11 PRESIDING OFFICER WEATHERSBY: Undue
12 interference. Sorry.

13 DIR. MUZZEY: Thank you.

14 MR. FITZGERALD: No.

15 MS. DUPREY: No.

16 MR. WAY: No.

17 MR. SCHMIDT: No.

18 MR. SHULOCK: No.

19 DIR. MUZZEY: No.

20 PRESIDING OFFICER WEATHERSBY: No. Why
21 don't we take a ten-minute break. Be back at 5
22 minutes to 12. Off the record.

23 (Discussion off the record)

24 (Recess taken 11:43 - 11:57 a.m.)

1 PRESIDING OFFICER WEATHERSBY: Okay. We'll
2 get started again. At this point, we're going
3 to take a vote on the orderly development
4 criteria. I'll remind you that the last couple
5 days we've been, today and Friday, we've been
6 talking about all the different subcategories
7 that fit into the orderly development category,
8 making our decision, concerning whether the
9 Project will have an undue interference with the
10 orderly development of the region.

11 We are to consider the extent to which the
12 siting, construction and operation of the
13 proposed facility will affect land use,
14 employment, and the economy of the region. The
15 provisions of and financial assurances for the
16 proposed decommissioning plan for the proposed
17 facility, and the views of the municipal and
18 regional planning commissions and municipal
19 governing bodies regarding the proposed
20 facility.

21 So as you consider all of those in your
22 head, we're going to poll you as to whether you
23 believe the Seacoast Reliability Project will
24 unduly interfere with the orderly development of

1 the region. Mr. Fitzgerald?

2 MR. FITZGERALD: No.

3 PRESIDING OFFICER WEATHERSBY: Ms. Duprey?

4 MS. DUPREY: No.

5 PRESIDING OFFICER WEATHERSBY: Mr. Way?

6 MR. WAY: No.

7 PRESIDING OFFICER WEATHERSBY: Mr. Schmidt?

8 MR. SCHMIDT: No.

9 PRESIDING OFFICER WEATHERSBY: Mr. Shulock?

10 MR. SHULOCK: No.

11 PRESIDING OFFICER WEATHERSBY: Director

12 Muzzey?

13 DIR. MUZZEY: No.

14 PRESIDING OFFICER WEATHERSBY: Nor do I.

15 Okay. Our next category we're going to
16 move into is determining whether the proposed
17 facility will serve the public interest. I'm
18 going to tee it up here, and then hopefully
19 everyone will chime in.

20 Couple statutes and rules we are to
21 consider. RSA 162-H:16(e) concerning the
22 findings of the certificate issuance, we need to
23 determine that the certificate, issuing the
24 certificate will serve the public interest.

1 In RSA 162-H:1 which is kind of a general
2 purpose clause of the Site Evaluation Committee
3 legislation tells us that the Site Evaluation
4 Committee was established because the
5 legislature found that it is in the public
6 interest to maintain a balance among those
7 potential significant impacts and benefits in
8 its decisions about the siting, construction and
9 operation of energy facilities in New Hampshire.

10 In addition to maintaining a balance
11 between potential significant impacts and
12 benefits, the statute also requires us to assure
13 that undue delay of new energy facilities be
14 avoided, that full and timely review of the
15 environmental consequences, and full and
16 complete public disclosure, and that the
17 construction and operation of energy facilities
18 is treated as a significant aspect of land use
19 planning which all environmental, economic and
20 technical issues are resolved in an integrative
21 fashion.

22 Specifically, concerning the criteria
23 relative to finding of the public interest,
24 that's found in Site 301.16, in determining

1 whether a proposed energy facility will serve
2 the public interest the Committee shall consider
3 the welfare of the population, private property,
4 the location and growth of industry, the overall
5 economic growth of the state, the environment of
6 the state, historic sites, aesthetics, air and
7 water quality, the use of natural resources, and
8 public health and safety.

9 In considering whether the Project will
10 serve the public interest the Subcommittee may
11 consider the factors in the rule and the
12 statute, may consider both the benefits and
13 detrimental impacts of the Project in all areas
14 of consideration. In addition, the fact that
15 the Subcommittee determined that this Project
16 does not create an unreasonable adverse impact
17 in one previously considered area does not now
18 prevent us from determining that the
19 accumulation of the adverse impacts of an entire
20 project requires us to find that the Project is
21 not in the public interest.

22 That is, this section is different. It's
23 not an undue or unreasonable impact in any one
24 area but a more holistic look at the entire

1 project. That a particular impact or benefit
2 was considered when deliberating on the other
3 statutory factors is immaterial under this
4 section and does not limit consideration of that
5 benefit or impact when determining if the
6 project serves the interests of the public.

7 So I think when we consider the welfare of
8 the population, actually when we consider all of
9 these factors in a more holistic approach, one
10 of the things we should look at certainly is the
11 public comments that we have received, both the
12 written comments submitted with the Committee
13 and the comments submitted at the public comment
14 sessions.

15 When I think of those concerns I looked
16 back through my notes from the sessions in
17 Durham and Newington and then the last one at
18 Pease, I found most of the comments to be in
19 opposition to the Project. The concerns, there
20 were some in favor, certainly, and those were
21 concerned about the power needs of the region,
22 the economic development of the region, those
23 were the ones in favor. But many more opposed
24 to the project.

1 I kind of boiled down their concerns to be,
2 obviously, very real concerns for the aesthetics
3 and how it might affect their daily lives and
4 their property values, concerns about safety for
5 their family, particularly with regard to EMF,
6 the harm to Little Bay, the potential harm to
7 Little Bay, the interference with recreation, a
8 desire for undergrounding and a belief that an
9 alternative route is available.

10 So I don't know where we really want to go
11 with this whole discussion. We can talk about
12 things we thought were benefits to the Project,
13 negatives, neutrals. It's not in that balancing
14 test. It's just a much more holistic approach.

15 But I think Counsel for the Public's
16 position was more correct concerning the fact
17 that we are able to talk about the negative
18 aspects of this Project as well when considering
19 this public finding of whether the Project is in
20 the public interest.

21 Director Muzzey?

22 DIR. MUZZEY: I would note that I was also
23 swayed by Counsel for the Public's argument as
24 to the meaning of this portion of our criteria.

1 I don't believe we would have ten areas to
2 consider either the benefit or the impact of the
3 project if we were only to consider benefits in
4 this section. So as I said, I found it was a
5 good summary of, good and appropriate summary of
6 our charge here in this section.

7 PRESIDING OFFICER WEATHERSBY: Ms. Duprey?

8 MS. DUPREY: I'm not sure what you're
9 looking for, but I'm happy to comment on these
10 standards if that's where we are.

11 PRESIDING OFFICER WEATHERSBY: Sure.

12 MS. DUPREY: And I'm not going to go
13 through them one by one because I don't think
14 that that's necessary, but I'm going to break
15 them into two categories.

16 One is the category of things where we
17 found some effect and the other -- so I would
18 put that more on the negative side. And then
19 the groups of factors where I felt like it was
20 on the positive side.

21 So starting with the negative, I felt that
22 in particular the historic sites and aesthetics
23 categories were the areas where we found the
24 most negative effects, and they can't be denied.

1 There are certainly visual effects for this
2 Project. We spent at least an entire day going
3 through that, and certainly there are effects on
4 historic properties as well, and we spent
5 another additional day deliberating on that
6 after listening to days of testimony of both of
7 those things and reading loads of documents,
8 Prefiled Testimony, briefs, and listening to
9 evidence through cross-examination on all of
10 them.

11 At the same time, I felt that the Applicant
12 made a real effort, in some cases after being
13 prodded to, but, nonetheless, made the effort
14 with respect to both the aesthetic category and
15 historic category. In the end, I felt there was
16 a great deal of planting that was proposed. I
17 was impressed at the ability to get MOUs with
18 Durham and Newington. I'm, again, not taking
19 way from their opposition to the Project, but
20 nonetheless, I felt that particularly with
21 respect to construction impacts that there had
22 been a real reaching across the aisle in an
23 effort to try to agree on much of the
24 construction impacts which also included

1 bringing back to original standards roadways
2 that are used for access which was I know a real
3 concern for a lot of people as well as lot of
4 planting mitigation in an effort to both block
5 aesthetic views and protect folks from the
6 various impacts of the Project.

7 I also thought that the letters, I think
8 they were five or six, I found efforts to every
9 Intervenor except for -- I didn't see anything
10 with Regis Miller, and I may have overlooked it.
11 But I found efforts with respect to every single
12 other person. I thought those efforts were
13 respected even if they weren't agreed to by the
14 individuals. I thought that the
15 cross-examination of many of those individuals
16 was helpful with respect to that.

17 And so even though I did feel that there
18 were definitely negative effects for both of
19 those two categories, I felt like the Applicant
20 had made a real effort to try to as best as
21 possible with the exception of undergrounding in
22 portions of Newington come some way to
23 ameliorate those concerns.

24 On the positive side, when I look at the

1 welfare of the population, the location and
2 growth of industry, and the overall economic
3 growth of the state, I feel like this Project
4 has a very beneficial effect. The Seacoast
5 region being our, I think, the most
6 up-and-coming, productive region of the state.
7 It's the region of the state that people want to
8 live in. It's positively looked upon by all of
9 the population, I think.

10 And in order to experience what we hope
11 will be growth in certain parts of it over there
12 and maintaining of what we have and continuing
13 to keep an economic engine going over there, it
14 seems to me that the reliability of power as
15 even cited in the master plans of both Newington
16 and Durham is important. Reliable power at a
17 price that's affordable. I know our job isn't
18 to get into the affordability, but reliable
19 power certainly helps get us to that.

20 Those things are really important for this
21 region, and so I feel like the Project
22 positively affects the location and growth of
23 industry, the overall economic growth of this
24 state and the welfare of the population.

1 Private property we just finished talking
2 about, and I really did feel after going through
3 that that it was a much more limited scope than
4 I had originally thought, and with the process
5 that's been put in place I feel good about those
6 folks being protected.

7 And while I acknowledged that there is some
8 impact on air and water quality and the use of
9 natural resources, I didn't feel like it was an
10 excessive impact.

11 I don't, I admit, have as much trepidation
12 about the jet plowing as many of the folks in
13 the public who testified at the hearings. I
14 don't have a way of knowing what their knowledge
15 of jet plowing and HDD is. I'm confident that
16 our Department of Environmental Services is up
17 to this job and is on the job and overseeing
18 this.

19 So in the end when I add all of these
20 things together, I feel that it is in the public
21 interest, in my balancing and weighing of it, in
22 my opinion. Thank you.

23 PRESIDING OFFICER WEATHERSBY: Mr. Way?

24 MR. WAY: Sure. Thank you. Boy, it's hard

1 to expand more on what was just said, and I
2 think that's kind of my approach that I took was
3 trying to take a look at the negatives and the
4 positives, and I'm not going to go through the
5 list as well.

6 You know, I think part of what I started
7 with, I did go back to the public hearings. I
8 have gone back to all the testimony. And I've
9 been the better for it, and I certainly listened
10 to the concerns that were put before us and I
11 thought there was a lot of good concerns. I
12 don't think there's any denying that the
13 physical aspects of the Project, the physical
14 construction, is going to have an impact and on
15 some people it's not going to be a good impact.
16 Those that may have had partial views may now
17 have a very clear view. And like I've said
18 before, I don't think there's a lot of ways to
19 sugar coat a new normal with a concrete
20 mattress. Do I think it's going to be as
21 onerous as maybe some have thought? I don't.
22 But that doesn't -- but that's just me sitting
23 up here. I don't live right in front of it. So
24 there's not a lot of value in trying to say that

1 something may be a lot better or better than
2 what people envision it will be, but I think
3 we've already weighed in whether it will be
4 unreasonable or not.

5 In terms of the impact to the state, I
6 think I would agree with everything that Ms.
7 Duprey said is that, you know, providing
8 reliable power, and while it may not, we cannot
9 comment as much on the cost, we certainly can
10 comment on the availability, and having that
11 reassurance for those that are looking to site
12 here, those businesses that may be looking to
13 expand, that's critically important. Having
14 that assurance that there's a dedication to
15 expanding power availability I think is an
16 important message as well, and I think it does
17 translate into the economy of the region.
18 Whether -- you know, we have several regions in
19 the state that are booming when you look at the
20 93 corridor as well. So I'm not sure I'm
21 prepared to say that the Seacoast is any more
22 than any other part of the state because they,
23 oftentimes it differs for industries. But
24 suffice it to say, it's an important part of the

1 state, certainly with its proximity to other
2 states. So you know, the location and growth of
3 industry, I think, will benefit from this. And
4 when that happens the overall economic growth of
5 the state occurs as well. So it has obviously
6 has benefits in that respect. More longer term.

7 In terms of the impacts that we saw, I
8 think in a lot of ways I agree that the
9 Applicant has upped their game and has made an
10 effort to try to identify areas where they could
11 possibly come to some solutions. As I've said
12 before when I look at the construction, the
13 testimony from the Construction Panel, I get the
14 confidence that they can put something in place
15 and they've done what they can to maybe mitigate
16 some of the impacts, and I think mitigation is
17 the key to it. Because all of this is not going
18 to have a lot of value if we don't have
19 confidence that the mitigation, the avoidance,
20 where possible could occur. And so in that
21 respect, I feel comfortable that what we've
22 talked about here could actually come to pass.

23 Like I said, I think Dispute Resolution
24 Process, it's critically important. I think

1 what we put in place with the steps leading up
2 to it, or what Counsel for the Public and the
3 Applicant put in place rather, is important and
4 it's responsive. And so I think that's in good
5 shape.

6 And I absolutely agree that our permitting
7 agencies have treated this with high priority.
8 I think they've put in place reasonable measures
9 of performance and monitoring and so I've been
10 hesitant to second guess a lot of what they're
11 doing. I have confidence that I think they can
12 put this into effect.

13 So as Ms. Duprey said, it's hard to go
14 through all ten of these because we could all
15 spend a day, but I think that's where I'm coming
16 from that overall I think there's a benefit to
17 the state, and for those areas where it may be
18 challenging or hard, I'd like to think that we
19 put some measures in place that maybe avoid or
20 mitigate that.

21 PRESIDING OFFICER WEATHERSBY: Mr. Schmidt.

22 MR. SCHMIDT: Yes. I think the Applicant
23 has done a reasonable job in presenting their
24 proposal. I think they've attempted to reach

1 agreement with the variety of landowners and the
2 municipalities directly impacted, and I think
3 what we've heard through these hearings is that
4 their outreach has been reasonable. Hasn't
5 always been successful, but it's been
6 reasonable.

7 I realize there's questions that remain
8 with the jet plowing, but I think there are
9 measures put in place to monitor in advance as
10 well as during the construction, and the
11 Applicant is aware of these concerns and I
12 believe they'll work with the, he or she will
13 work with the landowners directly.

14 Someone had mentioned the impacts to the
15 historic sites. There certainly is a lot of
16 concern, but I feel that the Applicant has heard
17 that, have made changes to their design to
18 accommodate it as much as possible and I think
19 through these hearings it's come across that we
20 expect them to work with the locals who are most
21 familiar with it and I think they will.

22 I believe at this point the Applicant has
23 been interested and active in minimizing overall
24 impacts. Some of that has been highlighted by

1 MOUs and agreements with property owners.
2 They've attempted -- their outreach, I thought,
3 was very good. They've attempted to meet the
4 needs and at least in my eyes they've
5 demonstrated that. So I feel with all we've
6 heard and certainly some properties will be
7 affected. And I expect the Applicant has tried
8 and will continue to address the issues
9 regarding the Project, but I think in the
10 overall region there won't be unreasonable
11 impacts.

12 PRESIDING OFFICER WEATHERSBY: Mr. Shulock?

13 MR. SHULOCK: I'm not going to repeat what
14 anybody else has said. I fully agree with the
15 comments that I've heard so far. And so what do
16 I say. And I think that what weighs heavily for
17 me is that this is a Reliability Project, and I
18 think that none of us realize the importance of
19 having reliable electricity until we don't. So,
20 you know, we've talked about it in terms of how
21 this will fuel the economy and businesses will
22 be able to locate, but it really is much more
23 than that.

24 In situations where electricity is

1 unreliable, and there is load shedding or even
2 worse, you know, failure of the system, we have
3 to remember that reliability means traffic
4 lights, television and radio communications,
5 telecommunications, people can't get water from
6 their pumped wells. In the middle of the winter
7 they can't run their gas, their oil or their
8 wood pellet furnaces. Your neighbor next door
9 can't run the oxygen generator that he or she
10 needs for health reasons.

11 And so reliable electricity in this region
12 is actually critical to the public health and
13 safety and to the welfare of the people in the
14 region. So that weighs very heavily for me in
15 this balance.

16 PRESIDING OFFICER WEATHERSBY: I just want
17 to pick up on the reliability piece because
18 there's been a suggestion that part of the, at
19 least a large part of this Project is to send
20 electricity to other regions, Massachusetts, et
21 cetera, and that's not the purpose of this.
22 This is to make the seacoast region power more
23 reliable.

24 I was struck when I was reviewing things

1 over the weekend, I was reminded, I guess, that
2 there's a single power line that goes into all
3 of Portsmouth and Newington that supplies
4 downtown Portsmouth, Pease Tradeport, et cetera.
5 It's a single line. This will make it, there
6 will be another one. That was concerning to me.
7 I think it drove home the need for this Project,
8 and I'll stop there. Director Muzzey?

9 DIR. MUZZEY: When considering this
10 criteria, I felt it was a fairly close call,
11 particularly given the overwhelming negative
12 comments we've heard from both the public and
13 two of the communities that this Project passes
14 through, but what did sway it for me like Mr.
15 Shulock discussed is the fact that this is a
16 Reliability Project, and not that our findings
17 would be the same for every Reliability Project
18 that may come before this Committee, but given
19 the extent of mitigation and accommodation the
20 company has tried to add to the Project, the
21 Dispute Resolution Process as someone has
22 already mentioned that hopefully will provide
23 quality responsiveness for property owners,
24 business owners to continue to have problems,

1 the robust mitigation for both historic and
2 aesthetic and water quality issues, those
3 factors together swayed me that this Project
4 would be in the public interest.

5 PRESIDING OFFICER WEATHERSBY: Mr.
6 Fitzgerald?

7 MR. FITZGERALD: I think that there's no
8 question that this Project is necessary and is
9 critical to the interests of the region. I am
10 extremely empathetic with the towns and I think
11 Mr. Shulock put it very well this morning when
12 he mentioned the fact that the Project was going
13 to go through areas and people were going to be
14 impacted. It is necessary change and growth,
15 and the Seacoast area is growing and I'm sure
16 that many who live there now may not have a
17 great appreciation for that growth, but it's a
18 fact, and the infrastructure to support that
19 growth is necessary.

20 I think the one thing that I guess just
21 bothers me is that we've had a number of
22 Intervenors in this Project, and the general
23 impression is or at least as it came to me is
24 that they had to intervene because they hadn't

1 been heard previously or didn't have the
2 opportunity to be heard previously.

3 Now, we don't run the ISO New England
4 process, but the Applicant is a participant
5 there, and I think we heard loud and clear that
6 if towns had had an opportunity to be involved
7 early when this Project was being planned, I
8 think there's a lot of information came and said
9 this is an existing power corridor and so that
10 makes sense.

11 But I think that the Applicant did make
12 tweaks and did make changes to address concerns,
13 but one of the things that resonated with me was
14 Newington saying there was a corridor where a
15 natural gas line had gone previously and could
16 that have been considered, and that avoided the
17 areas, but it seems to me the Applicant could
18 have done a better job at outreach before the
19 ISO Project concluded that this was the Project.

20 Afterwards, I agree they did a good job at
21 outreach. They did a good job at communicating.
22 There were some areas as I mentioned previously
23 where they, people indicated that the Applicant
24 didn't meet with them face to face or they got a

1 reference for an attorney, but in a major
2 Project and a major corporation, there's going
3 to be some glitches there.

4 But I think at the end of the day, this is
5 necessary change, and it will have a significant
6 benefit for the greater region. There will be
7 some who are unquestionably impacted more and
8 bear greater burden as Mr. Shulock pointed out,
9 but our, as I understand our statute, it's to
10 look at the overall good and the overall
11 benefit. So that's where I stand.

12 PRESIDING OFFICER WEATHERSBY: Any other
13 comments? I'd just say that I share the
14 sentiments that have been expressed by my fellow
15 Committee members. I think the only other point
16 I want to address is in the public comments were
17 along the line of would you please order them to
18 bury the line, would you please order them to go
19 north or south, and that's not something we can
20 do. We don't have the power of eminent domain.
21 We don't tell the Applicant who doesn't have the
22 property rights to go a certain route or to bury
23 the line when they don't have the underground
24 rights. We can't order them to do that so I

1 just wanted to put it out there.

2 And also that we did, I hope people feel as
3 though their comments were listened to. I
4 certainly listened to them. I reviewed all my
5 notes of all the comments. I certainly took
6 them very seriously.

7 I encourage people to understand, really
8 understand the Project to a greater depth so
9 that some of their concerns about safety in
10 particular are allayed by the science, water
11 quality as well.

12 But I think as I look at this I started
13 outlining what do I see as the benefits, what do
14 I see as the negatives, how do I look at this
15 holistically. This last criteria was the harder
16 one for me to determine, but I think given the
17 needs of the region being so strong and the
18 impacts while certainly falling on some much
19 heavier than others and none of us here I think
20 feel good about that, I would say including the
21 Applicant, but as a whole, as I look at this
22 holistically I do feel as though it is in the
23 public interest.

24 That sounds like we did just did our poll.

1 I think everyone feels that way. Is there
2 anyone who does not feel as though this Project
3 is in the public interest?

4 (No verbal response)

5 PRESIDING OFFICER WEATHERSBY: Hearing
6 none, so think we'll move on then a few minutes
7 here to talk about conditions that may be
8 imposed we'll take a couple minutes and pull out
9 our materials regarding that.

10 Okay. I'd like to go through rule Site
11 301:17. It's concerning the conditions of a
12 certificate. We just want to be sure that we've
13 considered conditions that are important and may
14 assist in the monitoring of compliance. I also
15 want to go through some conditions that have
16 been imposed in other transmission line cases,
17 and we can decide whether or not to adopt any of
18 these conditions.

19 Starting with 301:17. We are required to
20 consider whether the following conditions should
21 be included in this certificate in order to meet
22 the objectives of RSA 162-H.

23 First one is a requirement that the
24 certificate holder promptly notify the Committee

1 of any proposed or actual change in the
2 ownership or ownership structure of the holder
3 or its affiliated entities and request approval
4 of the Committee of such change.

5 MR. FITZGERALD: I believe that's
6 necessary.

7 MR. WAY: Agreed.

8 PRESIDING OFFICER WEATHERSBY: Does anyone
9 want to comment concerning this or feel as
10 though it would not be appropriate?

11 (No verbal response)

12 PRESIDING OFFICER WEATHERSBY: Okay.
13 Sounds like we'll add that one to the list.

14 Then (b), a requirement that the
15 certificate holder promptly notify the Committee
16 of any proposed on actual material change in the
17 location, configuration, design, specifications,
18 construction, operation, or equipment components
19 of the energy facility subject to the
20 certificate and request approval of the
21 Committee of such change.

22 Is there anyone who does not like that or
23 wants to talk about condition (b) further?

24 (No verbal response)

1 PRESIDING OFFICER WEATHERSBY: Hearing
2 none, we'll add that one to the list.

3 (c) A requirement that the certificate
4 holder continue consultations with the New
5 Hampshire Division of Historical Resources of
6 the Department of Cultural Resources and, if
7 applicable, the federal lead agency and comply
8 with any agreement or Memorandum of
9 Understanding entered into with the New
10 Hampshire Division of Historic Resources of the
11 Department of Cultural Resources and, if
12 applicable, the federal lead agency.

13 Any concerns concerning that? Director
14 Muzzey?

15 DIR. MUZZEY: Just an interesting note that
16 the name of our department has now changed, and
17 at some point it would be great to note the
18 Department of Natural and Cultural Resources so
19 as part of the conditions. I suggest the new
20 name of the department.

21 MR. IACOPINO: We will try to remember that
22 in the draft.

23 DIR. MUZZEY: Thank you.

24 PRESIDING OFFICER WEATHERSBY: Okay. So

1 we'll add condition, proposed condition (c) as
2 well.

3 301:17(d). The condition of Delegation to
4 the Administrator or another state agency or
5 official of the authority to monitor the
6 construction or operation of the energy facility
7 subject to the certificate and to ensure that
8 related terms and conditions of this certificate
9 are met.

10 Anyone disagree with that condition or want
11 to talk about it further?

12 MR. SHULOCK: It's an "or." Should we
13 specify which?

14 PRESIDING OFFICER WEATHERSBY: I think in
15 certain of our conditions we're delegating to
16 the Administrator and certain we're delegating
17 to the applicable state agency such as DES and
18 that's kind of covered elsewhere. Do we need,
19 Attorney Iacopino, do we need (d) or is it
20 covered elsewhere?

21 MR. IACOPINO: You would only need (d) if
22 you believe as a Committee that there are
23 conditions that you have not already determined
24 that you would like to see imposed and then make

1 the determination of whether you're going to
2 delegate the conditions either to your
3 Administrator or a state agency. So off the top
4 of my head, I can't deliberate with you so it's
5 up to you all to decide if in fact there's any
6 situation like that. From my standpoint there's
7 nothing glaring from the statutory requirements
8 that is missing.

9 PRESIDING OFFICER WEATHERSBY: Director
10 Muzzey?

11 DIR. MUZZEY: And is my understanding
12 correct that this potential condition deals only
13 with monitoring aspects of the construction or
14 operation? It doesn't address any sort of
15 approval or any other action beyond monitoring.

16 MR. FITZGERALD: I think the next condition
17 addresses the other aspects.

18 MR. IACOPINO: (d) deals with monitoring
19 and (e) deals with delegation.

20 PRESIDING OFFICER WEATHERSBY: So Attorney
21 Iacopino, where we don't have, say, with DOT we
22 don't have the permit yet for dealing with
23 issues of State roads or crossings, I know we
24 had a discussion concerning delegating

1 enforcement of those issues to DOT, are we there
2 with them?

3 MR. IACOPINO: With respect to the state
4 crossings that are not, well, which are not
5 covered by the PUC licenses, I would recommend
6 that you have a discussion on whether or not to
7 delegate that authority to, both to monitor and
8 to delegate to the Department of Transportation
9 to specify methods and techniques for those
10 state crossings. I believe the local municipal
11 crossings are resolved by virtue of your
12 determinations on the MOUs.

13 PRESIDING OFFICER WEATHERSBY: So we'll
14 look at this in connection with (e) under
15 301:17.

16 MR. IACOPINO: And can I just point out
17 that the reason why I'm making that
18 recommendation is because we don't specifically
19 have Department of Transportation documents
20 before us, and it's my understanding that they
21 can't provide them to us until they have final
22 construction plans which don't exist yet at this
23 stage.

24 PRESIDING OFFICER WEATHERSBY: So looking

1 at (d) and (e) together, (e) says delegation to
2 the Administrator or other state agency or
3 official of the authority to specify the use of
4 any technique, methodology, practice or
5 procedure approved by the Committee within the
6 certificate and with respect to any permit
7 license or approval issued by a state agency
8 having permitting or other regulatory authority.

9 MR. SCHMIDT: So as far as the DOT is
10 concerned, there's a variety of permits or
11 licenses that we would issue. An excavation
12 permit would be needed for something like the
13 crossing of a state route even if you're jacking
14 or boring it.

15 If it's a controlled access type
16 right-of-way, which I don't think we have here,
17 you would need a use and occupancy agreement.
18 You may need, depending on the proximity of the
19 actual pole you may need a pole license even
20 though it's in a transmission corridor.

21 I believe that pretty much addresses the
22 permits that the DOT would require. You may
23 want to just, an alternate to listing the
24 licenses is just say in accordance with the

1 Utility Accommodation Manual.

2 MR. IACOPINO: Mr. Schmidt, I'm just going
3 to ask you a clarifying question. Is what
4 you're trying to tell the Committee that if the
5 Committee were to adopt a condition that
6 delegated to the Department of Transportation
7 the authority to issue its various permits in
8 accordance with the Utility Accommodation Manual
9 that the Committee should delegate to your
10 agency the authority to specify the use,
11 techniques, methodologies, practice or
12 procedures to be used in complying with your
13 Utility Accommodation Manual and obtaining the
14 appropriate permit to cross state lands?

15 MR. SCHMIDT: Correct. I would say permits
16 and licenses but yes, other than that.

17 PRESIDING OFFICER WEATHERSBY: So I move
18 that we gave DOT that authority.

19 MR. SCHMIDT: I'll second.

20 PRESIDING OFFICER WEATHERSBY: Any further
21 discussion on this one? We have an official
22 motion here. All in favor?

23 COMMITTEE: Aye.

24 PRESIDING OFFICER WEATHERSBY: Opposed?

1 (No verbal response)

2 DIR. MUZZEY: Question in regard to that?
3 So thinking of other agencies such as DES, Fish
4 & Game or the DHR, we often grant them the
5 authority in a more blanket way to specify the
6 use of any techniques, methodologies, practice
7 or procedures. So would we continue to do that
8 as well?

9 MR. IACOPINO: No. Because I think by
10 adopting those -- we actually have reports from
11 those agencies in this docket. We don't have
12 any reports from the Department of
13 Transportation. That's why I asked Mr. Schmidt
14 to be specific. But I think that you've already
15 adopted many of those conditions by adopting the
16 state reports that you've gotten during the
17 course of your deliberations so far.

18 DIR. MUZZEY: Just, I can speak to, you
19 know, the Division of Historical Resources and I
20 don't know if Mr. Fitzgerald has concerns about
21 DES, but there are conditions in the historical
22 site MOUs and MOAs that talk about unanticipated
23 discoveries and that type of thing, and within
24 those agreements in the past the DHR has taken

1 on the responsibility to assign an appropriate
2 methodology in those types of cases as well as
3 techniques.

4 MR. IACOPINO: Right.

5 PRESIDING OFFICER WEATHERSBY: So in that
6 sort of instance there is an unanticipated
7 discovery plan that deals with exactly how that
8 is to be handled. That is being reviewed and
9 approved by DHR as I recall.

10 DIR. MUZZEY: That's true. I hadn't
11 thought about that. I know we used this
12 condition in the past with the DHR. That was
13 probably in the absence of that type of plan.
14 So thank you.

15 PRESIDING OFFICER WEATHERSBY: Attorney
16 Iacopino, without putting you on the spot, would
17 it be helpful or inadvisable to just kind of
18 give a more broad delegation of this authority
19 to the applicable state agencies?

20 MR. IACOPINO: I think if you want to wait
21 until you get through your consideration of what
22 the rule requires that you shall consider, I was
23 going to ask you to then consider a number of
24 conditions that have been imposed in other

1 transmission cases of which there are a series
2 that deal with historic resources. You may or
3 may not wish to impose those types of conditions
4 in this particular case, but I did make a list
5 of them to provide to you so that it's sort of a
6 belt-and-suspenders approach so that if your
7 either adoption of a state agency permits didn't
8 cover something you've got a backstop.

9 PRESIDING OFFICER WEATHERSBY: Okay. Then
10 let's circle back to (d) and (e) and possibly
11 (f) as I read it. (f) reads have to consider
12 delegation to the Administrator or another state
13 agency or official of the authority to specify
14 minor changes in route alignment to the extent
15 such changes are authorized by the certificate
16 for those portions of a proposed electric
17 transmission line or energy transmission
18 pipeline for which information was unavailable
19 due to conditions which could not have been
20 reasonably anticipated prior to the issuance of
21 the certificate.

22 So I think that one is pretty specific
23 rather than, in contrast to the ones in (d) and
24 (e). So we should consider whether we delegate

1 that to the Administrator or to another state
2 agency or official.

3 MS. DUPREY: Is this limited to segments of
4 the Project for which information was
5 unavailable because I didn't know that we had
6 any. Mr. Way is reminding me of laydown areas
7 and the marshaling yards might fall into this.

8 MR. SCHMIDT: I could envision minor
9 tweaking to something like the entrance or the
10 exit picked for the directional bore and to
11 something minor that we don't know about now.

12 DIR. MUZZEY: My suggestion with the
13 either/or question would be given that minor
14 changes could affect different aspects of the
15 Committee's approval and bring in different
16 state agencies to the question so I would
17 suggest delegation to the Administrator for this
18 specific condition if we do adopt it.

19 PRESIDING OFFICER WEATHERSBY: I would
20 agree because the Administrator can and perhaps
21 we should specify shall if the Administrator
22 deems it necessary or desirable or whatever to
23 consult with all applicable state agencies, but
24 the Administrator should be that, go to the

1 clearing house for the information rather than
2 just delegating it to DOT where there might be
3 the environmental or historic implication.

4 MR. SCHMIDT: So just for clarification, if
5 one state agency requested a change, the
6 Applicant would go back to the Administrator and
7 then the Administrator would reach out to the
8 other state agencies to see if there's any
9 conflicts? Is that how it would play out?

10 PRESIDING OFFICER WEATHERSBY: I think it
11 could. I think most likely it would be the
12 Applicant requesting the route alignment change,
13 and they would then tell the Administrator, the
14 Administrator could consult with DOT and any
15 other state agencies that the Administrator felt
16 should have some input.

17 MR. WAY: I'm just wondering as we talk
18 about this, I focus upon the word "minor." And
19 so even when we talk about the jack and bore
20 changes 1 in 108, to me that doesn't fall into
21 the minor category. You know, it's, how much of
22 a bureaucracy are we setting up for something
23 that would be in the daily routines of DOT just
24 to address.

1 MR. SCHMIDT: Right. That's what I'm
2 thinking. Like say there's a pole that needed
3 to be tweaked by five or six feet. Where does
4 that -- I guess the Administrator would make
5 that decision at that point.

6 MR. WAY: Then I think, you know, that the
7 pole five or six feet, then the Administrator is
8 going to kick it over to DOT and then you're
9 going to be going back and forth. What I'm
10 saying is once we set this up in play that the
11 normal process by which they interact with that
12 agency for the most minor of things, I shouldn't
13 say the most minor of things because I'm not
14 sure I have a definition for what constitutes
15 minor, but you know in your permitting line of
16 work, Mr. Schmidt, what you deal with which is
17 like you said, it could be moving something one
18 foot, two feet, five feet over. But it's not,
19 it's not a major change that affects the route
20 or the surroundings.

21 MR. SCHMIDT: Right. That's correct.

22 PRESIDING OFFICER WEATHERSBY: So it could
23 be something that's not along a road, could be
24 moving a pole three feet on the Millers' or

1 somebody's property. So I think not knowing
2 exactly what situation might arise, if any, my
3 personal feeling is it's better to delegate it
4 to the Administrator who can then seek advice of
5 whoever jurisdiction it may fall in.

6 MR. IACOPINO: Madam Chair, just a legal
7 point. Obviously, the Administrator can't
8 approve something that be would be unlawful so
9 if it was the type of change that required, say,
10 a new Wetlands Permit or something like that,
11 she cannot tell the Applicant okay, it's fine,
12 go ahead and do it. She's going to have to tell
13 them comply with the statute. If you get that
14 additional permit, then I approve. If you need
15 that, it may not be a minor change, but just so
16 you're aware, she's not going to be able to
17 approve something that would be otherwise
18 unlawful.

19 PRESIDING OFFICER WEATHERSBY: So are we
20 good with delegating this to the SEC
21 Administrator?

22 MR. WAY: Sure.

23 PRESIDING OFFICER WEATHERSBY: Anyone feel
24 otherwise?

1 (No verbal response)

2 PRESIDING OFFICER WEATHERSBY: Okay. So
3 that's what we'll do.

4 MR. FITZGERALD: So what is the, I was
5 thinking of saying the SEC Administrator in
6 consultation with appropriate state agencies.
7 Is that the concept that we're talking about
8 here?

9 PRESIDING OFFICER WEATHERSBY: Delegate the
10 authority to the Administrator. Then the
11 Administrator can involve other state agencies
12 if she believes it's necessary, but I don't
13 think we want to put in a requirement that she
14 consults with them if it's just something is off
15 by six inches and has no environmental effects
16 or there may be no state agency she needs to
17 consult with.

18 So are we good delegating to the SEC
19 Administrator?

20 MR. SHULOCK: Yes.

21 THE COURT: Let's move on then to (g). We
22 have to consider a requirement that the energy
23 facility be sited subject to setbacks or operate
24 with designated safety zones in order to avoid,

1 mitigate, or minimize potential adverse effects
2 on public health and safety.

3 MS. DUPREY: I just want to be certain that
4 there's not any conflict between this and the
5 actual plans. I feel like the plans are pretty
6 detailed and so I'm just wondering about that.

7 PRESIDING OFFICER WEATHERSBY: I have to
8 say I agree. I think if we start monkeying
9 around with setbacks and so forth, I think it's
10 all been taken into consideration with the
11 construction planning and all the siting,
12 traffic.

13 MS. DUPREY: BMPs.

14 PRESIDING OFFICER WEATHERSBY: So I'm not
15 sure if (g) is necessary. Is it? Has (g) been
16 used in other transmission line projects? Do
17 you recall, Mr. Iacopino?

18 MR. IACOPINO: I have to imagine that it
19 has, but those were probably things that were
20 addressed more specifically during deliberations
21 on other portions of the Application. I don't
22 recall, for instance, there may have been some
23 setbacks in the Merrimack Valley Project, but it
24 was part of one of the reports that we had. It

1 wasn't done, I don't believe I was called out
2 separately like you're considering here.

3 MS. DUPREY: I feel like this is just going
4 to create confusion. It's confusing me. I
5 suggest we don't include it.

6 PRESIDING OFFICER WEATHERSBY: Director
7 Muzzey?

8 DIR. MUZZEY: I would agree. This
9 condition may be more commonly applied to other
10 types of energy facilities than the one we're
11 dealing with with this proceeding.

12 PRESIDING OFFICER WEATHERSBY: Sounds like
13 we'll pass on (g). Does anyone want to advocate
14 in favor of it? Or are we in agreement that
15 we'll pass on (g) as least for now?

16 MR. WAY: Pass.

17 PRESIDING OFFICER WEATHERSBY: Pass. And
18 then (h) and (i) are kind of catch-alls. To
19 consider other conditions necessary to ensure
20 construction and operation of the energy
21 facility subject to the certificate in
22 conformance with the specifications of the
23 Application and any other conditions necessary
24 to serve the objectives of RSA 162-H or to

1 support findings made pursuant to RSA 162-H:16.

2 I think that's probably what we're going to
3 get into next with conditions used in other
4 dockets.

5 So let's talk about those. These have been
6 provided to us by Counsel so we can follow
7 along.

8 Yes, we're going to break for lunch. And
9 then we'll be back hopefully in an hour. It may
10 take a little bit longer. We have a Committee
11 member who needs to deal with some state
12 business. Hopefully, we'll be back in around
13 two o'clock.

14 (Recess taken 12:57 - 2:10 p.m.)

15 PRESIDING OFFICER WEATHERSBY: We will
16 resume our deliberations. Before we go back
17 into our conditions, Mr. Schmidt, I believe you
18 had a suggestion to make.

19 MR. SCHMIDT: Yes. If we could go back to
20 the DOT or the state delegation. There was (c),
21 (d) and (e) specifically on the construction end
22 of it, and the monitoring. It dawned on me that
23 we have several manuals that the Applicant would
24 need to adhere to, not just the utility manual.

1 So I would recommend renaming that section to
2 simply state "existing DOT's policies, rules and
3 recommendations," and that way each manual will
4 stand on their own.

5 PRESIDING OFFICER WEATHERSBY: Would you
6 say again, your recommendation?

7 MR. SCHMIDT: DOT policies, rules and
8 recommendations. Thank you.

9 PRESIDING OFFICER WEATHERSBY: Is everyone
10 in favor of that modification?

11 MR. WAY: Yes.

12 PRESIDING OFFICER WEATHERSBY: Anyone
13 object or want to talk about it further?

14 (No verbal response)

15 PRESIDING OFFICER WEATHERSBY: Let's move
16 on to the rest our conditions then. We'll take
17 up our list of conditions that are often used in
18 other dockets.

19 The first one is "Further Ordered that the
20 Applicant may site, construct and operate the
21 Project as outlined in the Application, as
22 amended, and subject to the terms and conditions
23 of the Decision in this Order and Certificate."

24 Is everyone in favor of adopting that as a

1 condition? Nodding heads. Anyone opposed?

2 (No verbal response)

3 PRESIDING OFFICER WEATHERSBY: None. Okay.

4 Moving on to number two.

5 "Further Ordered that all conditions
6 contained in this Certificate and in the
7 Decision shall remain in full force and effect
8 unless otherwise ordered by the Subcommittee."

9 Again, seeing no, seems to me a reasonable
10 condition. Anyone object to this?

11 (No verbal response)

12 PRESIDING OFFICER WEATHERSBY: All in
13 favor, yes. Nodding heads. Okay. Moving on to
14 the Transfer and Ownership category.

15 "Further Ordered that this Certificate is
16 not transferable to any other person or entity
17 without the prior approval of the Subcommittee."

18 We did that already. I'm told we already
19 did that. I'm told we already did what's
20 proposed as 4 on this list about change in
21 ownership or ownership structure. We've covered
22 that one. We've adopted it.

23 Number 5, that "the Applicant shall provide
24 immediate notice to the Subcommittee in the

1 event that the Applicant or any of its parent
2 companies shall file a bankruptcy or insolvency
3 petition in any jurisdiction, foreign or
4 domestic; or be forced into involuntary
5 bankruptcy, or any other proceeding pertaining
6 to debt restructuring or the liquidation of
7 assets."

8 Everyone in favor of that condition?
9 Nodding heads. Anyone opposed?

10 (No verbal response)

11 PRESIDING OFFICER WEATHERSBY: Hearing
12 none, that's adopted.

13 Number 6. This is one that was used in
14 Merrimack Valley so we'd need to change some
15 language.

16 "Further Ordered that, within 45 days of
17 ISO-NE filing, the Applicant shall notify the
18 Committee if the Applicant's forecasted or
19 actual expenditures for the entire Project,
20 between," what we would do, Madbury, New
21 Hampshire and Portsmouth, New Hampshire, "as
22 filed by the Applicant with its ISO-NE Regional
23 System Planning forecast updates, exceed the
24 projected cost for the entire Project by an

1 amount equal to or greater than 25 percent."

2 Mr. Way?

3 MR. WAY: Quick question. This might be
4 for Counsel. Do we know where the 25 percent
5 originated from? That's one question.

6 And then 2, when we used this condition in
7 the past, has that pretty much been the amount
8 that's been used?

9 MR. IACOPINO: To the best of my knowledge,
10 this condition came out of the Merrimack Valley
11 Reliability Project, and I don't recall why 25
12 percent was used. I'm unfamiliar with it being
13 used in any other context.

14 MR. SHULOCK: What would this information
15 be used for?

16 MR. IACOPINO: I think this is based upon
17 the concern of so the Committee is aware if
18 there's a significant overexpenditure so that it
19 can take stock of what might be expected when
20 ISO decides whether to regionalize the Project
21 or not.

22 PRESIDING OFFICER WEATHERSBY: I was lucky
23 enough to sit on the Merrimack Valley Project,
24 and I vaguely recall this, and my recollection

1 is that there was concern about the accuracy of
2 the projected cost and making sure there weren't
3 significant cost overruns, and the 25 percent
4 came about basically through a discussion
5 between the Committee members discussing a whole
6 range of things and settling on 25, but it
7 wasn't any kind of a scientific, as I recall,
8 pegged to any scientific data point.

9 Mr. Shulock?

10 MR. SHULOCK: But is there anything that
11 the Committee would do other than being apprised
12 of the information? I mean, is this being taken
13 for any purpose like we're going to take your
14 certificate back because the estimate was wrong?
15 No? Nothing like that. Okay.

16 PRESIDING OFFICER WEATHERSBY: I think it's
17 informational.

18 DIR. MUZZEY: Is it potentially for
19 decision making in the future as well?

20 PRESIDING OFFICER WEATHERSBY: Could be.

21 MR. WAY: I would think that's the only
22 real value. Next project you come to. I'm not
23 opposed to it. I see limited value, but I'm not
24 opposed to it.

1 DIR. MUZZEY: Out of curiosity, do we know
2 whether this was the case with the Merrimack
3 Reliability Project?

4 MR. IACOPINO: I don't know.

5 ADMINISTRATOR MONROE: I don't know off the
6 top of my head.

7 PRESIDING OFFICER WEATHERSBY: Seems to
8 fall into the might be useful but not necessary
9 so we can go either way here. Who would be in
10 favor of a condition such as number 6?

11 I guess I would. Four or five of us. Two
12 opposed or neutral? Shaking their heads. At
13 least the majority of us feel at those 6 should
14 be adopted so we will do that with the language
15 change for the territory, for the points of the
16 Project.

17 Moving on to number 7. "Further Ordered
18 that, within 30 days of the date of commercial
19 operation, the Applicant shall submit to the
20 Committee its forecasted and actual expenditures
21 for the entire Project and its allocation of
22 such expenditures to the New Hampshire portion
23 of the Project." Rather similar to number 6 but
24 a little more specific and perhaps even more

1 useful to the Committee, I think.

2 DIR. MUZZEY: I'm thinking back to our
3 record of this proceeding and there were a
4 number of situations where Intervenors and
5 others commenting thought that things may cost
6 more than were actually forecast. So I think
7 there would be value in seeing what the actual
8 expenditures were. I'm thinking of some of the
9 concerns about hazardous materials remediation
10 and that type of thing.

11 PRESIDING OFFICER WEATHERSBY:
12 Regionalization would, cost of regionalization,
13 also that might be helpful in future projects
14 and the accuracy of that model.

15 MR. WAY: Agreed.

16 PRESIDING OFFICER WEATHERSBY: Is there
17 anyone who does not want a condition such as
18 number 7 and wants to talk bit further?

19 (No verbal response)

20 PRESIDING OFFICER WEATHERSBY: Okay. So
21 we're in favor of adopting number 7.

22 Environmental concerns.

23 MR. FITZGERALD: Excuse me. I assume we're
24 revising these in some way. These refer to

1 crossing state lines and so on so we would, we'd
2 be revising them to, for instance, number 7 says
3 allocation of a New Hampshire portion. It's all
4 in New Hampshire.

5 PRESIDING OFFICER WEATHERSBY: Yes. Thank
6 you for pointing that out.

7 MR. FITZGERALD: And number 6 refers to the
8 Project between Tewksbury, Mass., and
9 Londonderry, New Hampshire.

10 PRESIDING OFFICER WEATHERSBY: We tweaked
11 that for Madbury and Portsmouth.

12 MR. FITZGERALD: Took me a while to find my
13 document.

14 PRESIDING OFFICER WEATHERSBY: The DES
15 ones, I think they're covered in what we've
16 already done. Let's just read through them,
17 consult with Counsel. Looks like 8 through 13
18 are covered.

19 Moving on to DOT-related conditions. I
20 think we have 14, 15 and 16 as well from prior
21 to lunch.

22 And 17, 18, and 19 as well. We should do
23 19. "Further Ordered that the PUC is authorized
24 to specify the use of any appropriate technique,

1 methodology, practice or procedure approved in
2 the Orders *Nisi* issued by the NHPUC or in the
3 certificate, as may be necessary, to effectuate
4 conditions of the Certificate and licenses
5 issued by the NHPUC.

6 Anyone want to talk about that condition?

7 MS. DUPREY: Why wouldn't that have been in
8 the order?

9 PRESIDING OFFICER WEATHERSBY: I'm sorry.
10 In which order?

11 MS. DUPREY: The PUC order.

12 PRESIDING OFFICER WEATHERSBY: We're
13 authorizing them to --

14 MR. IACOPINO: This is a delegation to the
15 Public Utilities Commission to specify the use
16 of any appropriate technique, methodology, any
17 conditions that they might have to authorize
18 them that they can do that in order to
19 effectuate their licenses.

20 The reason why I said you should consider
21 this is there are some conditions in the PUC
22 licenses. You want to give the PUC the
23 authority to specify to the Applicant that they
24 do them.

1 MS. DUPREY: Okay. I just thought that
2 would have been in, that power would have been
3 in the order but okay.

4 PRESIDING OFFICER WEATHERSBY: Is everyone
5 supportive of the condition which is listed at
6 number 19 in this document? Anyone opposed?

7 (No verbal response)

8 PRESIDING OFFICER WEATHERSBY: Everyone's
9 in favor. Okay. Moving on then.

10 DHR-related conditions.

11 DIR. MUZZEY: I would just note for item 23
12 that in this particular proceeding we have both
13 Memorandum of Understanding and a Memorandum of
14 Agreement, and with the Memorandum of
15 Understanding we also have participation by the
16 US Army Corps of Engineers. I don't know if you
17 want to note that or if it would be best to note
18 that.

19 MR. IACOPINO: We can.

20 PRESIDING OFFICER WEATHERSBY: And Counsel,
21 this sounds very familiar. We haven't already
22 done this?

23 MR. IACOPINO: I'm not sure.

24 DIR. MUZZEY: We talked about this earlier

1 this morning and then Counsel advised us to wait
2 and do it here. So I think that may be what
3 you're thinking of.

4 MR. IACOPINO: What I was going to ask you,
5 Ms. Muzzey, is in terms of number 21, being the
6 DHR being notified of any change in construction
7 plans, and in 22, authorizing DHR to specify the
8 use of any appropriate technique or practice
9 associated with historical. I don't know if
10 they cover what your agency requested in its
11 MOU. If the MOU already contains these things,
12 you don't have to address these.

13 DIR. MUZZEY: Looking at number 21, the MOU
14 does say that the DHR should be notified of any
15 changes in the construction plans. We also
16 talked about additions to the Project such as
17 wetland mitigation sites, shoreland armoring at
18 Wagon Hill Farm and that type of thing. So
19 those, I don't know if that's considered a
20 change in construction or an addition to the
21 Project plans. Then the idea of any new
22 community concerns for archeological resources
23 would not be in the MOUs or the MOA.

24 PRESIDING OFFICER WEATHERSBY: Because they

1 may be a little bit different, let's go through
2 and adopt them, and if they're already taken
3 care of, we won't count them twice.

4 Number 20. "Further Ordered that, in the
5 event that new information or evidence of
6 historic sites, archeological sites, or other
7 archeological resources is found within the area
8 of potential effect of the Project, the
9 Applicant shall immediately report the findings
10 to New Hampshire Department of Historic
11 Resources and the Committee."

12 Everybody's in favor of it as written?
13 Director Muzzey, do you have concerns or
14 changes?

15 DIR. MUZZEY: I should open up the MOUs and
16 the MOAs, but I think this is already in them.

17 PRESIDING OFFICER WEATHERSBY: I think so,
18 too, but just in case.

19 DIR. MUZZEY: Why don't you skip down to
20 FAA and As Builts, and I will find the agreement
21 documents and we can circle back to DHR.

22 PRESIDING OFFICER WEATHERSBY: Okay. Also
23 one condition for FAA that the "Certificate is
24 conditioned upon compliance with all conditions

1 of the Determinations of No Hazard to Air
2 Navigation issued by the Federal Aviation
3 Administration" which we would have appended to
4 the certificate. I think we do have one such
5 determination.

6 MR. IACOPINO: You may not want to consider
7 this. I think you already adopted a condition
8 with Counsel for the Public where the
9 Applicant's required to file again with the FAA.
10 I believe that's in the conditions in
11 Applicant's 193.

12 PRESIDING OFFICER WEATHERSBY: Yes. The
13 condition we agreed to was that the project is
14 going to resubmit a FAA form to the FAA at least
15 45 days before commencing construction to
16 address any changes that have been made.

17 So it sounds like it would be advisable to
18 not adopt 24. Anyone disagree or want to talk
19 about that some more?

20 Let's go to 25. "Further Orderer that the
21 Applicant shall construct the Project within
22 three years of the date of the Certificate and
23 shall file as-built drawings of the Project with
24 the Committee no later than the date of

1 commercial operation of the Project."

2 Ms. Duprey?

3 MS. DUPREY: Where did the three years come
4 from?

5 PRESIDING OFFICER WEATHERSBY: Three years
6 came from Merrimack Valley. This is a more
7 involved Project certainly, and that was a
8 concern we had with the three years. I think
9 they'll get it done in three years. They want
10 to get it done in one, but to give them more
11 time.

12 MS. DUPREY: I was just noting that if it
13 had been HDD it would have been really touch and
14 go whether it would have been done in three
15 years. So I don't know, I don't believe we've
16 really talked about the time frame so I just
17 didn't have anything to measure this by.

18 PRESIDING OFFICER WEATHERSBY: It would
19 seem appropriate to me to give them a longer
20 time period, perhaps five years, just off the
21 top of my head to deal with any unforeseen
22 issues they may come across, anything from an
23 environmental issue to a labor shortage to --

24 MS. DUPREY: Jet plow tests.

1 PRESIDING OFFICER WEATHERSBY: You've come
2 this far.

3 MS. DUPREY: I agree. I'd like to see five
4 years. Thank you.

5 PRESIDING OFFICER WEATHERSBY: You want
6 five years? Different? Just throw it out for
7 conversation.

8 MR. WAY: I'll go with five.

9 MR. SCHMIDT: Five.

10 PRESIDING OFFICER WEATHERSBY: Consensus on
11 five? So we'll adopt this with giving them five
12 years to complete construction.

13 Okay. So sounds like everybody's in an
14 agreement with that.

15 Number 26. "The Committee's Administrator
16 is delegated with the authority to review
17 drawings that will be submitted by the Applicant
18 pursuant to this Order and confirm conformity
19 with the proposed Project."

20 My only concern with that is that the
21 Administrator may wish to hire assistants with
22 that, and if so, we want to be sure that she can
23 do so and have the cost allocated to the
24 Applicant. How do people feel about my

1 suggestions in this condition? Mr. Shulock?

2 MR. SHULOCK: I was hoping we'd have a
3 general condition to that effect for anything
4 delegated to the Administrator that they have
5 that authority.

6 PRESIDING OFFICER WEATHERSBY: You read my
7 mind. I think we will. We can do that now or
8 later. Actually, I think we were planning with
9 Counsel to go through the areas where we have
10 delegated to the Administrator certain authority
11 and to make sure she has that ability. So I
12 think before we do a blanket one, why don't we
13 go through each one and be sure that we want her
14 to have that authority. Certainly seems like a
15 good idea to me.

16 So for 26, we'll adopt 26 with that extra
17 language that the Administrator may hire
18 assistants at the Applicant's experience. You
19 in favor? Nodding heads. No one disagrees?
20 No. Okay.

21 Decommissioning. I think we've already
22 dealt with decommissioning.

23 DIR. MUZZEY: 37 in particular.

24 PRESIDING OFFICER WEATHERSBY: We do have

1 Stipulated Condition 37 which we've adopted
2 which was that the Applicant shall submit a
3 report to the Committee every ten years
4 indicating a change in the need for the Project
5 to ensure the continued liability of the
6 regional bulk transmission system; (ii) promptly
7 notify the Committee of any retirement
8 obligation that arises; (iii), submit to the
9 Committee a decommissioning plan in accordance
10 with then-applicable rules, upon any imposition
11 of a decommissioning obligation, or prior to the
12 retirement of the Project.

13 Looks like it's the exact same language.
14 So that one's been taken care of.

15 MR. SHULOCK: And we are going to adopt 36.

16 PRESIDING OFFICER WEATHERSBY: I think we
17 already have adopted 36.

18 MR. IACOPINO: You already adopted all of
19 the conditions in Exhibit 193 with the exception
20 of 8, 10 and 11 which you adopted but with
21 additional language.

22 PRESIDING OFFICER WEATHERSBY: Page 6,
23 number 28. "Further Ordered that the Applicant
24 shall employ traffic controls in accordance with

1 the 2009 edition of the Manual on Uniform
2 Control Devices and DOT policies.

3 MR. WAY: That's in number 5.

4 PRESIDING OFFICER WEATHERSBY: That's
5 Stipulated Condition number 5 so we can skip it.

6 29 concerns traffic control and blasting.

7 MR. WAY: I don't think that's in there.

8 PRESIDING OFFICER WEATHERSBY: I think we
9 dealt with it with regard to the MOUs. Probably
10 not through the DOT perspective.

11 So 29. "Further Ordered that the Applicant
12 shall comply with DOT's guidance on traffic
13 control and blasting during construction of the
14 Project."

15 Everyone in favor of adopting such a
16 condition? Or Mr. Schmidt, would you care to
17 comment? Looks like you've got something on
18 your mind.

19 MR. SCHMIDT: Yes. I was under the
20 understanding the modification that I made few
21 minutes ago would address even things like this.
22 Did I miss, am I missing something?

23 MR. IACOPINO: We would actually defer to
24 you because you know more about those policies

1 and guidance than certainly I do.

2 MR. SCHMIDT: So I think they're covered
3 with the changes that we made earlier.

4 PRESIDING OFFICER WEATHERSBY: Okay. I'll
5 skip 29 and move on to 30. I think we've
6 already dealt with these too.

7 MR. FITZGERALD: Excuse me. With regards
8 to traffic controls and DOT, I believe I heard
9 some testimony that there were going to need to
10 be potential rolling closures of the turnpike.
11 Is that all covered in this?

12 MR. SCHMIDT: Yes. That would be in one of
13 the permits that if they had to effect traffic
14 control.

15 MR. FITZGERALD: Okay.

16 MR. SCHMIDT: Yes.

17 PRESIDING OFFICER WEATHERSBY: So
18 concerning EMFs, we already adopted two
19 conditions. They were number 34 and number 35
20 of the Stipulated Conditions. They were that
21 the Applicant in consultation with the PUC would
22 measure the actual magnetic fields both before
23 and after construction, during projected peak
24 load and file that with the SEC.

1 MR. SHULOCK: Conditions 34 and 35 for
2 that.

3 PRESIDING OFFICER WEATHERSBY: Right. I'm
4 sorry.

5 MR. SHULOCK: One thing that I might
6 consider adding is that the Applicant
7 represented that if there is television or radio
8 interference that the source of that
9 interference could be located and remedied, but
10 we don't have a condition requiring them to do
11 that.

12 DIR. MUZZEY: I also note that in item 30
13 that we're considering, it ends with "along each
14 section number listed in Tables 12 and 13 of the
15 Application." Is that left over from --

16 MR. IACOPINO: That's left over from
17 Merrimack Valley.

18 DIR. MUZZEY: That would be deleted then,
19 right?

20 MR. IACOPINO: Correct.

21 PRESIDING OFFICER WEATHERSBY: I think we
22 already --

23 MR. IACOPINO: That's already in the
24 stipulation.

1 PRESIDING OFFICER WEATHERSBY: Number 30
2 from Merrimack Valley is already in the
3 Stipulated Conditions we adopted which was 34 of
4 the Stipulated Condition.

5 MR. IACOPINO: Just along those lines,
6 number 31 is very specific to Merrimack Valley.
7 Just disregard it.

8 PRESIDING OFFICER WEATHERSBY: 32 is
9 subsumed, I think, into the last sentence of
10 Stipulated Condition 34. And number 33 from
11 Merrimack Valley is I think the same as
12 Stipulated Condition 35.

13 MR. IACOPINO: Madam Chair, I understand,
14 so Mr. Shulock you had language you wanted to
15 add to the stipulation and Exhibit 193 about
16 television. Could you repeat that for us? We
17 will, if the Committee wants us to, we will add
18 that to it.

19 MR. SHULOCK: That if the Project causes
20 radio or television interference the Applicant
21 shall locate the source of that interference and
22 remedy it.

23 MR. IACOPINO: Thank you.

24 PRESIDING OFFICER WEATHERSBY: Is everyone

1 in favor of such a condition? Yes. Nodding
2 heads. Anyone opposed?

3 (No verbal response)

4 PRESIDING OFFICER WEATHERSBY: Hearing
5 none, we'll adopt that condition as well.

6 Let's go back to the DHR conditions. 20
7 through 23. Director Muzzey, do you have
8 further thoughts?

9 DIR. MUZZEY: So Condition 20 deals with in
10 the event that new information or evidence of
11 sites or archeological resources is found, the
12 Applicant shall report to the DHR, and that is
13 covered in the MOU for the project which has
14 similar language of if a previously unidentified
15 architectural or archeological resource is
16 discovered that may be adversely affected,
17 Eversource shall cease construction and contact
18 the DHR, et cetera. Et cetera. So I don't see
19 the need for Condition 20.

20 Condition 21 further ordered that the
21 Applicant shall notify the DHR of any change in
22 construction and any new community concerns.
23 There is a somewhat similar condition in the MOU
24 that says if Eversource materially changes plans

1 for the proposed Project and such changes lead
2 to newly discovered effects, Eversource shall
3 consult, et cetera, to resolve those effects.

4 What is different about Condition 21 is any
5 new community concerns for archeological
6 resources. That's not in the MOUs. So we may
7 want to, I guess I would suggest keeping 21 and
8 changing the wording to be further ordered that
9 the Applicant shall notify the DHR of any change
10 or additions in the construction plans of the
11 Project and of any new community concerns for
12 any archeological resources, historic sites or
13 other cultural resources affected by the
14 Project. Everyone agree?

15 MR. WAY: That's fine.

16 PRESIDING OFFICER WEATHERSBY: In the prior
17 one was there a material --

18 DIR. MUZZEY: Materially changes plans.

19 PRESIDING OFFICER WEATHERSBY: This is any
20 change. I wonder if we want to have a
21 quantitative element to this. I don't want to
22 overburden DHR with any change in the
23 construction plan.

24 DIR. MUZZEY: Well, often we'd rather be

1 notified and just quickly be able to say yes or
2 no rather than deal with something more
3 complicated. There is also the MOA which
4 handles this slightly differently. It says if
5 previously unidentified -- no. That's not --
6 that's different.

7 MR. IACOPINO: Direct Muzzey, can I ask you
8 a question just for a minute. I'm a little bit
9 confused in what you're asking. So we can get
10 it translated correctly. But in the, in
11 Applicant's Exhibit 167 which contains the
12 letter that accompanied the MOU, Ms. Miller from
13 DHR asked for four specific conditions. So I
14 don't know if, when you're referring to the MOU
15 are you referring to this letter or referring to
16 the actual agreement? This is the final report
17 dated August 1, 2017.

18 DIR. MUZZEY: So to be efficient, if we
19 were to change these four requested conditions
20 we'd have to circle back to the agency; is that
21 correct?

22 MR. IACOPINO: If that's the way you wanted
23 to do it. The Committee wanted to do it, yes.
24 I mean. I'm just, we're just trying to, right

1 now we're just trying to figure out what these
2 conditions should say. I know that somebody
3 took, somebody from your agency took the care to
4 list them out in this letter. I don't know from
5 the substantive standpoint if that's the best
6 way to do it or not.

7 DIR. MUZZEY: Well, for items 20 to 23 that
8 you've put together, this is wording that has
9 appeared in other proceedings.

10 MR. IACOPINO: Correct.

11 DIR. MUZZEY: Certificate conditions. It
12 may be more dated than the four conditions that
13 are listed here by Nadine Miller. I would
14 suggest we go with the more updated four
15 conditions in Applicant's 167 rather than
16 tinkering with what may be older condition
17 language.

18 MR. IACOPINO: Okay.

19 DIR. MUZZEY: Would you like me to go
20 through those?

21 PRESIDING OFFICER WEATHERSBY: Could you
22 correct us to the Exhibit Number, please, so we
23 could pull them out?

24 MR. IACOPINO: 167.

1 PRESIDING OFFICER WEATHERSBY: Director
2 Muzzey, you're suggesting we adopt these four
3 conditions at the end of 167 instead of
4 paragraphs 20 through 23.

5 DIR. MUZZEY: Yes.

6 PRESIDING OFFICER WEATHERSBY: Let's go
7 through them. If you could lead us off, that
8 would be great.

9 DIR. MUZZEY: Condition 1. Condition the
10 Certificate upon compliance with stipulations in
11 the mitigation documents executed by the
12 DHR/SHPO, the Corps, and the Applicant.

13 2. If the Applicant changes plans for the
14 proposed Project in such changes lead to
15 newly-discovered effects on historic properties,
16 the Applicant shall consult with DHR/SHPO to
17 resolve any adverse effects to such properties.

18 3. If any unanticipated archeological
19 resources, historic properties or other cultural
20 resources are discovered as a result Project
21 planning or construction, the Applicant shall
22 consult with DHR/SHPO to determine the need for
23 appropriate evaluative studies, determinations
24 of National Register eligibility, and/or

1 mitigation measures, if needed, to resolve
2 adverse effects.

3 And finally, 4. Authorize the DHR/SHPO to
4 specify the use of any appropriate technique,
5 methodology, practice or procedure associated
6 with archeological, historical and other
7 cultural resources affected by the Project.
8 However, any action to enforce the conditions
9 must be brought before the Committee.

10 Is that good with everyone?

11 MR. WAY: Good.

12 DIR. MUZZEY: Thank you.

13 PRESIDING OFFICER WEATHERSBY: So
14 everyone's in favor of adopting these four
15 conditions. Yes. Okay. We'll adopt those
16 instead of the others.

17 Suggestions for two additional conditions.
18 One is that the SEC Administrator be notified by
19 the Applicant at least two weeks prior to the
20 start of construction. Notifying the
21 Administrator when construction is to start.

22 The second condition that's proposed is
23 also the SEC Administrator receives notice from
24 the Applicant two weeks prior to the

1 commencement of operations of the Project
2 indicating when the Project is to commence.

3 Any discussion concerning those proposed
4 conditions?

5 MR. SCHMIDT: Do we want to add -- it's two
6 weeks before the beginning of construction. Did
7 we also want to add two weeks before the jet
8 plow operation? Because they could be two
9 separate exercises.

10 MR. IACOPINO: I think we already have a
11 provision in those conditions with the jet plow
12 about notification.

13 MR. SCHMIDT: Okay.

14 MR. FITZGERALD: Because the jet plow can
15 start and stop, and there's provisions for every
16 time that it starts and stops to be considered.

17 PRESIDING OFFICER WEATHERSBY: Is everyone
18 in favor of these two notice conditions? Any
19 opposition?

20 (No verbal response)

21 PRESIDING OFFICER WEATHERSBY: Okay. We
22 will adopt those as well. Mr. Fitzgerald?

23 MR. FITZGERALD: Have we fully considered
24 all of the proposed Stipulated Conditions at

1 this point or did we just compare them with
2 this --

3 PRESIDING OFFICER WEATHERSBY: I think
4 we've considered all of them.

5 MR. FITZGERALD: Okay. With regards to
6 Exhibit 193, the Proposed Stipulated Conditions,
7 number 26, I don't know if this was captured or
8 not, but I proposed that those reports that are
9 required under 26 be posted on the Applicant's
10 website as well. I don't know if we acted on
11 that or not or maybe it was rejected and I
12 wasn't listening.

13 PRESIDING OFFICER WEATHERSBY: We have a
14 condition that at least 90 days prior to, sorry.
15 Wrong one.

16 MR. FITZGERALD: I'm talking about the
17 weekly compliance monitoring reports to deal
18 with the -- we have all kinds of various
19 monitors.

20 PRESIDING OFFICER WEATHERSBY: Water
21 Quality, Applicant shall file with the Committee
22 all reports that will be filed by the Applicant
23 with DES pursuant to the wetland permit is what
24 we adopted.

1 MR. FITZGERALD: I'm looking at condition
2 number 26 in Exhibit 193. I just felt that the
3 general public is not going to know much about
4 looking to the SEC.

5 MR. IACOPINO: Madam Chair, I recall the
6 conversation, but I don't recall that there was
7 ever a decision made about it.

8 DIR. MUZZEY: I agree that especially
9 thinking of a Google search that someone would
10 typically do, you're going to end up at the
11 Applicant's website sooner than the Site
12 Evaluation Committee's website. So I think
13 just -- some way to add a phrase to this to say
14 that they'll be posted on the Applicant's
15 Project webpage would be a good idea.

16 For example, the second sentence in 26, the
17 SEC shall post said reports on its website.
18 Would it be appropriate to say the SEC and the
19 Applicant shall post said reports on their
20 websites? Would that address your concern?

21 MR. FITZGERALD: Absolutely.

22 PRESIDING OFFICER WEATHERSBY: I have to
23 say I've never looked at Eversource's website to
24 see if there's like a Project specific --

1 MR. FITZGERALD: There are other references
2 in here to their website. To the Project
3 website.

4 PRESIDING OFFICER WEATHERSBY: So there's a
5 Project --

6 MR. FITZGERALD: Yes.

7 PRESIDING OFFICER WEATHERSBY: Okay. So
8 then I think the more information that's readily
9 available, the better. I don't think that's an
10 onerous task for the Applicant at all. I
11 support your suggestion.

12 MR. SCHMIDT: Madam Chair, on that same
13 document I have a question on paragraph 8.
14 There's a requirement for the Best Management
15 Practices to be submitted to the SEC. What my
16 question is is there any, have we discussed
17 having individual state agencies approve the
18 specific Best Management Practices that pertain
19 to them?

20 MR. FITZGERALD: The DES permit does
21 require submission and approval by DES for those
22 various ones that are applicable under that
23 permit.

24 MR. SCHMIDT: Specifically, I was thinking

1 of DHR's.

2 PRESIDING OFFICER WEATHERSBY: Before we go
3 there, let's just wrap up on paragraph 8.
4 There's been a suggestion to add -- I'm sorry.
5 It's not 8. 26. That we require the Applicant
6 to also post on its website the weekly
7 compliance monitoring reports. Does anyone want
8 to discuss that further? Is everyone supportive
9 of that revised condition? Anyone objecting?

10 (No verbal response)

11 PRESIDING OFFICER WEATHERSBY: We'll adopt
12 that, number 26, as amended then.

13 Then getting back to Best Management
14 Practices.

15 MR. SCHMIDT: I apologize. I thought we
16 had already finished with 26.

17 Paragraph 8, I'm wondering if there's a
18 condition anywhere where we require the BMPs to
19 be submitted and approved by the appropriate
20 state agency.

21 MR. WAY: Didn't we discuss this one and we
22 took state agency out of the conversation? On
23 the BMPs.

24 MR. SCHMIDT: I don't recall that, but we

1 might have.

2 MS. DUPREY: Where do BPPs come from?

3 MR. SCHMIDT: Sounds like in this
4 particular instance they're going to be
5 developed by the Applicant. But they're not
6 subject to approval by anybody.

7 MS. DUPREY: I'm sorry. I thought agencies
8 had Best Management Practices.

9 DIR. MUZZEY: No, these are specific to the
10 Project created by the Applicant.

11 MS. DUPREY: I see.

12 PRESIDING OFFICER WEATHERSBY: I thought we
13 had something at least with environmental that
14 we had to get these BMPs approved by the state
15 agency.

16 MR. FITZGERALD: The DES permit has
17 requirements for submission and approval by DES
18 prior to construction.

19 MR. SCHMIDT: I think that's in the permit
20 itself.

21 MR. FITZGERALD: Correct.

22 MR. WAY: Can we simply say shall file with
23 the New Hampshire Site Evaluation Committee and
24 appropriate state agency?

1 MR. SCHMIDT: My question is do we want to
2 say shall submit or be approved by appropriate
3 state agency.

4 DIR. MUZZEY: Going back to the day we
5 spent on historic sites, we created a condition
6 that was a protocol for dealing with all stone
7 features within the right-of-way throughout the
8 Project area, and the protocol was to be
9 approved by the DHR. As part of those
10 discussions, we also wanted to condition the
11 certificate on the Applicant doing a trial run
12 of the various ways that have been suggested to
13 traverse over stone features in order to first
14 demonstrate that that was the best way, the
15 least damaging way to do it. So if we have
16 those conditions in place, I have less concerns
17 with number 8, but I do want to make sure those
18 conditions are also part of our conditions list.

19 PRESIDING OFFICER WEATHERSBY: Forgive me,
20 but I'm not sure I understand the issue.
21 Paragraph 8 requires the Applicant to adhere to
22 the Best Management Practices. I mean, there's
23 a permit requirement that says you have to
24 adhere to the BMPs and this supports that, and

1 then they file those BMPs with us or the SEC.
2 I'm unclear on the issue.

3 MR. IACOPINO: I would just point or for
4 you all if you look at Committee Exhibit 12c
5 which is the environmental permits, there are
6 specified BMPs for the Applicant to follow.
7 They're actually identified by title and area.
8 I don't see anywhere where they, where at least
9 for environmental there's a requirement for the
10 Applicant to create the BMP.

11 That being said, I don't know if that helps
12 you as you consider this, but that being said,
13 there are areas you may want to make sure that
14 the BMPs get filed with the state agency as
15 well. And maybe you just do that as a blanket
16 condition rather than trying to figure out if
17 each state agency has some specific BMP they're
18 waiting on from the Applicant.

19 MR. SCHMIDT: I would concur with that. If
20 we're able to cover it all with one statement.

21 DIR. MUZZEY: So the BMPs would be
22 submitted to the appropriate agency for
23 approval.

24 PRESIDING OFFICER WEATHERSBY: Modify

1 number 8 so the Applicant shall file with the
2 New Hampshire Site Evaluation Committee and all
3 appropriate state agencies a copy of Best
4 Management Practices.

5 MR. IACOPINO: There's nobody approving
6 them right now under number 8. They're just
7 being filed.

8 DIR. MUZZEY: Attorney Iacopino, do you
9 remember the protocol condition that we put
10 together for historic sites back then? Back on
11 the day?

12 MR. IACOPINO: I have to go back and look
13 at that because I don't have that in my list.

14 DIR. MUZZEY: You had come up with the
15 wording in a very succinct elegant way.

16 MR. IACOPINO: May very well be but for
17 some reason it didn't make it from my
18 handwritten list to my Word document here. So I
19 have to go back through my handwritten notes.

20 PRESIDING OFFICER WEATHERSBY: We do have
21 that. It said prior to construction of the
22 Project, the Applicant shall develop and comply
23 with a protocol subject to the DHR's review and
24 approval identifying measures that will be

1 implemented to preserve historic stone features
2 located within the Project site during
3 construction, operation and maintenance of the
4 Project. Said protocols shall remain into
5 effect until the decommissioning of the Project.

6 DIR. MUZZEY: So as long as that protocol
7 contains an avenue for looking at how the stone
8 walls in particular will be traversed and
9 whether the use of timber matting is the most
10 appropriate technique there, I think, this
11 covers all my concerns.

12 PRESIDING OFFICER WEATHERSBY: So we have a
13 suggestion to modify number 8 that not only do
14 they file with the SEC but they also file a copy
15 of all Best Management Practices with the
16 appropriate state agencies.

17 Folks in favor of modifying our condition
18 which is number 8 in the Stipulated Condition
19 document?

20 (No verbal response)

21 PRESIDING OFFICER WEATHERSBY: Anyone
22 opposed or want to talk about this further?

23 (No verbal response)

24 PRESIDING OFFICER WEATHERSBY: Okay. We

1 will adopt that change to Number 8.

2 MR. FITZGERALD: Madam Chair, I'm trying to
3 find the document right now, but I was looking
4 at one of these that indicated that if there was
5 a public safety event that the town in which it
6 occurred should be notified as well as the SEC.
7 I can't recall which, I've been looking,
8 conditions, might have been in the general, the
9 ones that Counsel provided us.

10 But I wanted to see if we thought that
11 shouldn't appropriate state agencies or State
12 Police be notified as well as the town and the
13 SEC in the event of a -- it was basically in the
14 event of an emergency, some sort of public
15 safety emergency.

16 PRESIDING OFFICER WEATHERSBY: So I think
17 you're thinking of in the stipulated, on the
18 same page. Stipulated Proposed Conditions of
19 Approval, number 15 and 16, significant and
20 unanticipated changes or events that might
21 impact the public and the environment, et
22 cetera.

23 MR. FITZGERALD: Yes.

24 PRESIDING OFFICER WEATHERSBY: The

1 Applicant is going to notify the Board of
2 Selectmen of the host town, Administrator of the
3 SEC. That was nonemergency within 7 days and
4 then in the event of emergency conditions they
5 notify the host town and the SEC.

6 MR. FITZGERALD: Yes.

7 PRESIDING OFFICER WEATHERSBY: We can
8 certainly add to that. It's a good suggestion
9 that they notify the appropriate first
10 responders or appropriate emergency personnel.
11 I don't know what the correct wording is.

12 MR. FITZGERALD: I was going to say state
13 agencies having jurisdiction or something like
14 that. But just, you know, if it's a hazardous
15 materials spill or a downed line over a highway,
16 DOT, I mean it's, I don't really see, I mean
17 obviously it would be great for the
18 Administrator of the SEC to know, but she's not
19 going to respond in an emergency other than
20 maybe to call an agency if she thinks that
21 there's one involved, but I prefer to have the
22 Applicant do that.

23 PRESIDING OFFICER WEATHERSBY: So the
24 suggestion would be to add to 15 that they also

1 advise the applicable state agencies, and 16,
2 that they also notify the applicable state
3 agencies and applicable first responders.

4 MR. FITZGERALD: Yes.

5 PRESIDING OFFICER WEATHERSBY: Anyone like
6 to discuss those changes? Folks? Director
7 Muzzey?

8 DIR. MUZZEY: No. I think they're fine.

9 PRESIDING OFFICER WEATHERSBY: Okay. Is
10 everyone supportive of those conditions,
11 Stipulated Conditions 15 and 16? Any
12 opposition?

13 (No verbal response)

14 PRESIDING OFFICER WEATHERSBY: Okay. So
15 we'll adopt those changes to 15 and 16.

16 I think the only thing that is delegation
17 to Pam language.

18 So we do have before us a document that has
19 been prepared that tells us various instances
20 where the SEC Administrator is called upon.
21 Rather than adding to each section, I will take
22 up the suggestion made earlier that there's just
23 a blanket condition that in areas where the
24 authority has been delegated -- not authority.

1 Yes, authority has been delegated, to the SEC
2 Administrator that the SEC Administrator is
3 authorized to hire professional assistants as
4 the Administrator deems necessary and the
5 Applicant shall pay the cost associated thereof.

6 Are folks in favor of such a condition?

7 MR. FITZGERALD: Yes.

8 PRESIDING OFFICER WEATHERSBY: Anyone want
9 to discuss it further? Any opposition?
10 Director Muzzey?

11 DIR. MUZZEY: Did you note that for
12 specifically carrying out the conditions of the
13 Certificate? Is it prefaced by that?

14 PRESIDING OFFICER WEATHERSBY: Probably
15 should be. I think it's implicit, but let's be
16 more clear with that amendment.

17 MR. IACOPINO: Well you only delegated
18 authority in the context of the Certificate.
19 So -- she couldn't, for instance, go out to
20 lunch with her friends and charge it to Public
21 Service. Not even if they talk about the
22 Project. I think that's because you're talking
23 about the authority delegated to her, I think
24 it's already included.

1 PRESIDING OFFICER WEATHERSBY: Okay.
2 Everyone in favor of such a condition? Any
3 opposed?

4 (No verbal response)

5 PRESIDING OFFICER WEATHERSBY: Okay. We'll
6 adopt that condition as well.

7 MR. IACOPINO: Actually, Iryna brings up a
8 good point. There was discussion regarding
9 putting in language with respect to the MOUs,
10 that the parties, directing the parties, I'm
11 sorry. Stating that the parties agree to work
12 in good faith to reasonably and mutually resolve
13 any and all disputes arising under this
14 agreement. If such disputes cannot be resolved,
15 the parties may submit the disagreement to the
16 SEC Administrator for resolution. Actually,
17 that was adopted.

18 PRESIDING OFFICER WEATHERSBY: So the issue
19 is whether it's going to Pam to resolve or to
20 the Dispute Resolution Administrator to resolve?
21 Is that the issue? We didn't make a
22 determination on that yet.

23 Okay. So as I understand it this is, if
24 there's a disagreement under the MOUs that comes

1 to the attention, is brought to the attention of
2 the SEC, Pam, or the SEC Administrator or the
3 Dispute Resolution Administrator hired by the
4 SEC Administrator to resolve disputes, which
5 person is the best to resolve that?

6 Seems that the person who is going to be
7 most familiar with the MOUs and the various
8 issues there will be our SEC Administrator. And
9 then I see the role of the Dispute Resolution
10 Administrator more in determining claims. I
11 mean, it's a retired judge. And I see the roles
12 differently. In my mind it's an SEC
13 Administrator's job, but I'm open to see what
14 others think.

15 MS. DUPREY: Which number are we on?

16 MR. SCHMIDT: 12.

17 DIR. MUZZEY: Exhibit 193, item 12.

18 PRESIDING OFFICER WEATHERSBY: And 10 and
19 11.

20 DIR. MUZZEY: So our discussion yesterday,
21 I believe, was that there are a lot of things,
22 once we started looking at both the Stipulated
23 Conditions in 193 and the town MOUs, the Site
24 Evaluation Committee Administrator was given the

1 job to approve and solve a number of problems
2 and was that appropriate or should it go to the
3 Dispute Resolution person.

4 MS. DUPREY: I don't think it was a matter
5 of it being appropriate. I think it was a
6 matter are we overburdening her and what can we
7 give to the Administrator of the Dispute
8 Resolution Process and what needs to be in the
9 hands of our Administrator.

10 MR. FITZGERALD: Could he give her the
11 authority to refer it to the Dispute Resolution
12 Administrator? In other words, she could deal
13 with simple things and if something is going to
14 be a major time issue, refer it over.

15 PRESIDING OFFICER WEATHERSBY: We could,
16 but we've also just given her the authority to
17 hire anybody she thinks would be appropriate to
18 assist her and advising her to what the decision
19 would be. If there's an issue about blasting or
20 whether the road was reconstructed correctly,
21 you'd think she'd hire an engineer and see what
22 their opinion was and then make a determination.
23 To me it's more a role for Pam than the role I
24 see for the Dispute Resolution Administrator.

1 Mr. Shulock?

2 MR. SHULOCK: You have my full agreement.

3 PRESIDING OFFICER WEATHERSBY: Is anyone in
4 favor of changing the language of 10, 11 or 12
5 which allows the SEC Administrator to resolve
6 those issues?

7 (No verbal response)

8 PRESIDING OFFICER WEATHERSBY: Hearing
9 none, we'll leave those alone.

10 MR. SCHMIDT: Before we do, I do have a
11 quasi-related question on number 11. It says
12 further ordered that to the extent they're
13 already addressed by MOA, there are some MOAs
14 that we've made minor changes, not to the MOA
15 itself but to the conditions that we expect in
16 our permit, and I'm not sure how, if that should
17 be addressed in this paragraph or not.

18 PRESIDING OFFICER WEATHERSBY: Mr. Schmidt,
19 is your concern that to the extent that we've
20 required things different from or in addition to
21 what's in the MOAs that Pam be allowed to
22 enforce those provisions as well?

23 MR. SCHMIDT: Well, either that or which
24 has, if there's a contradiction, how will that

1 be resolved? If we have, it's more that.

2 PRESIDING OFFICER WEATHERSBY: So I think
3 we've said that if there's an agreement between
4 the parties and we require something else, what
5 the SEC requires governs this process.

6 MR. SCHMIDT: Okay. So that's automatic.

7 PRESIDING OFFICER WEATHERSBY: Yes.

8 MR. SCHMIDT: Very good. Thank you.

9 PRESIDING OFFICER WEATHERSBY: Anything
10 else concerning conditions? Okay. Let's circle
11 back a little.

12 I believe somebody might have an issue
13 they'd like to talk about further concerning
14 alternatives. Ms. Duprey?

15 MS. DUPREY: I did, Madam Chair. Thank
16 you. I may be going overboard here, but just in
17 looking at the language of, the introductory
18 language of 162-H:16 IV stating after due
19 consideration of all relevant information
20 regarding the potential siting or routes of a
21 proposed energy facility.

22 I didn't know what exactly our role is in
23 this, but I just wanted to get something on the
24 record that we did in fact listen to the

1 testimony about the Gosling Road alternative,
2 and we reviewed the Application with respect to
3 the southerly and northern routes, and having
4 again looked at those just this afternoon, I
5 reminded myself as was in testimony by various
6 of the Applicant's witnesses that both the
7 northern and southern routes involved, first of
8 all, they were longer. Both of them involved
9 land that was not already within the control of
10 Eversource, and I thought that the reasons
11 listed for not selecting those two routes was
12 thorough and reasonable.

13 But mostly I also wanted to point out that
14 we in our various deliberations have
15 acknowledged that the Project before us is the
16 Project, and that we don't have the information,
17 the engineering information, the environmental
18 information, the aesthetic, the historic, of
19 alternative routes, and it's not our job to
20 compare those routes. And I just wanted to be
21 sure that we had something in the record
22 relating to that so I wanted to make that
23 statement. Thank you, Madam Chair.

24 PRESIDING OFFICER WEATHERSBY: Would anyone

1 else like to say anything with regard to the
2 alternative routes or alternative approaches to
3 this Project?

4 I do seem to recall testimony from the
5 Environmental Panel that said were it to go the
6 northern route or the southern route there would
7 be more of environmental impact, the best they
8 could tell from their preliminary investigations
9 than the route that was selected.

10 Also seem to recall a lot about Gosling
11 Road and it being much more expensive and having
12 some other issues as well as route issues to
13 that as well. Looking for cost as I recall was
14 the major factor there.

15 You looked at it more recently than I have.
16 Do you agree, Ms. Duprey?

17 MS. DUPREY: Yes, I do. Gosling Road was
18 also overbuilding what was necessary. I think
19 Gosling Road is really off the table for us
20 because the ISO didn't select that Project. I
21 don't think it's really properly even before us
22 for discussion purposes except that it's been
23 raised by so many folks. But with respect to
24 the northern route and the southern route, there

1 was testimony that in both cases that they were
2 going to be more expensive.

3 With respect to the northern route, it was
4 unavailable because 11.5 miles of existing 115
5 kV and 345 kV transmission lines in the existing
6 corridor would need to be relocated and rebuilt
7 to accommodate the new line, and the
8 construction of the new line and relocation of
9 existing transmission lines would have required
10 the construction of approximately 24 miles of
11 transmission lines. I think that speaks to the
12 extra significant cost.

13 It would also add one or more years to the
14 overall Project schedule and could potentially
15 jeopardize the stability of the electric system
16 in the region during construction because the
17 existing transmission lines would have been
18 removed from service for extended periods of
19 time.

20 In addition, the northern route alternative
21 was determined unavailable in part because 11.8
22 miles of additional right-of-way would have been
23 needed. So land that wasn't controlled by
24 Eversource was also in two states, requiring

1 permitting potentially in two states just making
2 it even more complex than what we have here.

3 With respect to the southern route, it was
4 determined by Eversource that it would likely
5 create more voltage and reliability issues than
6 it would solve. It was almost twice the length
7 as the northern route and the middle route which
8 is the route that has been selected,
9 approximately 7 miles longer, which would result
10 in greater line loss and inefficiency.

11 Also if the lines are routed farther to the
12 south of the Project area, the new 115 kV line
13 would be further from the endpoint connections
14 of the Madbury substation and the Portsmouth
15 substation. As a result of the line increases,
16 the cost of the Project increases significantly.

17 Further costs would also be increased as
18 this route would require construction of an
19 additional capacitor bank at the Rochester or
20 Madbury substation that would not be required
21 for the other routes. The southern route also
22 presented other technical issues associated with
23 constructing the project through the Portsmouth
24 traffic circle, the need to secure additional

1 land rights to construct the Project and greater
2 environmental impacts to wetlands and designated
3 prime wetlands in the southern section of the
4 state.

5 PRESIDING OFFICER WEATHERSBY: Thank you,
6 Ms. Duprey. Anyone else like to comment
7 concerning the alternatives that were
8 considered? Mr. Fitzgerald?

9 MR. FITZGERALD: I just wanted to note that
10 Mr. Jiottis' testimony, Applicant's Exhibit
11 Number 6, pages 7 to 15, has a very detailed
12 discussion and explanation of northern, middle
13 and southern routes and then within the middle
14 route, various tweaks to that route, and it's a
15 pretty detailed explanation of how they got to
16 the route that they've proposed for this
17 Project.

18 PRESIDING OFFICER WEATHERSBY: Okay.
19 Before we take a final vote, has everyone had a
20 chance to go back and if there is anything else
21 you wanted to talk about, any, we did all those
22 straw polls and said they were nonbinding, we'd
23 have a chance to recover anything anyone wanted
24 to reconsider or raise again. This would be

1 your last chance.

2 Is there anything anyone would like to
3 discuss further that they're feeling
4 uncomfortable with or want to emphasize?

5 MR. WAY: Just quickly.

6 PRESIDING OFFICER WEATHERSBY: Mr. Way?

7 MR. WAY: So all the conditions that we've
8 talked about throughout this process, we've been
9 adopting those as we've gone along, correct?

10 PRESIDING OFFICER WEATHERSBY: Correct.

11 MR. WAY: Thank you.

12 PRESIDING OFFICER WEATHERSBY: Okay. The
13 moment of truth.

14 Having considered the potential significant
15 impacts and benefits to the proposed Project and
16 having determined that the Applicant has the
17 adequate financial, managerial and technical
18 experience to operate and construct the Project,
19 and that the Project will not unduly interfere
20 with the orderly development of the region, that
21 there will be no unreasonable adverse effect on
22 aesthetics, historic sites, air and water
23 quality, or public safety, and natural
24 environment, and having determined that the

1 Project serves the public interests, I move that
2 we grant a certificate of site and facility for
3 the proposed Project with the conditions that we
4 have discussed.

5 Is there a second?

6 MS. DUPREY: Second.

7 PRESIDING OFFICER WEATHERSBY: Ms. Duprey.
8 Any further discussion? All in favor say "aye."

9 ALL COMMITTEE MEMBERS: "Aye."

10 PRESIDING OFFICER WEATHERSBY: Any opposed?

11 (No verbal response)

12 PRESIDING OFFICER WEATHERSBY: Okay.

13 Unanimous approval. Thank you all.

14 MS. DUPREY: Thank you.

15 PRESIDING OFFICER WEATHERSBY: We have one
16 thing we should have done beforehand. Before we
17 adjourn, let's do that, and that's Exhibit 184.
18 The Stipulated Facts and Requests for Findings
19 of Fact. I thought we were almost done. We are
20 almost done, but we should go through these and
21 decide whether we are adopting these facts.

22 So this is Exhibit 184. Some of these we
23 might have adopted already, but let's go through
24 each one.

1 1. The Applicant proposes to construct and
2 operate a new 12.9-mile 115 kV electric
3 transmission line between existing substations
4 in Madbury and Portsmouth, New Hampshire. The
5 Project. The new transmission line is comprised
6 of above ground, underground and underwater
7 segments. The project is located entirely in
8 New Hampshire, and traverses portions of
9 Madbury, Durham, Newington Portsmouth. The
10 Project includes a submarine cable crossing from
11 Durham to Newington under Little Bay.

12 Lot of facts in there, not just a single
13 one, but is everyone in favor of adopting these
14 facts as set forth in paragraph 1? Ms. Duprey?

15 MS. DUPREY: Madam Chair, I'm wondering if
16 it would just be better if we took five minutes
17 to read through these and told you if there were
18 ones that we have objected to. We have read all
19 of these into the record, and it will take a
20 really long time and make you talk through all
21 of them.

22 MR. IACOPINO: I would also ask you to look
23 at 194 which has the replacement for finding of
24 fact number 4. So you're going to be looking at

1 Exhibit 184 and 194 which amends finding of fact
2 number 4.

3 PRESIDING OFFICER WEATHERSBY: Let's follow
4 up on Ms. Duprey's suggestion. It's an
5 excellent one. Should save a lot of time.
6 We'll review them and see if anyone wants any
7 changes or does not believe we should adopt any
8 certain findings of fact.

9 MS. DUPREY: Madam Chair, could Dawn please
10 put up revised condition 4? That's in Exhibit
11 194, I believe.

12 DIR. MUZZEY: There where two. Both
13 "Replace Stipulation 4 with the following" and
14 "Replace Stipulation 12 with the following."

15 MR. IACOPINO: I would point out that you
16 have already adopted paragraph 32 through 35 of
17 Exhibit 184. And in addition, you added a
18 condition that the four additional sites be
19 submitted to Mr. Lawrence; that being Nimble
20 Hill Road, Frink Farm, Newington side of Little
21 Bay, and the Getchell property which is on the
22 Durham side of Little Bay.

23 MS. DUPREY: But substituting these
24 stipulated facts wouldn't impact that, correct?

1 MR. IACOPINO: Yes, with number 12 it would
2 because you've already adopted the subject
3 matter of number 12 and added four additional
4 sites to be submitted to Mr. Lawrence as part of
5 that process. So you've already adopted that
6 basically with some additional requirements.

7 MS. DUPREY: Right. So then are you
8 suggesting that we would omit 12?

9 MR. IACOPINO: If you were to adopt 12 you
10 might then want to discuss whether you still
11 want to have those additional four locations
12 submitted for review by Mr. Lawrence. So I
13 would, if that's not what your goal is, then I
14 wouldn't recommend adopting revised, well,
15 number 12 on Exhibit 184, which revises, I
16 think, Condition 33.

17 MS. DUPREY: So will you delete condition
18 12 all together?

19 MR. IACOPINO: Just don't adopt it. The
20 answer would be just don't adopt it because
21 you've already addressed it.

22 MS. DUPREY: Right. Okay. Delete it.
23 Thank you.

24 PRESIDING OFFICER WEATHERSBY: Anyone like

1 more time to review?

2 MR. SHULOCK: Yes.

3 PRESIDING OFFICER WEATHERSBY: Okay.

4 Little bit more.

5 PRESIDING OFFICER WEATHERSBY: Okay. We
6 are to consider whether we want to adopt
7 Stipulated Facts 1 through 11, 13 through 31,
8 and 36 through 39. Does anyone have any
9 questions, comments, concerns for any of these
10 stipulated facts which we are requested to find
11 as fact? Everything except 12, and we've
12 already adopted 3 through 35.

13 MR. WAY: We're replacing 4, correct?

14 PRESIDING OFFICER WEATHERSBY: Right.
15 We've replaced 4. That's found in the Amended
16 Stipulated Facts and Requests of Findings of the
17 Applicant and Counsel for the Public.

18 PRESIDING OFFICER WEATHERSBY: I had one
19 little change. Picky picky.

20 In 16, the Project does not involve the
21 installation of equipment that combusts fuel or
22 emits any regulated pollutants. I just had a
23 question as to whether that would include
24 construction vehicles? If so, we probably want

1 to add that other than construction vehicles.
2 Or is installation the key word there? Yes.
3 Installation. Okay.

4 MR. FITZGERALD: That's with reference to
5 things that might need a permit.

6 PRESIDING OFFICER WEATHERSBY: That was my
7 only question concerning this.

8 MR. FITZGERALD: Good to know that's the
9 last issue though.

10 PRESIDING OFFICER WEATHERSBY: Anyone else
11 have any issues or comments concerning changes?

12 (No verbal response)

13 PRESIDING OFFICER WEATHERSBY: Then I move
14 we adopt the requested findings of fact in
15 paragraphs 1, 2, 3, revised paragraph 4, 5, 6,
16 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20,
17 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 36,
18 37, 38 and 39.

19 MR. FITZGERALD: Second.

20 PRESIDING OFFICER WEATHERSBY:
21 Mr. Fitzgerald seconds. Is there any further
22 discussion?

23 (No verbal response)

24 PRESIDING OFFICER WEATHERSBY: All in

1 favor?

2 ALL COMMITTEE MEMBERS: "Aye."

3 PRESIDING OFFICER WEATHERSBY: Given this
4 new information, I want to see if anyone's
5 changed their mind. We have to do our final
6 vote again. See if that changed anyone's mind.

7 So having now considered all of the
8 potential significant impacts and benefits of
9 the proposed Project, and having determined that
10 the Applicant has adequate financial, managerial
11 and technical experience to operate and
12 construct the Project, that the Project will not
13 unduly interfere with the orderly development of
14 the region, there will be no unreasonable
15 adverse effect on aesthetics, historic sites,
16 natural environment, air and water quality,
17 public safety, and having determined that the
18 Project serves the public interest, I move that
19 we grant this certificate of site and facility
20 with the conditions we have discussed.

21 MS. DUPREY: Second.

22 PRESIDING OFFICER WEATHERSBY: Ms. Duprey
23 seconds. Any further discussion?

24 (No verbal response)

1 PRESIDING OFFICER WEATHERSBY: All in
2 favor.

3 ALL COMMITTEE MEMBERS: "Aye."

4 PRESIDING OFFICER WEATHERSBY: Any opposed?
5 (No verbal response)

6 PRESIDING OFFICER WEATHERSBY: Or abstain?
7 (No verbal response)

8 PRESIDING OFFICER WEATHERSBY: Okay.
9 Unanimous approval for the Project. I'd
10 entertain a motion to adjourn.

11 DIR. MUZZEY: So moved.

12 MR. FITZGERALD: Second.

13 PRESIDING OFFICER WEATHERSBY: Any further
14 discussion?

15 MR. FITZGERALD: Madam Chair, just like to
16 say thank you very much to you, and our capable
17 counsel and the Administrator for guidance and
18 assistance, especially coming into this Project
19 very late myself and thanks. Appreciate it.

20 ADMINISTRATOR MONROE: If you'll indulge me
21 for a moment.

22 PRESIDING OFFICER WEATHERSBY: Is this on
23 the record?

24 ADMINISTRATOR MONROE: You can make this

1 off the record.

2 (Discussion off the record)

3 PRESIDING OFFICER WEATHERSBY: Back on the
4 record. There's been a motion and a second to
5 adjourn. There's hopefully no further
6 discussion. Any further discussion?

7 (No verbal response)

8 PRESIDING OFFICER WEATHERSBY: Okay. All
9 in favor?

10 ALL COMMITTEE MEMBERS: "Aye."

11 PRESIDING OFFICER WEATHERSBY: We are now
12 adjourned.

13 (Hearing adjourned at 3:52 p.m.)

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C E R T I F I C A T E

I, Cynthia Foster, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes of the hearing for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, 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.

Dated at North Sutton, New Hampshire, this 19th day of December, 2018.

Cynthia Foster, LCR