

STATE OF VERMONT
ENERGY GENERATION SITING POLICY COMMISSION

Deliberative Session

April 25, 2013 - 9 a.m.
Giga Conference Room
89 State Street
Montpelier, Vermont

Commission Members

Jan Eastman, Chair
Louise McCarren, Vice Chair
Tom Bodett
Scott Johnstone
Gaye Symington
Commissioner Chris Recchia
Commissioner Deb Markowitz

Staff

Anne Margolis
Linda McGinnis
Billy Coster
Sheila Grace

CAPITOL COURT REPORTERS, INC.
P.O. BOX 329
BURLINGTON, VERMONT 05402-0329
(802) 863-6067
E-MAIL: Info@capitolcourtreporters.com

1 MS. EASTMAN: It's 9:07. Welcome to
2 what will be our final deliberative session.

3 MS. GRACE: Is that a question?

4 MS. EASTMAN: No. Declaring it. And
5 Anne tells me Chris won't be here until one.
6 The rest of us are here and we might as well
7 get started, and so as I take it we've got the
8 full report to look at today, and I have a --
9 I guess a proposal that I think goes for sort
10 of three steps on how to get through the day.
11 First maybe just if there's -- I know there
12 are issues to be addressed, but to just go on
13 the record and say that I think there's pretty
14 much general consensus that we're close.

15 COMMISSIONER MARKOWITZ: Yes.

16 MS. EASTMAN: And this document says
17 just about everything we wanted it to say, but
18 we may have some other things that we want to
19 consider today which I think is the second
20 issue to put out on the table, and then the
21 third issue would be to go page by page to see
22 where we are and we do have some red things.

23 MS. McCARREN: I have agreement with the
24 vast majority of things in here, but the
25 central issue is the one I flagged for you and

1 it has to do with the municipal plans,
2 regional plans, and the role of the
3 Department, and I spent a great deal of time
4 yesterday, along with my former judge husband,
5 to go through this, and what I -- that I think
6 is going to be the hardest area, because the
7 rest of it I'm really with you guys on it, and
8 when -- Jan, when you want to get to that
9 issue, I would only ask that someone diagram
10 or explain what they think those sections say
11 because I will tell you after spending a lot
12 of time with this, if one asks me what does
13 this say, I could not tell them.

14 So I think there's a drafting issue, but
15 if my interpretation of what this says is a
16 legitimate interpretation, I have a substance
17 problem, and whether you want to wait for
18 Chris to have this conversation, I'm --
19 however you want to manage it, Jan, but the
20 rest of it, the rest of the document, as I
21 said in my notes to you, I really -- there's
22 nits and lice and there are some things, and
23 my other major suggestion is that we declutter
24 the document from extraneous material and that
25 we keep it focused on siting. As I said to

1 you in my e-mail, I am the first person to
2 raise my hand and say that I have contributed
3 to that problem.

4 MS. EASTMAN: Okay. My take on that
5 issue is when we get to -- there's a lot of
6 red in those first set of recommendations
7 where we have the increased emphasis on
8 planning. So I think we're going to spend
9 sometime about that stuff on there.

10 MS. MCCARREN: You want to start with
11 that?

12 MS. EASTMAN: No. I don't want to start
13 with that yet. I want to see if there's
14 anything else because I actually think we --
15 in light of your comment about taking some
16 stuff out and focusing it just on siting, I
17 just want to say that's why I've got some
18 issues to just raise because of recent days,
19 and I think there are some things that, yes,
20 don't relate to our issues, I mean
21 specifically siting, that we included in here,
22 things like the RECs and so forth, and I think
23 there may be another couple that we need to
24 add because I think that when people -- people
25 assume that we're doing much more things than

1 just siting, and so, for instance, I'll pick
2 -- I'll pick two or three. You know 246 and
3 the project --

4 MS. MARGOLIS: Seneca.

5 MS. EASTMAN: Seneca got a certificate
6 to put in the met towers.

7 MS. MARGOLIS: There's a Proposal for
8 Decision.

9 MS. EASTMAN: Proposal for Decision and
10 I saw it on the front page of the Caledonia
11 Record, and as I understand it, you know, this
12 is one of those what I've heard is that
13 project would require additional transmission
14 to be built to even have that project and that
15 that would have to be -- you know, cost some
16 things.

17 So for me I know that isn't within our
18 purview, but somewhere I wish we could say
19 under the other something that this state has
20 to consider is how do you deal with this,
21 right? What goes first, the cart or the
22 horse, because I don't think that anything
23 should be built that you can't then use.
24 That's a total waste to me.

25 MS. McCARREN: Jan, I agree with you on

1 that issue.

2 MS. EASTMAN: And I know that's not
3 within our purview and I know Chris isn't
4 here, but, Anne, you can take the message to
5 him, but that's got to be an issue this state
6 has to deal with, but it's not here.

7 So see what I mean? If we're maxed out
8 and we've got to have transmission, then don't
9 you have to deal with that issue before you
10 build -- you build the new stuff to me, and
11 maybe we don't.

12 MR. BODETT: Don't we address that in
13 our recommendations?

14 MS. EASTMAN: No. We don't talk about
15 the met towers at all.

16 MR. BODETT: Not the met towers, but the
17 transmission issue we certainly do.

18 MS. EASTMAN: But we don't talk about
19 what -- you know, how things should be tied
20 together, and I guess I'm just saying that I
21 think it's a waste of our resources to build
22 things that can't then be used.

23 COMMISSIONER MARKOWITZ: But with the
24 met tower there they are just measuring. They
25 are not building it. That can't be used. So

1 that's preliminary to the decision to build.
2 As I recall in our conversation and in the
3 document we talk about useability is critical
4 in making --

5 MS. EASTMAN: So do you think we've got
6 enough? This says when the Public Service
7 Board actually gets an application or gets an
8 application for any facility that they
9 actually talk about, you know, is there
10 transmission capacity to do this before they
11 issue a Certificate of Public Good?

12 COMMISSIONER MARKOWITZ: I thought we
13 did. Let's see if we can find the language.

14 MS. EASTMAN: That's what I'm suggesting
15 is that instead of leaving it that somebody
16 gets a Certificate of Public Good and then
17 goes -- figures out how they are going to
18 transmit it, that we don't even allow somebody
19 to build something until we know how it's
20 getting out.

21 COMMISSIONER MARKOWITZ: My recollection
22 is we had a conversation about that.

23 MR. JOHNSTONE: I thought we had
24 language in here about that.

25 MR. BODETT: I thought the met towers --

1 now the information may say yeah this is a
2 good spot for wind, but the transmission
3 problem might remain and say well it's not a
4 good spot for wind, but that information
5 remains, and I think if there's -- the more of
6 the wind information we gather as time goes on
7 the better picture, I think, of the state wind
8 resource there is. Whether or not that's a
9 place for it, that could change when 15 years
10 from now VELCO's trying to decide where to
11 expand their transmission that information may
12 come into play.

13 MS. EASTMAN: But I think what's
14 happening now is there's -- I just want to be
15 sure there's some -- I think there ought to be
16 some tie-in between -- and if we've got enough
17 in here. If we don't, I just say that's an
18 issue that I know isn't within our purview,
19 but I think it's a waste of our resources to
20 building that you can't then get out or to
21 even authorize to be built that you can't get
22 out because if you authorize them to build it,
23 aren't you saying they can build it, and why
24 build it if you can't use it. That's all I'm
25 saying.

1 The other thing that has come up, and we
2 did talk about facilities on conserved land
3 and remember talked about the issue that the
4 land, whatever the rules were around it might
5 influence that, well I think there -- I'm not
6 sure it's an unintended consequence, but I
7 think there is a consequence of these issues
8 that hasn't been dealt with here, and I'm not
9 saying we should deal with it, but I think the
10 state's going to have to, and that's lands in
11 Vermont that have Act 250 permits, and if
12 lands in Vermont have an Act 250 permit,
13 aren't they then within the purview of the
14 district -- you know of the District
15 Commission and the Act 250 process, and if
16 someone then wants to put, you know, put a
17 renewable project or put any, you know,
18 electric generation project on it, there's
19 going to be confusion between Act 250
20 jurisdiction and 248 jurisdiction, and I think
21 that somewhere in here we ought to say that we
22 understand -- it may be that when we get to
23 that recommendation 23 and probably some of us
24 may say we want to take out the substantial
25 consideration at this point. I think we ought

1 to -- we're going to want to say something
2 about this I think, and not that we're going
3 to resolve it, but I think we ought to make a
4 push to the Administration that it's something
5 that you guys are going to have to deal with
6 this, Deb.

7 COMMISSIONER MARKOWITZ: Yes.

8 MS. EASTMAN: I'm sorry, but like who's
9 going to control and what do you want to have
10 -- in effect who do you want to have
11 implementing the policies of the State of
12 Vermont?

13 COMMISSIONER MARKOWITZ: I believe
14 there's already some rules on that. I'm not
15 sure what they are.

16 MR. BODETT: Can't be the first time
17 that's come up.

18 COMMISSIONER MARKOWITZ: No. I'm sure
19 it has come up in different ways. Have you
20 seen it, Billy?

21 MR. COSTER: I haven't, but I'm trying
22 to get that information right now.

23 COMMISSIONER MARKOWITZ: We'll ask.

24 MS. EASTMAN: District 2 has a case
25 right now where you're going to end up with --

1 COMMISSIONER MARKOWITZ: I actually
2 think there's a preemption already, but we'll
3 ask our experts.

4 MS. EASTMAN: Here's what's happened and
5 this is why we're going -- you're going --
6 it's going to require some more explanation or
7 it's going to require some work amongst you
8 and state government to figure this out
9 because you have a District Commission who may
10 be reviewing things and they know what's going
11 to happen with it, and if they don't like it
12 they deny the request, okay, to have it come
13 out from under the Act 250 criteria. So I'm
14 not sure that's the way we want things to
15 happen. I think we want it in a more upfront
16 way.

17 These are things just all of a sudden
18 you get to the end and people say oh.

19 MS. MCGINNIS: I'm going to make one
20 request today, and that's that if we bring up
21 any issues, that we have exact wording because
22 I think part of what the problem is, is that
23 everybody thinks that they have understood
24 something, and once it gets on paper that
25 wasn't how they understood it and it is how

1 some people understand it. It's not how
2 others do.

3 We're at a stage now if we can't come up
4 with the exact wording, I'm not putting it in.
5 Okay. So it's due on Tuesday and if you want
6 to write extra memorandums afterwards because
7 we didn't incorporate it, you're welcome to do
8 that, but at this stage we need to have exact
9 wording. So I'm just going to make that one
10 request upfront because we need to actually
11 finish it by Tuesday.

12 MR. JOHNSTONE: We can't punt anything.

13 MS. MCGINNIS: No. Don't say oh we're
14 going to look into it and we're going to get
15 back to you on wording because then whoever
16 sends me the wording other people don't agree
17 with it. So that's -- that becomes a problem.

18 MS. EASTMAN: My first one in here we've
19 got the language that, you know, which to me
20 you don't build it unless it's going to be
21 used kind of thing. That's my waste issue
22 back from all of that, and then the second
23 thing on Act 250, when we get to the Act 250
24 stuff we can talk about it.

25 MS. MCGINNIS: Okay.

1 MS. EASTMAN: Anybody else got anything
2 that --

3 MS. SYMINGTON: Is there any other thing
4 I'm supposed to have on my calendar?

5 MS. EASTMAN: No. We're sending it in
6 writing. Last Thursday I was -- I testified
7 before the House Committee and then they did a
8 strike-all of S30 and then added language back
9 that said they were going to use existing
10 committees to look at this over the summer. I
11 don't know what will happen between the Senate
12 and House version, but that's it.

13 I am now scheduled however -- I'm
14 leaving on Saturday, but I'm scheduled to do a
15 phone-in for Vermont Edition on Tuesday about
16 this. So if there are going to be dissents, I
17 mean I'm not writing a dissent. I mean if I
18 don't get this resolved, then I'll live with
19 it and make my case to the -- in another way,
20 okay, which I can do. So I'm not writing a
21 dissent.

22 That's another thing I want to know. Is
23 anybody writing anything else? And if they
24 are, I just want to know what it is because
25 I'm going to be asked about things starting on

1 Tuesday.

2 MS. McCARREN: I spent quite a bit of
3 time drafting a separate statement and that's
4 what led me to make the comment this morning
5 about diagramming or making sure that we
6 understand what the role of each of the
7 municipal, regional, and Department are
8 because as I wrote my separate statement and
9 went back and read the sections over and over
10 I honestly couldn't tell you that I understood
11 what they meant.

12 So -- and as I said earlier that is
13 really the only section with which I have
14 major problems. The rest of it I have this or
15 that, but, you know, I think I'm okay.

16 MS. MCGINNIS: And for that -- because
17 and I've incorporated all -- almost all of
18 your copy edits. The comments I can't
19 incorporate.

20 MS. McCARREN: Of course you can't.

21 MS. MCGINNIS: Because for the most part
22 everybody else is of a different opinion on
23 some of your major comments so I didn't
24 incorporate those, but they are noted in
25 places where we might need to discuss them.

1 The other thing I was going to suggest,
2 because I do also think that because of where
3 we went in the discussions some of that --
4 some of the questions on municipal, regional,
5 and state got a little muddied and I have had
6 discussions with Chris on this. Chris has a
7 very clear view, which I think is supported by
8 most of the people around the table. You will
9 probably have a problem with it, but I think
10 that we need to wait for Chris.

11 MS. McCARREN: That's what -- I would
12 not want to have that conversation without
13 him, and --

14 MS. EASTMAN: Okay. Let's try and get
15 through all of the document but that, and do
16 that one --

17 MR. COSTER: On your question if anyone
18 is going to write anything, we still need to
19 talk to Deb about this, but there's a chance
20 we might, after the report comes out, just
21 write one letter, again, talking about our
22 concerns about timelines just to get it on the
23 record, but otherwise that would be it.

24 MS. EASTMAN: Okay. So I think then we
25 go page by page because I think the

1 substantive stuff is what, Louise, you've
2 raised and we have a lot of red around that
3 because we have had some changes.

4 MS. McCARREN: And again I'm -- waiting
5 for Chris is great. So, Jan, how would you
6 like to proceed?

7 MS. EASTMAN: I think we go through it
8 and don't we just -- when we see red it means
9 it's new.

10 MS. MCGINNIS: It means there's been a
11 comment or that somebody suggested wording
12 that may need some discussion.

13 MS. EASTMAN: So on page 1.

14 MS. MCGINNIS: The only thing I would
15 caution against right now is the beginning
16 things relate to where we might need Chris to
17 talk about, and so I guess we can just figure
18 it out once we get there.

19 MR. JOHNSTONE: I think I would suggest
20 on those if we run into one where we need
21 Chris, we highlight it and come back.
22 Otherwise let's try to get done.

23 MS. EASTMAN: Let's try to get done
24 everything else we can. So page 1 we just --

25 MS. McCARREN: Are you serious about

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page 1?

MS. EASTMAN: I want to be sure. Is there anybody else we need to acknowledge? We did Anne, Billy, Sheila. We did Linda, Anne, Billy, Ed, and Asa individually. Is that -- what do you think, Anne?

MS. MARGOLIS: Is Joan in there?

MS. EASTMAN: I was thinking Joan. Okay.

MR. BODETT: I don't see her anymore.

MS. EASTMAN: That's because she's out doing the work. All right. We add Joan. And then I get to page 5.

MS. MCGINNIS: Just on this first point, Louise raised the issue of energy and electric and that sometimes she feels like it gets muddled. Chris's response, and I think others have said it as well to me in different comments, is that electricity is inextricably part of an overall energy policy, and that the Department, as it does its work, is going to always have to take it in the context of energy, and so where I have put energy there was support for that, and that electric generation goes within that overall context.

1 That was his perspective, but we may --
2 if it needs more than that --

3 MR. JOHNSTONE: This is just a factual
4 statement. It is what the CEP says. It's not
5 an opinion. It's what the CEP says.

6 MS. EASTMAN: Look I'm okay. I just go
7 down to the question do we add aesthetic or
8 cumulative impact here? I'm fine with the red
9 -- the other red on the page. I'm not sure we
10 have to add aesthetic and cumulative impact
11 here. I think that gets more to the
12 specifics.

13 MR. BODETT: I agree. It probably
14 doesn't need it right there.

15 MR. JOHNSTONE: I'm fine.

16 MS. EASTMAN: How about everybody else?

17 COMMISSIONER MARKOWITZ: That's fine.

18 MS. MCGINNIS: So don't add here?

19 MS. EASTMAN: Yeah, but keep the other.

20 MS. MCGINNIS: Yes.

21 MS. EASTMAN: Speak up because I'm going
22 to push us along.

23 MS. MCCARREN: I don't see anything.
24 You know what my overall views are. I'm not
25 going to repeat them, but I'm reserving them.

1 I do have one data issue on the third
2 full paragraph about halfway down the process
3 presently followed blah blah, and you can tell
4 me not to raise these issues if you want, but
5 it's factually incorrect.

6 MR. JOHNSTONE: If it's factual, we want
7 to know that.

8 MS. McCARREN: The advent of merchant
9 that is not new. It came out of the late 70's
10 and early 80's, and you guys, if you want to
11 leave it, I'm fine with it. It's just that
12 there's a few factual things that I think kind
13 of detract if they are not correct.

14 MS. EASTMAN: Where is merchant?

15 MS. McCARREN: Three lines above the end
16 of the paragraph.

17 MR. BODETT: Maybe that's not the right
18 word. Or some expansion?

19 MR. JOHNSTONE: Proliferation.

20 MS. McCARREN: You can put expansion.
21 I'm sorry. I should have offered language.

22 MS. EASTMAN: That's okay. Let's just
23 put expansion.

24 MS. MCGINNIS: Done.

25 MS. McCARREN: Tell me if you don't want

1 to hear these things.

2 MS. EASTMAN: We always want the facts.
3 Okay. Page 13 we just have in-state permit
4 electric generation. There's only one red
5 there.

6 MS. MCCARREN: Okay and --

7 MS. EASTMAN: Oh got -- no. I just
8 moved my pages wrong.

9 MR. BODETT: I thought we were really
10 moving along.

11 MS. EASTMAN: Sorry about that. That
12 didn't work. I'm fine.

13 MS. MCGINNIS: Just for everybody else
14 in the room I know it's a little confusing,
15 but for the purpose of the deliberations I
16 incorporated individual comments of each of
17 their's just as notations for the
18 Commissioners. So it won't follow exactly,
19 but it will be very close, and that was just
20 for the purpose of their being able to
21 understand who said what and quickly get
22 through it that way.

23 MS. MCCARREN: You resolved the comma
24 dilemma and I don't care however you choose.

25 MS. MCGINNIS: I did. I went with what

1 I was taught in graduate school and what the
2 Department uses in their papers so -- and that
3 is an additional comma.

4 MS. McCARREN: I am fine with that, but
5 whoever drafted half of it --

6 MS. MCGINNIS: It was because you keep
7 taking them out. So I had half of them out
8 and half of them in, but my natural tendency
9 was to go with the comma.

10 MS. McCARREN: Eats Shoots and Leaves.

11 MS. EASTMAN: I read that among many
12 other things. So all the red up top I'm fine
13 with those changes. We just get down to the
14 summary recommendations.

15 MS. MCGINNIS: The last one of the
16 bullets at the top, and retail rate costs, I
17 want it make sure everybody is okay with that.

18 MS. McCARREN: I'm sorry. Where are
19 you, Linda? Tell me.

20 MS. MCGINNIS: Top of page 6, the sixth
21 bullet, avoiding unintended consequences
22 including keeping the budgetary and retail
23 rate costs of the recommendation to a minimum.
24 Okay.

25 MS. McCARREN: It should be price

1 effects.

2 MS. GRACE: Retail rate consequences.

3 MS. MCGINNIS: That's better.

4 Consequences.

5 MS. MCCARREN: And I took out and
6 changed my section and really limited it.

7 MS. EASTMAN: So the last paragraph on
8 that page it's now -- here we're back at one
9 of those issues. Let me just see. System of
10 energy generation. Louise wants --

11 MS. MCCARREN: You guys, I don't want to
12 argue this all day. If everyone else is happy
13 with the text the way it's written, I will
14 stop arguing it. You do don't energy
15 generation. You do electric generation.

16 MR. BODETT: Well biomass plants produce
17 heat.

18 MS. EASTMAN: We already have referred
19 to ourselves -- we know that we're only
20 dealing with electric generation for siting
21 issues. I think we say that in the first two
22 lines there.

23 COMMISSIONER MARKOWITZ: Energy
24 generation. It could be electric. It's
25 inconsequential. I think having a broader

1 energy is helpful in that it continues to be a
2 reminder that we're looking at it in the
3 context of the full system, and I was actually
4 thinking, like you, of the thermal electric
5 issues.

6 MS. MCGINNIS: That was why Chris wanted
7 to keep it with energy.

8 MS. EASTMAN: We're going to keep it
9 with energy.

10 MS. MCCARREN: That's fine.

11 MS. EASTMAN: Page 7. So the first
12 thing here, Louise, you want more?

13 MS. MCCARREN: No. I -- delete that.
14 All I was trying to say is in reading that
15 will the reader understand what we meant by
16 that. That's all. And if everybody is
17 satisfied that the reader will understand, so
18 be it.

19 MS. EASTMAN: Let me just say this about
20 that. It's not a problem, but what we've done
21 is put the Executive Summary first. So the
22 shorter explanation first, which is always
23 going to say oh shouldn't there be more, and
24 in fact if the reader reads the whole thing
25 there is more, but that's what you get when

1 you do a summary too.

2 MS. McCARREN: Again I'm --

3 MR. JOHNSTONE: Sounds good.

4 MS. McCARREN: These are my notes. I'm
5 not arguing these points.

6 MS. EASTMAN: So I'm good with the rest
7 of the page.

8 COMMISSIONER MARKOWITZ: Yes.

9 MS. McCARREN: One editing thing. Oh
10 you put it in. Never mind.

11 MS. EASTMAN: Page 8. I'm good with
12 electric generation landscape which is the
13 first paragraph in the red.

14 MS. McCARREN: Just one second to make
15 sure I'm on the same page.

16 MS. EASTMAN: It's the last bullet,
17 update environmental, health, and other
18 protection guidelines.

19 MS. McCARREN: I'm sorry. I just need
20 one second to make sure I'm with you. I see
21 page 8 which is what we're on. I see my
22 problem. Okay. Hang on.

23 MR. JOHNSTONE: The question I would
24 have is on number four while you're finding if
25 you have anything else, and I know Chris isn't

1 here, but I don't know if anybody else can
2 speak to it.

3 I think that the suggestion there is a
4 change from anything we've talked about.

5 MS. MCGINNIS: Yes.

6 MR. JOHNSTONE: So I wanted to hear more
7 about why we think substantial requires.

8 MS. SYMINGTON: Isn't this all about the
9 planning thing?

10 MS. EASTMAN: I think we ought to just
11 defer and increase emphasis on planning. Just
12 defer that section.

13 MR. JOHNSTONE: We want to come back to
14 number four.

15 MS. EASTMAN: Well we want to come back
16 to all those in there.

17 MS. MCGINNIS: One through five, I think
18 that's a good idea.

19 MS. EASTMAN: After we get the
20 explanation done then we should be able to
21 fill that in.

22 MR. JOHNSTONE: I'll wait.

23 MS. EASTMAN: Let's just wait on that.

24 MR. JOHNSTONE: Thank you.

25 MS. EASTMAN: Which moves us to page 9.

1 MR. JOHNSTONE: I'll play along.

2 MS. EASTMAN: So the first thing in
3 eight is the issue of do we have official
4 discussions? Is that it?

5 MS. MCGINNIS: Yes.

6 MS. MCCARREN: Are you on 8?

7 MS. MCGINNIS: We're on recommendation
8 number 8 page 9.

9 MR. JOHNSTONE: We define that later.
10 We define here the scoping meeting. Whether
11 we call it discussions or official discussions
12 we define what we mean by that. So I don't
13 frankly care unless I'm missing some legal
14 nuance there because we define what we mean by
15 the term. You all tell me -- you lawyers tell
16 me if it matters. I don't know. I'm sorry.

17 MS. EASTMAN: Here's the thing. I mean
18 --

19 COMMISSIONER MARKOWITZ: Why don't we
20 just put in scoping discussions.

21 MR. BODETT: I think it says official,
22 kind of leaves a loophole to say well this
23 isn't really official.

24 MS. EASTMAN: But on the other hand,
25 somebody's able to call and check it out and

1 then go away and never come back.

2 COMMISSIONER MARKOWITZ: Right. It
3 can't be any discussion because we've got like
4 a million informal discussions that staff have
5 that we have no control over it.

6 MR. JOHNSTONE: We defined it when the
7 first scoping meeting is held.

8 MR. COSTER: That's the term we use in
9 our guidance.

10 COMMISSIONER MARKOWITZ: Why don't we
11 say instead of when scoping meetings have
12 begun regarding a proposed project instead of
13 discussions.

14 MS. EASTMAN: When scoping meetings have
15 begun?

16 COMMISSIONER MARKOWITZ: Yes.

17 MS. MCGINNIS: Yes.

18 MS. EASTMAN: Okay. How does that work?

19 MS. MCGINNIS: And take out the second
20 sentence.

21 MS. SYMINGTON: So should it say when
22 scoping meetings with ANR and PSD have begun
23 and documents have changed hands?

24 MS. EASTMAN: Do we need documents
25 changing hands?

1 COMMISSIONER MARKOWITZ: Well the reason
2 why there's nothing to post otherwise. So it
3 relates to -- so when we were talking about it
4 in our discussion, you know, there's informal
5 discussions. Until there's an actual
6 something on paper there's no public record.
7 There's no record to be public. The fact that
8 there was a calendar entry of a meeting isn't
9 enough.

10 MS. EASTMAN: Okay.

11 MS. MCGINNIS: I think that's clear.

12 MS. EASTMAN: And I like it. It doesn't
13 refer to whatever tier because I think that it
14 doesn't matter what tier it is relative to
15 notice here. My goal is that if you get up
16 this web site, it doesn't matter if you know
17 what tier. It's when is it and when there's a
18 project it goes up.

19 Louise, I get your comment here in 9
20 about depending on land use and viewshed
21 considerations, only I'm worried that's too
22 limiting. To me that's --

23 MS. MCCARREN: Okay. Why don't we put
24 something like depending on the overall
25 physical and aesthetic location or just leave

1 it out. I'm fine.

2 MS. EASTMAN: But I agree with what
3 you're saying. Those are the kinds of things
4 we're thinking about, but there's so many
5 things, you know, that could affect it.

6 MS. MCCARREN: We say case-by-case
7 basis. We don't give any guidance. If
8 everybody is okay with that, we'll just leave
9 it.

10 MS. EASTMAN: Again we may be able to
11 give guidance later. This is the Executive
12 Summary.

13 MS. MCCARREN: Okay.

14 MS. MCGINNIS: So I take it out?

15 MS. EASTMAN: Yes. I would take it out,
16 and on the same line in 10 I would take it out
17 and say that, you know, see Section 4 for more
18 detail.

19 MS. MCCARREN: That's fine. I'm good
20 with that. That just struck me there was no
21 text.

22 MS. MCGINNIS: Yes.

23 MS. EASTMAN: Now number 11 is probably
24 going to relate to what we're going to talk
25 about later because it relates to planning.

1 MS. MCCARREN: Can I ask just a question
2 here? We are all -- totally editing issue and
3 I don't care what the issue is, but we're
4 using the term compliance not conformance
5 among the plans, and fine, whatever you want
6 to use, but just so the document is
7 consistent.

8 MS. EASTMAN: Actually I believe that
9 there are different terms at different places,
10 and when we get to this afternoon's discussion
11 I think that's important. What we said was we
12 talked about regional plans being consistent
13 with, but that's because I'm trying to follow
14 what language is already in land use planning.
15 So there's a consistent-with issue.

16 Municipal plans are then found to be in
17 conformance with regional plans. That's what
18 the language is in the statute, and I think --
19 and then in Act 250 things, you know, a
20 project is found to be in conformance with a
21 regional or municipal plan. So for me the
22 issue of we have used consistent in
23 relationship between RPC plans and CEP
24 specifically because it gives it a little --

25 MS. MCCARREN: I'm not arguing the

1 substance of this. I'm simply saying that if
2 we have the big three c's; consistency,
3 conformance, and compliance, we should use
4 them consistently and understand what we mean
5 when we use them. Linda, could I --

6 MS. EASTMAN: Where is compliance?

7 MS. MCGINNIS: Number 11. PSB. It's
8 suggesting in the red there costs will need to
9 be associated with demonstrating that a
10 particular project is in compliance.

11 MS. EASTMAN: I would cross that out
12 because I don't think that's -- that is a new
13 term and I don't think we want to say that
14 here. I also don't think we want to say these
15 costs should be funded by bill back. I think
16 we're going to say, you know, the Department
17 ought to figure out, you know, what's the
18 right structure to pay for things. I thought
19 we talked about that last time we weren't
20 going to have specific stuff.

21 MS. MCGINNIS: I had understood, and
22 maybe this isn't the case, but I had
23 understood this is the one exception because
24 it's already within the rules for bill back
25 that RPCs could be funded, but they just

1 haven't been. So that was why I kept it
2 there, but I can take it out.

3 MR. CAMPANY: So just to be clear so
4 what the statute says is we can bill back I
5 think it's only in the case of a natural gas
6 line. Nothing else, and so when we've applied
7 before they have -- so anyway that's a
8 specific instance.

9 MS. MCGINNIS: Should I take it out?

10 MS. EASTMAN: I would like to take out
11 that black and then take out the red here.

12 MS. MCGINNIS: Okay.

13 MS. MCCARREN: What are you taking out
14 in the black?

15 MS. EASTMAN: These costs should be
16 funded by bill back.

17 MS. MCCARREN: Fine.

18 MR. JOHNSTONE: Let me ask a question
19 about that. Do you want to take it out or do
20 you really want to say these costs should be
21 funded to a method as determined by the PSB?

22 MS. GRACE: Can I make a suggestion?
23 There's a bigger section on this that's
24 farther down in the document. The reason I
25 put it in here is because it started to talk

1 about bill back here. We were getting into
2 specifics about it. So I'm happy to have the
3 red gone if the bill back part is gone from
4 this particular Executive Summary portion.

5 MS. MCGINNIS: Should I put in
6 parentheses see recommendation number 29?

7 MS. EASTMAN: No. No.

8 MR. JOHNSTONE: Perfect.

9 MS. EASTMAN: 12. I think this is too
10 long. The PSB shall also enable Hearing
11 Officers to have procedural discussions with
12 parties or initiate a noticed conference call
13 with all parties when a substantial issue so
14 warrants. I know they can already do that.

15 What we were asking was for the PSB to
16 enable Hearing Officers to have procedural
17 discussions with anybody. It's not the party
18 issue we were concerned about. It was the
19 public. So I don't think we need to be saying
20 this.

21 MR. JOHNSTONE: So period after
22 discussions?

23 COMMISSIONER MARKOWITZ: Well with the
24 public or parties?

25 MS. EASTMAN: We don't need to have all

1 this specificity in here. This is telling
2 about something we already know how to do.

3 MS. McCARREN: In the more detailed
4 section I proposed some language that talks
5 about the ex parte rules to make it a little
6 clearer.

7 COMMISSIONER MARKOWITZ: That's good.

8 MS. MCGINNIS: For hearsay discussions
9 with parties or the public period.

10 MS. EASTMAN: And leave it.

11 MS. McCARREN: Okay. I don't have any
12 problem with that, but don't forget we just
13 established we want a case manager that can
14 handle a lot of this too.

15 MS. EASTMAN: Remember this was -- as I
16 remember this, and I don't mean to say this,
17 we added this because this is something that
18 in conversations that Jim Volz had with Chris,
19 you know, he offered up yeah we could get a
20 little clearer about that.

21 So we just want to -- my point here is
22 just to acknowledge that offer in this
23 document. Not to push back too much.
24 Seriously, okay. So I don't want it to become
25 this huge oh gosh you got to do x. 15.

1 MS. MCGINNIS: That's linked to 14.
2 We've gone back and forth with different
3 comments that are sent to me by different
4 people and agencies on whether I should use
5 deemed complete or deemed technically
6 complete.

7 MR. JOHNSTONE: What's the term of art?

8 MS. MCCARREN: It's complete. It's not
9 technically at least in my old world. Billy
10 you may know better but --

11 MR. COSTER: For us it's kind of a
12 two-stage process, but for the PSB it just
13 might be one.

14 MS. EASTMAN: Deemed complete.

15 MS. GRACE: The reason I suggested
16 taking technically out is because it allows
17 the Public Service Board to decide what works
18 best for them without a bunch of lawyers
19 saying technically, and technically means
20 this.

21 MS. EASTMAN: Let's just say deems
22 complete.

23 MS. MCGINNIS: I'm more than happy with
24 that.

25 MS. EASTMAN: Okay. Page 10. Gosh.

1 MS. MCGINNIS: Here just to explain in
2 our last deliberations we had a little bit of
3 confusion on this one recommendation that
4 tried to lump things together, and Billy
5 suggested that they be separated out which I
6 also think makes it more clear.

7 MR. JOHNSTONE: This is 16 and 17.

8 MS. MCGINNIS: This is 16 and 17 both in
9 red. So one is establishing clear timelines
10 for the initial stages of a Section 248
11 docket, and I wanted to know if that's more
12 than clear timelines, if it's statutory
13 timelines which is what we had originally
14 talked about.

15 MS. EASTMAN: No. I think establishing
16 clear timelines is fine. I don't think we
17 need to have a definition of it being
18 statutory. You really might want it to be by
19 rule. The issue is that it be clear and
20 everybody know about it. You don't want to
21 necessarily make them have to go through
22 legislative approval on things like that.

23 MS. MCGINNIS: And then the second issue
24 that we had talked about is that the same
25 types of standards need to be applied to ANR

1 given their important role in the process, and
2 so because ANR as of the past couple of years
3 now has these permit performance standards in
4 place, it's basically acknowledging that and
5 saying that they shall respond consistent with
6 those performance standards that they have.

7 Now my only question on this is are
8 there any other parties that we should be
9 designating in here like the Department or,
10 you know, clear timelines for intervenors.

11 MS. EASTMAN: No. The only -- they will
12 all get done once a process is started. What
13 you're dealing with here are with people would
14 actually issue a permit, a Certificate of
15 Public Good by a Public Service Board or ANR
16 with permits. Nobody else actually issues a
17 permit.

18 COMMISSIONER MARKOWITZ: Well the Feds.

19 MS. EASTMAN: We can't tell the Feds to
20 do anything, can we? If we did, they wouldn't
21 have a lot --

22 MR. JOHNSTONE: We would not succeed,
23 but we can try.

24 MS. MCGINNIS: Are you guys okay with
25 separating it out like this?

1 MS. EASTMAN: I'm okay with separating
2 it. I would take out technically in the first
3 one, and I would say ANR shall respond to
4 permit applications consistent with ANR
5 statutory permit or -- and/or to a permit
6 application.

7 MS. McCARREN: Are those performance
8 standards statutory?

9 COMMISSIONER MARKOWITZ: They are not.
10 So I would take statutory out because I think
11 that's confusing too.

12 MR. COSTER: There's a statute that says
13 we have to develop performance standards, but
14 it doesn't set them in statute.

15 MR. JOHNSTONE: That would be better.

16 MS. EASTMAN: So it's either respond to
17 permit applications or respond to a permit
18 application. I don't care which.

19 COMMISSIONER MARKOWITZ: Applications.

20 MS. MCGINNIS: And take out statutory.
21 Okay. I'll walk you through this. That first
22 parenthesis, Louise and others have had
23 difficulties with the final phrase just
24 feeling that it wasn't particularly clear.

25 MS. GRACE: My suggestion is actually

1 right after it says use rebuttable presumption
2 by ANR permits, that everything would be
3 deleted and the substitution would be where it
4 says PSD substitute --

5 MS. MCGINNIS: That's what I was going
6 to walk people through. Louise's is the last
7 phrase and then ANR looked at Louise's and --
8 and they are suggesting what comes after PSD
9 substitute --

10 MR. JOHNSTONE: Just so we get this
11 right, the title will remain and the proposal
12 is what's under PSD would replace all the
13 text?

14 MS. MCGINNIS: And you guys need to
15 figure out if this is clearer, or if it's not
16 --

17 MS. MCCARREN: Then we have the editing
18 issue of whether or not -- we now have the
19 consistency issue. We have all of this text
20 all of a sudden, explanatory text, and maybe
21 if we agree with it, maybe it should be
22 somewhere else.

23 MS. GRACE: I guess you could say see
24 section blah blah blah if you want to make it
25 shorter, but I feel like to be shortened that

1 particular substituted language suggestion at
2 the risk of being inaccurate.

3 MR. JOHNSTONE: There's quite a few
4 others that belong. When get rid of
5 everything else and just add substitute it's
6 not unduly long.

7 COMMISSIONER MARKOWITZ: And the
8 substitute gets what we're looking for.

9 MS. EASTMAN: So we take out all the
10 black to -- so we start with an applicant may
11 choose to provide affirmative testimony?

12 MR. JOHNSTONE: Yes, to the end.

13 COMMISSIONER MARKOWITZ: I think it's
14 fine.

15 MS. EASTMAN: Or if a permit is required
16 that means or if an ANR permit is required,
17 right? An ANR permit is required it may rely
18 on the issuance of the permit to demonstrate
19 it satisfies particular criteria.

20 COMMISSIONER MARKOWITZ: And that way it
21 distinguishes between the criteria that we --
22 that we participate in that don't involve
23 permits.

24 MR. JOHNSTONE: That's fine.

25 COMMISSIONER MARKOWITZ: Thank you.

1 MS. EASTMAN: Okay. Let's just get
2 Louise's issue because in here we use
3 compliance and we use conformance and are
4 those the proper words? And I'm thinking they
5 may be. That the permit demonstrates
6 compliance. That is compliance, yeah. That
7 the project is constructed and operated in
8 conformance with the requirements.

9 COMMISSIONER MARKOWITZ: Yes. That's
10 fine.

11 MR. JOHNSTONE: Beautiful.

12 MS. SYMINGTON: And there's compliance
13 again at the end.

14 MS. EASTMAN: Because compliance with
15 the criteria performance with the
16 requirements, is that what we've got?

17 MS. McCARREN: Come on, you guys. Do
18 you comply with criteria?

19 MS. EASTMAN: I think we do. Now going
20 back to my Act 250 days I'm just following how
21 we used to do this. I'm going to blame
22 Richard Cowart. He was before me at the
23 Environmental Board and made it all real and
24 then he went to, you know, and then he went to
25 the Public Service Board and did these things.

1 I'm okay with that. Everybody else okay?

2 MS. McCARREN: I am fine as long as the
3 Department or the ANR is fine. If that's the
4 language you want to use, then I want to --
5 I'm fine with it. I want to make sure when we
6 go through the document what we say is what we
7 mean here.

8 MS. EASTMAN: Okay. So I'm okay with
9 20.

10 MS. McCARREN: I did -- look at A. I
11 had suggested to the process after
12 accessibility. You can just leave it out.
13 Accessibility means everything that's fine.

14 MR. JOHNSTONE: Are we absolutely
15 certain in E we have all the state agencies or
16 should we just say all state agency
17 guidelines? I'm always nervous about lists.

18 MS. MCGINNIS: I had started with just
19 ANR and PSB because they are the two key ones,
20 but then Sheila added there may be others
21 which is right, and if you just say all
22 relevant agencies, the point is that it's an
23 one-stop shop. So that it's not just PSB.

24 MS. SYMINGTON: We can do including
25 again.

1 MS. EASTMAN: All relevant agencies
2 including but not limited to.

3 MR. JOHNSTONE: That would be fine.

4 MR. BODETT: Batteries not included.

5 MR. JOHNSTONE: I would address it --
6 sorry --it makes it longer, but we will have
7 forgotten somebody.

8 MS. MCGINNIS: ACCD, for example. Okay.

9 MS. EASTMAN: 22.

10 MS. MCCARREN: I just suggested taking
11 out the, to the extent feasible, because it's
12 just --

13 MS. EASTMAN: I agree. I think they
14 have to update things, you know, and when they
15 can't that means they can't. 23.

16 COMMISSIONER MARKOWITZ: So the
17 discussion here this related to some concerns
18 my attorneys had that we wanted to make sure
19 that as we increase the weight accorded to the
20 Act 250 criteria it doesn't mean that we're
21 analyzing some of the other environmental
22 considerations at a lesser standard, and
23 that's because for us in many of these big
24 projects it's habitat connectivity that really
25 matters and that's not in Act 250.

1 So staff did put together some language
2 that they thought would get at it. I guess
3 just --

4 MS. EASTMAN: Maybe we don't need to do
5 this. I'm willing --

6 MS. SYMINGTON: I did have this concern
7 and I think the concern I had extended beyond
8 just the environmental criteria to the other
9 criteria that 248 looks at that are given due
10 consideration, and it makes -- to me it means
11 this commission should look at everything and
12 decide which gets more weight, which gets less
13 weight, which gets --

14 MR. JOHNSTONE: So let me just try to
15 understand. So let me frame it in my head.
16 So I get the concern you're raising that
17 somehow by calling this substantial we're
18 saying that it rises above other criteria that
19 aren't in Act 250.

20 I guess so. Again, I could just strike
21 the whole thing, I guess, if that's the
22 concern. I guess my thinking was that the
23 issues that get in front of the PSB now is --
24 straight up issues already get that level of
25 consideration. So this was just kind of

1 normalizing the field, but that's not what
2 you're thinking it's saying.

3 COMMISSIONER MARKOWITZ: I think our
4 lawyers are worried where there's a balancing,
5 because they are determining public good, so
6 they are balancing the criteria against each
7 other in this. It will mean that the Act 250
8 criteria, one of those as part of that you're
9 bringing in perhaps climate change, and so
10 should there be something that we're saying
11 that those concerns trump connectivity. Maybe
12 yes -- and maybe that's the wrong example
13 because maybe the answer there might be yes,
14 but it puts -- it changes the dynamic.

15 MS. EASTMAN: Here's the concern that I
16 have heard raised. I have heard raised Act
17 250 criteria -- VNRC raises it, you know, in
18 their recommendations to us, that they think
19 the criteria of Act 250 are 30 years old and
20 outdated and all need to be updated anyway,
21 and that because it doesn't consider all the
22 things perhaps that ought to be considered in
23 today's world, and that what happens in 248 is
24 because the way the language is written at
25 least you have the possibility of making a

1 case about anything. So --

2 MR. JOHNSTONE: Suppose we eliminate 22

3 --

4 MS. EASTMAN: 23.

5 MR. JOHNSTONE: 23, sorry.

6 MS. EASTMAN: Except here's where -- and
7 I know that before the day ends I have to have
8 language if I can convince people, and maybe
9 it doesn't go here, but here then is my
10 concern because we were asked to look at
11 ensuring adequate environmental, health, and,
12 you know, other protection, right, and we
13 don't have that much here.

14 I guess to me it's this issue if you all
15 decide to review the environmental -- you know
16 to review Act 250 criteria and you update
17 everything, right, I want to be sure that
18 whatever you do there becomes the -- you know,
19 it gets better than -- this gets better kind
20 of thing.

21 MS. MCGINNIS: I think in the
22 discussion, because we had a staff discussion
23 on it yesterday, we ended up sort of in the
24 same spot but wondering if maybe the
25 Commission could delete 23 as it stands and

1 just say something along the line of you
2 recognize the importance of updating Act 250
3 criteria as much as it will have weight in the
4 Section 248 process. The better the Act 250
5 criteria the better the Section 248
6 consideration of it.

7 MS. McCARREN: You can -- adding other
8 environmental criteria do you fix the problem?

9 MS. EASTMAN: No.

10 MS. McCARREN: Makes it worse.

11 MS. EASTMAN: Sorry. I have looked at
12 this one where you have looked at other
13 things. So I get your issue of substantial
14 consideration and relying upon Act 250
15 criteria that aren't really getting at the
16 issues you want to get at frequently. So I
17 get that, but I also --

18 MS. MCGINNIS: Anne has the section, if
19 you guys want to read it, of Section 248 which
20 talks specifically about it if you want to
21 look at it.

22 MS. EASTMAN: I've looked at it and this
23 is why I know -- I know what -- the Public
24 Service Board they make a determination. They
25 don't make a determination about the Act 250

1 criteria. They just use Act 250 criteria to
2 help make that determination. So they never
3 make a determination that a project is in
4 conformance with or compliance with. They
5 never do that with the Act 250 criteria.

6 COMMISSIONER MARKOWITZ: Let me review
7 the language staff put together to see if this
8 might be an acceptable alternative. It says
9 when determining a project's effect the Board
10 should give substantial consideration to Act
11 250 criteria, and it says when evaluating
12 whether a generation project will have an
13 undue adverse effect on the natural
14 environment under 248, the Board may extend
15 its review of a project's impact beyond the
16 Act 250 criteria specifically referenced in
17 that section.

18 Currently the Board gives due
19 consideration to the specified Act 250
20 criteria. The Commission recommends that the
21 Board give substantial consideration to these
22 criteria as a part of the overall evaluation
23 of undue adverse effect. This recommendation
24 is made with the explicit understanding that
25 consistent with current practice and case

1 precedent the Board will and should continue
2 to include in its review examination of
3 impacts beyond the narrow Act 250 criteria to
4 make a broad finding on the project's effect
5 on the natural environment.

6 MS. McCARREN: Do your lawyers get paid
7 by the word?

8 COMMISSIONER MARKOWITZ: The Commission
9 also recommends that the Natural Resources
10 Board consider modernizing the Act 250
11 criteria in light of the challenges presented
12 by global climate change. So it's more
13 robust.

14 MR. JOHNSTONE: That would be in the
15 body not in the Executive Summary.

16 COMMISSIONER MARKOWITZ: We could do
17 that in the body not in the Executive Summary.

18 MS. McCARREN: Deb, I would support this
19 if you just put a period after effect and take
20 out the rest. It's legal commentary.

21 MS. MCGINNIS: In the second line?

22 MS. McCARREN: Down -- six lines down.

23 MR. BODETT: You mean this
24 recommendation, from there on?

25 MS. McCARREN: Delete this

1 recommendation, et cetera, et cetera. Like a
2 lot of things there's nothing -- there's
3 nothing per se wrong there. It's not wrong,
4 but what you do is you change the whole tone
5 and tenor.

6 MS. EASTMAN: But maybe -- okay. So
7 this would be a -- recommendation 23 would be
8 a substitute 23 because it is a recommendation
9 that we give substantial consideration.

10 MR. COSTER: I think they drafted this
11 understanding that currently the Commission
12 wanted to elevate the consideration. So this
13 was language they felt they could be
14 comfortable with. Ideally I don't think they
15 want to see that change, but if it were to
16 change, this is the road they wanted to go
17 down.

18 MS. MCGINNIS: Ideally they would
19 suggest not having 23 at all, is that what
20 you're saying?

21 MR. COSTER: That's what the people --
22 our lawyers who represent us before the Board
23 that's their preference. They are not the
24 policy determinators.

25 MS. MCCARREN: And, Billy, that's

1 because they feel they have enough leeway and
2 latitude now to argue under the 248 all of the
3 environmental issues?

4 MR. COSTER: Right.

5 MS. MCCARREN: They are afraid what
6 we're putting is in limiting.

7 MR. COSTER: The Act 250 criteria are
8 narrower than the arguments.

9 MS. EASTMAN: I guess I don't mind
10 leaving at due consideration. Here's what we
11 have. We have here a public that doesn't
12 understand that. We have a public that
13 believes Act 250 criteria that the language
14 there is more protective than the language in
15 248, and in fact it's 248 that has been able
16 to adjust to get to externalities.

17 The amazing thing we've gotten to in 248
18 on environmental issues is far beyond what Act
19 250 can do.

20 MS. MCCARREN: Do we say that? Why
21 don't we say that?

22 MS. SYMINGTON: Why don't we say that as
23 opposed to something we don't want to do and
24 have adverse consequences.

25 MS. MCGINNIS: Should we --

1 MS. McCARREN: Why don't we make it more
2 explicit.

3 MS. MCGINNIS: It is very explicit in
4 the body. It's a large thing saying why we're
5 sticking with 248. Do you want me to pull out
6 the one piece --

7 MS. McCARREN: Delete 23.

8 MS. MCGINNIS: To get at Jan's point
9 should it be brought up into the Executive
10 Summary a line where -- and, if so, where
11 should that line be? Where does it make more
12 sense to have it? It could be a
13 recommendation.

14 COMMISSIONER MARKOWITZ: It's more than
15 explanation of why, you know, although we
16 heard people interested in having Act 250
17 apply why we decided not to --

18 MS. EASTMAN: And that's the concern I
19 have. That if we don't, you know --

20 MS. MCGINNIS: Maybe there's a final one
21 in the cross cutting.

22 MR. JOHNSTONE: It's not a
23 recommendation.

24 MR. BODETT: Where do we say we want to
25 leave it with the PSB? Where is that stated?

1 MS. MCGINNIS: It's in the bulk of the
2 text because it's much longer.

3 MR. BODETT: We're not there yet so
4 that's probably the place.

5 MS. MCGINNIS: It's the very first part
6 of the Section 4. So on page 43 there's three
7 paragraphs, and the second paragraph which is
8 long talks about the -- with regard to natural
9 resource impacts. So if you look on page 43
10 under Section 4, detailed package of
11 recommendations, it's the very first thing,
12 the rationale for maintaining siting with the
13 Board.

14 MS. SYMINGTON: It seems to me it's a
15 stand-alone recommendation to say that we
16 seriously considered language having to do
17 with the Act 250 criteria and that we chose to
18 stay with Act 248 because -- we don't have to
19 go through the length of that, but it just
20 seems to me it's a stand-alone recommendation.
21 It really is a recommendation not to -- not to
22 give deference to 250 because of the broader
23 power of 248 to reach issues like habitat and
24 connectivity and externalities that are not
25 covered under Act 250.

1 MS. EASTMAN: I would be happy to have a
2 recommendation like that here and have it
3 brief, and then when we get into the longer
4 body I would like to have some of this
5 language that the ANR staff came up with that
6 talks about, you know, there is this
7 conversation with, you know, looking at Act
8 250 criteria, and if we looked at Act 250
9 criteria and they came -- and they became, you
10 know, more precise, you then might consider
11 giving them more weight, right, at a later
12 time, not now?

13 MS. MCGINNIS: I think, though, the
14 Department's concern would be, again, coming
15 back to not environmental issues, but then do
16 you raise the environmental criteria above
17 those of reliability, for example?

18 MR. COSTER: This is really within
19 (B) (5) which talks about all -- only
20 environmental. It's kind of what subcriteria
21 under the environmental criteria are you
22 focused on.

23 MS. EASTMAN: To me this is a (B) (5)
24 issue only.

25 MS. MCGINNIS: Only. So are we in

1 agreement number 23 would be changed to
2 incorporate some of the language on page 41?
3 I think that's what it was.

4 MR. BODETT: 43. I agree. That was our
5 first recommendation. Our first decision was
6 that this is going to stay with the PSB and
7 then everything else followed that. So it
8 seems to me that should be in the Executive
9 Summary.

10 MS. EASTMAN: And here say though it is
11 ensuring adequate environmental health and
12 other protection. It's because the language
13 of Section 248 allows -- allows parties,
14 especially state parties, to keep up to date
15 with whatever the science is in any of these
16 areas. You can make any argument you wish.

17 MR. JOHNSTONE: It's not the right
18 language, but what I've been doodling here is
19 Commission recommends jurisdictional siting
20 remain at the PSD.

21 MR. BODETT: B.

22 MR. JOHNSTONE: B. Sorry. That would
23 be bad, wouldn't it? Commission finds 248
24 includes superior protections of natural
25 environment of Act 250, and then I would

1 retain the last sentence of what the staff
2 wrote. The Commission also recommends the
3 Natural Resources Board consider reviewing and
4 modernize all criteria in light of the
5 challenges presented by global climate change.

6 I don't know if that works or not, but
7 something like that.

8 MR. BODETT: That's pretty darn close.

9 MR. COSTER: Not to nitpick, but I don't
10 know -- I don't know if it -- ultimately 248
11 provides superior environmental protection
12 because it's a balancing, but it provides the
13 opportunity for a broader analysis of
14 environmental impacts. At the end of the day
15 they may say we don't care about
16 fragmentation, but it's on the table.

17 MS. EASTMAN: Broader analysis. That's
18 fine. Okay.

19 COMMISSIONER MARKOWITZ: That's good.
20 Thank you.

21 MS. MCCARREN: I don't support the
22 inclusion of climate change. You will hear me
23 say this again and I'll try not to bore you to
24 tears only because this changes the dynamic.
25 That adds something that's not in the statute

1 and it's not in 248.

2 MS. EASTMAN: This is a reference to Act
3 250. It's not a reference to 248.

4 MS. McCARREN: I would make the same
5 argument. If the Legislature wants to change
6 the statute to include that, they have every
7 right to do that.

8 MS. EASTMAN: And we're recommending --
9 some of us are willing to recommend that they
10 actually consider doing that.

11 MS. McCARREN: Then make it a
12 recommendation.

13 MS. EASTMAN: That's what we say,
14 recommendation that the Natural Resources
15 Board would be the one to make a proposal to
16 the Legislature consider reviewing and
17 modernizing and totally that would require
18 legislative approval.

19 MS. McCARREN: All right.

20 MS. MCGINNIS: Just in Section 248 they
21 do have greenhouse gas impacts within the
22 criteria that they need to consider.

23 MS. EASTMAN: Right.

24 MS. McCARREN: Which is -- I would
25 support, which is different, is substantially

1 different.

2 MS. SYMINGTON: So the question I have
3 this means environmental criteria remain at
4 due consideration. Do we need to revisit this
5 when we have the conversation with Chris about
6 whatever the one step up was substantial
7 consideration?

8 COMMISSIONER MARKOWITZ: That's just for
9 the planning.

10 MS. SYMINGTON: That doesn't give like
11 more weight to the planning folks than to
12 environmental?

13 MS. EASTMAN: No. What happens -- this
14 is why what we're saying. You have to look at
15 this in the context of (B) (5). All right.
16 (B) (5) only relates to undue adverse effect on
17 aesthetics at historic sites, air, and water
18 quality, natural environment, the use of
19 natural resources, and the public health and
20 safety. The land use -- the plans come in
21 under -- don't they come in under orderly
22 development of the region which is another
23 subpart of 248. Am I right?

24 MS. GRACE: Yes. It is (B) (1).

25 MS. EASTMAN: Okay. So what we're

1 talking about is how we look at -- right now
2 what we're talking about is how do you look at
3 environmental issues, and so what we're
4 talking about is the Agency wants to be sure
5 that, you know, Act 250 is given due
6 consideration, but they are really looking at
7 a whole lot of broad things that Act 250
8 doesn't look at. So they are concerned that
9 that would limit them actually. Okay.

10 The issue of orderly development is
11 where the plans come up which is another
12 subpart, Gaye, of 248.

13 MS. SYMINGTON: We're not giving sort of
14 -- we're not saying that the RPCs have more
15 importance because they get substantial
16 consideration and the environmental criteria
17 only get due consideration?

18 MS. EASTMAN: Well not really because
19 you're looking at they are coming in different
20 decision making points. The Public Service
21 Board has to make different findings or
22 different series of findings about different
23 issues, and the RPCs come in at a whole
24 different issue than this one. The plans
25 aren't considered as part of this review.

1 MS. GRACE: And so to an extent it does
2 help, I know these green books make some
3 people, especially Linda, cringe, but it does
4 help to read the 248(B)(5).

5 It says with respect to an in-state
6 facility it will not have an undue adverse
7 effect on aesthetics, historic sites, air and
8 water purity, the natural environment, and the
9 public health and safety, and then the next
10 part is with due consideration having been
11 given, and I think what the recommendation 23
12 was recommending was instead of this second
13 due, since really above it says undue adverse
14 effect, that this would say with substantial
15 consideration instead of saying -- given to
16 those things instead of it saying with due
17 consideration.

18 MS. EASTMAN: And I wouldn't have gone
19 that far, Sheila. For purposes -- for people
20 who don't -- what the finding is you don't
21 even get to do. The Board has to make a
22 finding that the project will not have an
23 undue adverse effect on aesthetics, historic
24 sites, air and water purity, the natural
25 environment, the use of natural resources, and

1 the public health and safety. Period. Okay.
2 That's what they make a finding on.

3 How they do that is they give due
4 consideration to certain Act 250 criteria. So
5 it sort of helps them know what to look at,
6 but unlike Act 250 they don't make a finding
7 relative to the specific criteria, Gaye.
8 Okay. That's the difference, and the plans;
9 regional and local, regional and municipal,
10 come up in a whole different finding category.
11 Okay. So you're not going to have dueling
12 plans with environmental issues in a finding.

13 MS. MCGINNIS: Just so I understand what
14 the conclusion is, that on number 23 it will
15 be erased as it currently exists. It will be
16 replaced with something along the lines of
17 what Scott and Billy said that Commission
18 recommends jurisdiction of siting stay at the
19 PSB under Section 248 because it provides an
20 opportunity for broader analysis of natural
21 environmental impacts compared to Act 250
22 criteria, and then it would move to the second
23 half of the ANR recommendation starting with
24 the recommendation that is made with the
25 explicit understanding, et cetera, et cetera.

1 The Commission also recommends that the
2 Natural Resources Board consider reviewing and
3 modernizing all Act 250 criteria in light of
4 the challenges presented by climate change.

5 MS. EASTMAN: I thought we were just
6 adding the last sentence?

7 MS. MCGINNIS: That's what I want to
8 know. Okay.

9 MS. MCCARREN: I support that if you
10 change global climate change to greenhouse
11 gas.

12 MS. SYMINGTON: Do you even need in
13 light of? Can you stop it --

14 MS. EASTMAN: Yeah, consider reviewing
15 and modernizing all Act 250 criteria.

16 MS. MCCARREN: I'm fine with that.

17 COMMISSIONER MARKOWITZ: That's fine.

18 MR. BODETT: Yes.

19 MS. MCCARREN: I will point out that it
20 will be a little odd in terms of the flow of
21 the text, but it's fine.

22 MS. EASTMAN: Well I guess --

23 MS. MCCARREN: I don't have any
24 substantive problem with it.

25 MS. MCGINNIS: I think the rationale can

1 be, though, it's under the adequate
2 environmental protection and that the
3 rationale for staying with the PSB is because
4 the Commission feels that it provides better
5 environmental protection possibilities,
6 opportunities for analysis than Act 250.

7 MS. McCARREN: I'm going to stop making
8 my editing comments. I'm fine with it.

9 MS. EASTMAN: Thanks.

10 MS. McCARREN: You're welcome.

11 MS. EASTMAN: So page 11.

12 MR. CAMPANY: I don't think this is open
13 to any kind of can of worms probably but --

14 MR. BODETT: He says before he pops the
15 top on the worms.

16 MR. CAMPANY: While you just had the
17 conversation about why 248 protects -- offers
18 more protections the public may not understand
19 what you're talking about, and what I'm
20 wondering do you refer back to the last arrow
21 point on page 8 where you talk about updating
22 environmental, health, and other guidelines
23 that it's not just Section 248, but also there
24 will be this discussion about in light of
25 these new technologies how the larger

1 guidelines need to be updated.

2 MS. EASTMAN: Chris --

3 MR. CAMPANY: Is that a really bad idea?
4 Forget I'm here.

5 MS. EASTMAN: Here's the problem. It's
6 an Executive Summary and so when they get into
7 the body they will see how everything has to
8 come together and everything is interrelated.

9 MR. COSTER: And in the body we can give
10 examples of things like forest health and
11 fragmentation which aren't considered in Act
12 250 which we do consider in 248.

13 MR. CAMPANY: Good.

14 MS. EASTMAN: Page 11.

15 MR. JOHNSTONE: The only question I'm
16 not sure what the comment on the bottom means.

17 MS. MCGINNIS: Sheila, the bottom of 28.

18 MS. EASTMAN: Not sure what this
19 actually accomplishes.

20 MR. JOHNSTONE: So to be more precise is
21 it about x, 5, the sub bullet 5, or it's about
22 the whole section? I'm not sure what the
23 comment refers to. I should have been more
24 precise about that. Sorry.

25 MS. EASTMAN: This was the one where we

1 were just trying to have something during the
2 interim. You know, the fact that rulemaking
3 takes a while and legislative change takes a
4 while.

5 MR. JOHNSTONE: We get in the meantime
6 PSB needs to follow the rules you can start
7 making changes. You don't have to wait.

8 MS. GRACE: I certainly don't need to
9 slow the process down by going through this,
10 but I think my point is, and I think from
11 conversations that we have had with Jim Volz,
12 Jim Volz will do what he is bound to do by
13 248.

14 MR. JOHNSTONE: Of course and he should.

15 MS. GRACE: And some of these things
16 he's bound to do by 248 and some of these
17 things he is not. So I'm not certain that
18 this accomplishes anything, but I think it's
19 fine.

20 MR. JOHNSTONE: We believe everything on
21 this particular list was within his authority
22 to do without any other activity, and so
23 whether it's required by 248 or something he
24 could just -- he meaning PSB, they can just do
25 it.

1 MS. McCARREN: Take out maximum.

2 MR. JOHNSTONE: So three is a question?

3 MS. GRACE: I haven't gone through all
4 these things, but potential effects on
5 neighboring property values, do they presently
6 do that?

7 MS. McCARREN: No, but they could
8 because of land use, orderly development.
9 They could.

10 MS. GRACE: I don't think that's
11 correct.

12 MR. JOHNSTONE: That would be helpful to
13 know though because then it doesn't belong on
14 this list.

15 MS. EASTMAN: One at a time.

16 MR. JOHNSTONE: If there's a factual
17 problem, this list we thought they could just
18 take action on. If that's factually
19 incorrect, we need to know that.

20 MS. GRACE: Under orderly development of
21 the region it says that with respect to an
22 in-state facility will not unduly -- the
23 facility will not unduly interfere with the
24 orderly development of the region with due
25 consideration having been given to the

1 recommendations of the municipal and regional
2 planning commissions, the recommendations of
3 the municipal legislative bodies, and the land
4 conservation measures contained in the plan of
5 any affected municipality.

6 My read of this is that within -- that
7 the Board would not be open to looking at the
8 potential effects on neighboring property
9 values.

10 MS. EASTMAN: Unless the municipal or
11 Regional Planning Commission raised those
12 issues and made recommendations.

13 MS. GRACE: This unfortunately gets into
14 the conversation we'll have later today which
15 I think is that if the recommendation of this
16 Board is going to be to raise the amount of
17 consideration that's given to region and
18 municipal plans, that this section would be
19 changed to actually talk about regional and
20 municipal plans. It would no longer talk
21 about recommendations.

22 MS. MCCARREN: What we're talking about
23 here is the short term actions the Board could
24 take. Do we fix this by saying if within
25 their jurisdiction; if they conclude these are

1 not within their jurisdiction, then they
2 don't. Would that satisfy you?

3 MS. MCGINNIS: Under their jurisdiction
4 is there in the first line, but I don't know
5 if that makes sense there.

6 MR. COSTER: Just to be clear it says
7 the Board will consider orderly development of
8 the region with due consideration given to.
9 They can pull in whatever they think is
10 related to orderly development. That's the
11 conversation we just had around (B) (5). So
12 those are the due considerations. Just
13 guidance. If they feel these other
14 considerations are applicable, you know,
15 parties can make that argument.

16 MS. EASTMAN: And that's where I would
17 probably make that argument.

18 MS. GRACE: In practice I don't think
19 that's what's going to happen, but that's
20 fine.

21 MS. EASTMAN: Because it probably hasn't
22 been made, but as I say what's happened in
23 248, which has never happened in 250, is new
24 issues get raised. I mean -- sorry. Do you
25 remember the days of Richard Cowart

1 environmental externalities and what was
2 considered in the Hydro-Quebec case was huge.

3 MR. COSTER: It's the exact same
4 language as (B) (5) where all these other
5 things that have not been articulated have
6 been brought in.

7 MS. GRACE: That's fine.

8 MS. McCARREN: If we make it clear it's
9 within their jurisdiction.

10 MS. GRACE: I think it probably makes
11 sense because when the Board looks at this
12 then they will know what to do.

13 MR. JOHNSTONE: So instead of under in
14 the title it would be if within. Would that
15 help?

16 MS. GRACE: Yes.

17 MR. JOHNSTONE: Do you see where I am,
18 Linda, in the title in the second sentence
19 where it says these issues under this
20 jurisdiction, and I think the suggestion is
21 instead of under it is if within. We're
22 saying we think they are, but if they find
23 they are not, then of course they can't
24 pursue. I'm okay with that.

25 MS. McCARREN: I am very sympathetic to

1 Jim Volz, but I thought -- to where he is, but
2 I thought we all agreed we're going to try to
3 send this short term message to the Board to
4 do what it can do.

5 MR. JOHNSTONE: Sure.

6 MS. EASTMAN: Does that mean we keep
7 everything else?

8 MR. JOHNSTONE: Everything can stay.

9 MS. EASTMAN: Public hearings for the
10 project, keep that red language in?

11 COMMISSIONER MARKOWITZ: Yes.

12 MS. MCGINNIS: And I take it maximum on
13 economic efficiency. Did you hear that?

14 MS. MCCARREN: She was really stumbling
15 on that.

16 MS. GRACE: It doesn't matter.

17 MR. JOHNSTONE: If they find out they
18 are not allowed to look at maximum economic
19 efficiency, then they will look at economic
20 efficiency.

21 MS. EASTMAN: Okay. And then 29.

22 MR. JOHNSTONE: That's fine. It looks
23 like it was just a clarification, right?

24 MS. EASTMAN: Yup.

25 MR. JOHNSTONE: That's fine for me

1 anyway. Now we're to the body.

2 MS. EASTMAN: Yes. In fact that's
3 totally right. We'll take a 7-minute break
4 and start again at 10:30.

5 (Recess.)

6 MS. EASTMAN: So we're on page 13 and 14
7 and we've got -- we have electric generation.
8 These fine with me, and then there's a
9 suggestion to move the paragraph which starts
10 at the bottom of page 13, in light of this new
11 context for electric generation, move that
12 paragraph to the beginning, and if we did
13 that, I think it goes on page 5 after the
14 context piece, Linda.

15 MS. McCARREN: That was my comment.

16 MS. EASTMAN: It is -- I mean in the
17 Executive Summary it's the first paragraph.
18 It is the first paragraph. All right. So
19 it's there.

20 MS. MCGINNIS: It's upfront. This is a
21 longer report.

22 MS. EASTMAN: So it's there already.
23 It's already there.

24 MS. McCARREN: Okay.

25 MS. EASTMAN: Great.

1 MS. MCGINNIS: In the Executive Summary,
2 not here.

3 MR. CAMPANY: In your exhibit you might
4 want a different language than meth.

5 MS. MCGINNIS: I was having a hard time
6 doing the formatting on that.

7 MS. McCARREN: Whoever did this stuff is
8 good.

9 COMMISSIONER MARKOWITZ: Isn't there a
10 TV show about that?

11 MS. MCGINNIS: Farm meth.

12 MS. EASTMAN: So that's pages 13 and 14.
13 Unless -- is this where we put it?

14 MR. JOHNSTONE: What? My thing?

15 MS. EASTMAN: Yeah. One of the things
16 that I know I've written some notes on, on
17 some drafts and thought along about for the
18 process that I think belongs in the body
19 somewhere, and not everywhere in the room will
20 agree with what I'm about to say, but I really
21 feel compelled to say it anyway, which is I
22 actually think that while making all these
23 decisions on precedents and cases is a
24 challenging thing, it's what Act 250 has been
25 deemed for historically for a long time, since

1 Act 100 never got its pins under it. I
2 actually personally think the language of the
3 process has not always been clear to the
4 public. I actually think the Public Service
5 Board is -- under the circumstance of an
6 evolving generation market has done a pretty
7 remarkable job in holding the system together
8 and making projects work through the process
9 and through the environmental protections and
10 taking public input, though I wish they would
11 have taken it as public input instead of not
12 on the record. And so, again, I think there
13 could be processing we're working on here, and
14 projects have become remarkably better than
15 they were originally proposed as a result of
16 all that, and I think it's helpful for us to
17 say that, and I may be one on that, but I do
18 think it's worth saying.

19 MS. MCGINNIS: It is here and it depends
20 on where you would like to have it. It's
21 basically recommendation number -- it's the
22 first part of the recommendation section. So
23 it's on that page 43 and you're right. It
24 could easily come up front and I struggled on
25 trying to figure out where to have it, but on

1 page 43 on the rationale for maintaining
2 siting with the Board basically it goes
3 through why we think the Board does a decent
4 job, how that could be improved, and there is
5 the appendix that has an example and we're
6 waiting from -- ANR is going to give us
7 another example on how a project has been
8 modified under the current process.

9 Now this may need to be language that's
10 strengthened or brought forward, but this is
11 where your concerns were reflected.

12 MS. McCARREN: Scott, I agree that
13 should be called out because what we're doing
14 here is saying that the results of the Board
15 carrying out its public good there is an
16 imbalance and we need to raise up planning,
17 and I think -- so I support you saying that.

18 MR. JOHNSTONE: I'm happy during the
19 course of the day to try to draft a paragraph
20 to put it up more in the introduction section,
21 and I'll find pockets to work on that and then
22 people may or may not want it at the end and
23 that's fine. We can talk about it.

24 MS. EASTMAN: I think it could go in
25 here where we talk about the current process,

1 current siting process here in the
2 introduction.

3 MR. JOHNSTONE: I'll try to come up with
4 a couple sentences during the course of the
5 day if that's all right with folks.

6 MR. BODETT: I think it's a good idea,
7 Scott.

8 MR. JOHNSTONE: Thanks.

9 MS. EASTMAN: So then we get to page 15
10 and we have Gaye's suggestion.

11 MS. SYMINGTON: I just found the
12 language in those cases where more time is
13 required. That seemed --

14 MS. MCGINNIS: I like Gaye's language.

15 MS. EASTMAN: I like Gaye's language.

16 COMMISSIONER MARKOWITZ: That's fine.

17 MS. EASTMAN: I'm going to turn pages
18 until I find red unless you guys stop me. My
19 next red is page 17.

20 MS. McCARREN: I had a comment on 16 and
21 it's on the last full paragraph and it is the
22 line -- second line up, and it's just --

23 MS. EASTMAN: Can you tell me --

24 MS. McCARREN: Yes, I can.

25 COMMISSIONER MARKOWITZ: It's on the new

1 17.

2 MS. McCARREN: I'm sorry.

3 MS. EASTMAN: It's throughout this
4 history.

5 MS. McCARREN: Yes. That's where we
6 were. You know it has not been policy to
7 discourage long distance transmission. It's
8 just the opposite, but if that -- so minor I'm
9 not going to argue it.

10 MR. JOHNSTONE: So history is a long
11 time. So maybe what do we mean by history?
12 Is it recent history?

13 MS. MCGINNIS: This came from the
14 analysis from the acts from 1998, and there's
15 a long -- I mean there's an appendix which
16 shows what the acts are.

17 MS. McCARREN: Are you talking from 1998
18 going forward?

19 MS. EASTMAN: Yes.

20 COMMISSIONER MARKOWITZ: It starts since
21 1998.

22 MS. EASTMAN: Throughout this history.
23 Maybe you don't want to use history.
24 Throughout this time period or throughout this
25 period and then it doesn't sound like it's

1 forever. Okay. And then I get -- the next
2 red I see is our page 18, most recent page 18,
3 talking about the specifics.

4 MR. JOHNSTONE: You mean sites when you
5 mean the specifics?

6 MS. MCGINNIS: No. She meant the report
7 itself. Remember at the very beginning you
8 had the presentation from Vermont Law School
9 and the actual report which was sent to you
10 guys and a lot of you read it and provided
11 comments, has specific recommendations, and
12 she's just saying, you know, is this getting
13 too specific here, right, Louise?

14 MS. MCCARREN: I have no problem. I
15 read it. Those are all valuable things, but
16 what is the significance of putting it in
17 here? To suggest we all read it?

18 MS. MCGINNIS: Jan had asked me
19 specifically -- the reason there's this
20 contextual aspect --

21 MS. EASTMAN: In part it was because we
22 read it and in part it was to make the point
23 that we're not the first to have looked at
24 these issues and that --

25 MS. MCCARREN: Fair enough.

1 MS. EASTMAN: So people when they get
2 around to doing things, Louise, they may want
3 to look back. So it was more just a --

4 MS. McCARREN: I'm fine and we wanted to
5 put it more than the bibliography. All I'm
6 asking if that's the intent, I'm fine. I have
7 more problems with NRRI best practices for
8 siting. You know, again, there's nothing
9 wrong with this. We read it, but now we are
10 putting it -- highlighting it in a box here
11 and --

12 MS. MCGINNIS: The reason it was there,
13 again Jan had asked me to sort of put in the
14 key things we had heard. He came and
15 presented.

16 MS. McCARREN: Yes, he did.

17 MS. MCGINNIS: And he gave
18 recommendations and a lot of things that are
19 in here are things that you have recommended
20 which is showing that you're consistent with
21 what sort of the latest --

22 MS. EASTMAN: Go ahead.

23 MS. McCARREN: That's fine, but this is
24 not our work. Are we saying we adopt this
25 work?

1 MS. EASTMAN: No. I'm saying it
2 influenced me. I'm saying I'm providing a
3 context so people know we sat here for all
4 these days what did we do? How did we come up
5 with how we were there? And part of it is --

6 MS. McCARREN: That's a tough question.

7 MS. EASTMAN: Yeah, well part of it is I
8 heard about all these other states, I heard
9 about other people who have been doing some
10 things, and I heard about what people had
11 concerns about, and I said well you know
12 that's all it means for me.

13 MS. McCARREN: Okay.

14 MS. EASTMAN: Other people can disagree.

15 MR. JOHNSTONE: I'm fine.

16 MS. McCARREN: I'm just saying when you
17 do a document like this to put something in
18 like that which is -- it takes on a life of
19 its own, and is that what we want to do, and
20 if everybody is comfy, I'll withdraw any
21 objection.

22 MS. EASTMAN: And then we get to page 21
23 and 22 where we have the paragraph about
24 climate change, and Louise wanted to delete
25 that and I know some of us had said --

1 MS. McCARREN: Where are you?

2 MS. MCGINNIS: We're in the second
3 section which is 2.1.

4 MS. McCARREN: Commission's charge. I'm
5 not going to repeat my objection. I have
6 already told you that I totally object to that
7 and I will do a separate statement and I won't
8 bore you and wait until Chris comes back.

9 MR. JOHNSTONE: I think this is part of
10 the charge, part of the reason we're here, is
11 because of the policy choices that have been
12 made, and so it's contextual for our work is
13 the way I see this myself.

14 MS. EASTMAN: Is that where everybody
15 else is?

16 COMMISSIONER MARKOWITZ: Yes.

17 MS. EASTMAN: Okay. Page 23, SPEED
18 goals.

19 MS. McCARREN: Are we all comfortable of
20 having the picture of that house in our
21 document and what is it supposed to show?

22 MS. EASTMAN: It's supposed to relieve
23 the words.

24 MS. McCARREN: Those of you who can't
25 read can just learn from pictures. Seriously

1 team, why -- why is that in this document?

2 MR. BODETT: I think it's speaking to
3 the devastating impact it has on Vermont's
4 natural resources. We had a hurricane.

5 MS. EASTMAN: We have a picture of the
6 hurricane. We do have a picture of the wind
7 towers. We have a picture of every site
8 visit. So when you get to site visits there's
9 a picture.

10 MS. McCARREN: I really object to that
11 picture being there because I don't know what
12 message it is trying to convey to the public.
13 If the message that you want to convey is that
14 that was caused by poor siting, well what's
15 the message you want to convey?

16 MS. EASTMAN: And I have no problem with
17 taking out this picture.

18 MS. SYMINGTON: I don't either.

19 MS. EASTMAN: Take out this picture.
20 That's not a problem.

21 MS. McCARREN: Thank you.

22 MS. EASTMAN: Page 23.

23 MS. SYMINGTON: On page 22 there's a
24 note beneath the paragraph.

25 MS. EASTMAN: That's the one we said we

1 were keeping in and Louise will write
2 something. We're taking out the picture.

3 We're now on page 23. It's the
4 paragraph that starts this transition has an
5 important impact, and it just says this must
6 be -- is this something Louise added?

7 MS. MCGINNIS: She had a lot of comments
8 on this.

9 MS. MCCARREN: Transition?

10 MS. MCGINNIS: Yes.

11 MS. MCCARREN: All I want to know is
12 where in other parts of this document there is
13 a discussion which -- about how Vermont's
14 current electricity -- the sources of it,
15 right, and I have no problem with that being
16 in here.

17 I just -- I'm advocating for really good
18 accuracy because this is easy to misunderstand
19 what is exactly happening. There appears to
20 be confusion by the term -- the use of
21 bilaterals and buying on the open market, and
22 I frankly don't know exactly what people are
23 buying, but I think if we're going to use it,
24 we need to be excruciatingly correct.

25 MS. MCGINNIS: Asa went through this a

1 hundred times. He's checked and double
2 checked all this language and the numbers.

3 COMMISSIONER MARKOWITZ: Does that apply
4 to, Louise, it's also important to note?

5 MS. MCCARREN: Yes. I just --

6 MS. MCGINNIS: And that was ISO, direct
7 from ISO.

8 MS. MCCARREN: Where are you?

9 MS. EASTMAN: The paragraph that starts
10 it is also important to note price volatility.

11 MS. MCCARREN: All right.

12 MS. EASTMAN: And that came from ISO.

13 MS. MCCARREN: Wait. If you want to
14 leave that in you go ahead, but it is totally
15 misleading. The long term natural gas prices
16 have been volatile, there is no question about
17 that. Anybody whose lived through all of
18 that.

19 The short term volatility last January
20 was caused not by national changes in price
21 but a constraint on pipeline capacity. Okay.
22 I am happy, if you -- but this -- I'm happy if
23 you just want to say natural gas prices have
24 been volatile because they have been, but then
25 to talk about what happened in January and

1 imply that --

2 MS. EASTMAN: That might happen again.

3 MS. McCARREN: Well it could happen
4 again, but it's not -- it's caused by pipeline
5 capacity constraints. It is not caused --

6 MR. BODETT: It says that here.

7 MS. McCARREN: I know. What do you want
8 people to conclude from this? I made my
9 point. I think I would be fine if you just
10 say natural gas prices have over the long term
11 been volatile because they have, but I'm
12 thinking you're taking this out of context.

13 MS. EASTMAN: So you would be happy with
14 the first sentence of the paragraph?

15 MS. McCARREN: Well I would be happy to
16 have something in there that says natural gas
17 prices over the long term have proven to be
18 very volatile. That's absolutely true.

19 MS. EASTMAN: So what do we want?

20 MS. McCARREN: Here just one more point.
21 The reason prices are volatile is because the
22 generators are not required to carry firm gas.
23 All right. So they are really low on the
24 pecking order, right, because they don't have
25 to have firm gas, and so they don't buy firm

1 gas, and what happens is when you have a real
2 cold snap and the firm gas customers, which
3 are your distribution customers, take all the
4 gas.

5 MS. EASTMAN: So what do you think?

6 MS. MCCARREN: I'm happy to just say --
7 or you can leave it in.

8 MR. BODETT: I read what follows the
9 bold as just an example of some things that
10 make gas prices volatile and they are not
11 inaccurate. They are not comprehensive. I
12 mean there's a lot of reasons why.

13 COMMISSIONER MARKOWITZ: Maybe we should
14 start, for example, prices in New England.
15 Then it's clear that's not like the
16 explanation, but it's just an illustration.
17 Would that be helpful to make it clear it's
18 not the whole story?

19 MS. MCCARREN: You guys can do whatever
20 you want.

21 MS. EASTMAN: All right. For example,
22 okay. So then we get to page 25, and this is
23 the SPEED program stuff, and then there's the
24 issue about storage and pricing issues.

25 MS. MCGINNIS: Yes. I didn't know if

1 you wanted the storage and pricing issues here
2 because we're talking about other factors that
3 come into play within the context or whether
4 you want me to keep them in the end where I
5 have them now in the recommendations in the
6 other section. So that was the question.

7 MR. JOHNSTONE: I would leave them where
8 we have them.

9 MS. MCGINNIS: What's that?

10 MR. JOHNSTONE: I would leave them where
11 we have them if it was me.

12 MS. EASTMAN: Let's leave them where we
13 have them. So we're on page 25.

14 MS. MCCARREN: You can ignore my
15 comment. I just thought that stuff in the red
16 didn't add much on the SPEED program but --

17 MS. EASTMAN: So leave it in or take it
18 out?

19 MR. BODETT: Is the red your language?

20 MS. MCGINNIS: No. She wants to delete
21 everything that's in the red.

22 MS. MCCARREN: Sorry guys. It's just
23 one of those things that -- but if you all
24 like it, I'm not going to argue with it.

25 MR. BODETT: I think it's useful only

1 that, you know, I did not know anything about
2 the SPEED program until I got on this
3 Commission, and if I was reading this
4 property, you know, green, I would want to
5 know well what is this about and that's a
6 pretty good explanation of it.

7 MS. SYMINGTON: I wonder though it's a
8 bit at the end without SPEED the transition to
9 renewable energy in Vermont would have been
10 much slower. Maybe that could have been much
11 slower, and then it's set to expire by then.
12 Some predict that the renewables market will
13 be well established and we should be able to
14 stop selling renewable credits.

15 Do we want to say -- I mean that feels
16 like we're predicting the future. That could
17 come out or we could say --

18 MR. BODETT: Is that lifted from
19 somewhere else or is that our voice?

20 MS. MCGINNIS: That came from an
21 analysis that was within the Department, but I
22 can -- I'm happy to take that out if you want.

23 MS. EASTMAN: Let's take that out, and I
24 agree without SPEED the transition to
25 renewable energy might have been much slower,

1 could have been much lower, and then I can
2 take the last sentence out.

3 MR. DOSTIS: From a utility perspective
4 it would have been. Utilities would not have
5 invested in some of the projects that they
6 have.

7 MS. EASTMAN: I don't mind leaving
8 would, but take out the last -- last one. And
9 26.

10 MR. JOHNSTONE: That's fine.

11 MS. EASTMAN: Who does 26 refer to,
12 Linda?

13 MS. MCGINNIS: It just got bumped onto
14 another page. Just the other factors.

15 MS. EASTMAN: Okay.

16 MS. MCCARREN: This map when is it
17 current as of?

18 MS. MCGINNIS: They didn't put it on
19 there. It's current as of this month.

20 MS. MCCARREN: That's great.

21 MS. MCGINNIS: I need to add -- they
22 didn't send -- I agree it needs a date on it.

23 MR. CAMPANY: If it's easy to produce,
24 should there be a map of those that are
25 permitted but not yet operational?

1 MS. MCGINNIS: I've asked for that, yes.
2 I would love to have that, but I'll check on
3 that again, but I think that would be
4 incredibly useful.

5 MS. EASTMAN: Okay.

6 MR. CAMPANY: It tells another --

7 MS. MCGINNIS: Story. Yes.

8 MR. CAMPANY: Yes.

9 MS. EASTMAN: Page 29. Wait a minute.
10 This has placed a strain on the agencies and
11 processes that administer. Processes they
12 administer? No.

13 MS. MCCARREN: Can you help me find
14 where you are?

15 MS. EASTMAN: Page 29.

16 MS. MCCARREN: Thank you.

17 MS. MCGINNIS: And the processes they
18 administer.

19 MR. JOHNSTONE: You don't administer
20 248.

21 MS. EASTMAN: This has placed a strain
22 on the agencies and what are we trying to get
23 at? We're trying to get at --

24 MS. MCGINNIS: Trying to remember who
25 gave this suggestion.

1 MS. EASTMAN: We're trying to get at the
2 issue you may need more resources.

3 COMMISSIONER MARKOWITZ: Yes. So why
4 can't we just put a period after agencies.

5 MR. BODETT: Agencies and processes
6 involved.

7 MS. EASTMAN: The participating agencies
8 or yeah -- I don't know.

9 MR. JOHNSTONE: No punts. It's not just
10 agencies, it's other parties; given the rapid
11 growth this has placed a strain on the
12 agencies.

13 MS. MCGINNIS: Participants and
14 processes in the siting process. I don't
15 know.

16 COMMISSIONER MARKOWITZ: On all
17 involved.

18 MR. BODETT: Every damn one of us?

19 MR. JOHNSTONE: Siting system?

20 MS. SYMINGTON: Maybe you can just say
21 it's been done without any concomitant
22 increase in staff of the participating agency
23 or at the local and regional level, creating
24 --

25 MS. EASTMAN: So just take out the last

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MS. SYMINGTON: Strain on the system.

COMMISSIONER MARKOWITZ: Yes.

MR. JOHNSTONE: Get rid of all the red. Put the word system. Is that what you're saying?

MR. BODETT: There was language in the charge that described the systems --

MS. EASTMAN: One at a time.

MS. MCGINNIS: I can look at the comments.

COMMISSIONER MARKOWITZ: Placing a strain on the system.

MS. SYMINGTON: On the system.

MR. BODETT: System is good.

MS. EASTMAN: Did you get that, Linda?

MS. MCGINNIS: Yes.

MS. EASTMAN: Does that work? That works for me. Then we get to the top of page 30. Do we need this here?

MS. MCGINNIS: Section 2.3 is the current siting processes which are cumbersome and long to explain. So I put them in an appendix.

MS. MCCARREN: There's a typo earlier.

1 MS. EASTMAN: Where is the typo?

2 MS. McCARREN: Hang on. My old 29
3 paragraph. Vermont siting process is also
4 unique. Have we not gotten there yet?

5 MS. MCGINNIS: No. We have not gotten
6 to it yet.

7 MS. SYMINGTON: I thought it was
8 redundant. I don't think we need it. We can
9 just say reference appendix three.

10 MR. JOHNSTONE: This is 2.3. The
11 question is do we need that or do we just
12 refer them to the appendix?

13 MS. EASTMAN: I would refer them to the
14 appendix. We are all referring, right?

15 COMMISSIONER MARKOWITZ: That's because
16 we don't want to come up with new language.

17 MR. JOHNSTONE: That would be a lot of
18 new language.

19 MS. EASTMAN: Louise, where is your --
20 because then I don't have anything.

21 MS. McCARREN: Mine is way over.

22 MS. MCGINNIS: On other states, Louise.

23 MS. McCARREN: Go over to where it says
24 the New England electric grid context.

25 MS. EASTMAN: Page 30.

1 MS. McCARREN: Okay. You go to the
2 sentence says there's more more small in-state
3 projects. Let me find it for you. It's been
4 changed. I'm just going to put a question
5 there.

6 MS. EASTMAN: Where is it?

7 MS. McCARREN: It's right above the
8 paragraph that starts Vermont siting process
9 is also unique in the northeast. Right above
10 that it used to say utilities sell RECs to
11 other states that have RPS to help keep rates
12 lower, and it's just grammatically not
13 correct.

14 MS. EASTMAN: Now we don't say --

15 MS. McCARREN: You must have taken it
16 out. So fine.

17 MS. EASTMAN: She took -- some of your
18 grammatic things she just took.

19 MS. McCARREN: That's one I just found.

20 MS. EASTMAN: Somebody else must have
21 found it. So the next thing I see is all the
22 way over on page 37 on site visits where we
23 have pictures.

24 MS. McCARREN: Yes. We do have
25 pictures. 37, the one with the pictures.

1 MS. EASTMAN: The one with the pictures.

2 MR. JOHNSTONE: Question natural gas,
3 somebody needs to fact check that. Is that
4 the question?

5 MS. MCGINNIS: That came from them.
6 They are the ones that said that, but it could
7 be it's different now. So they said they were
8 the second largest electric generation plant,
9 but maybe that's been superseded.

10 MR. JOHNSTONE: Footnote and say per
11 Granite Ridge Energy. Just cite where the
12 reference came from.

13 MS. MCCARREN: You can just take it out.

14 MR. JOHNSTONE: I guess we could just
15 take it out. That's fine.

16 MS. MCCARREN: Northfield is 2000
17 megawatts and a new clean energy plant is 850.

18 MS. MCGINNIS: It's probably old
19 marketing materials. I'm happy to take it
20 out. I'm going to do one just so I don't have
21 a picture bumping down to another page. I
22 have to deal with formatting over the weekend.

23 MR. BODETT: You have two is is in the
24 next sentence.

25 COMMISSIONER MARKOWITZ: I'm comfortable

1 with Gaye's suggestions.

2 MS. McCARREN: Where are you?

3 MS. EASTMAN: The solar farm in red.

4 MR. JOHNSTONE: Can I just add the word
5 capital after the word hire for a second
6 change because I don't think it equates to a
7 hire.

8 MS. McCARREN: I don't have anything in
9 red that I presented out this morning.

10 MS. MCGINNIS: Here.

11 MR. JOHNSTONE: What you said to us is
12 that the trackers add capital cost.

13 MS. SYMINGTON: I was trying to --

14 MR. JOHNSTONE: You were trying to
15 balance it.

16 MS. SYMINGTON: It didn't say less
17 commercial and I was just trying to tone it
18 down.

19 MR. JOHNSTONE: That's why I think the
20 capital side counterbalances. So he gets 45
21 percent more energy off, but he spent more
22 capital cost. I thought the reference --

23 COMMISSIONER MARKOWITZ: Higher capital
24 cost.

25 MS. McCARREN: I have no problem leaving

1 this stuff in. It just reads like ads is all.
2 That's fine.

3 MS. MCGINNIS: I was just taking it
4 straight from their material. That's where it
5 was.

6 MS. EASTMAN: I'm fine with Gaye's
7 changes as modified by Scott.

8 MR. JOHNSTONE: I just added a word
9 capital.

10 MS. EASTMAN: Higher capital costs.

11 MR. JOHNSTONE: Because that's what
12 we've been told.

13 MS. EASTMAN: And then over here on page
14 39 you just proposed taking out the last bit.

15 MS. MCCARREN: You know I don't really
16 have any problem leaving that in. We cover it
17 in the appendix because we use the Kingdom
18 Community Wind example of the modifications
19 that were made.

20 MS. MCGINNIS: Well I was -- some people
21 suggested to take it out so I took it out.
22 It's no longer there. If you guys would like
23 Kingdom Community Wind --

24 MS. MCCARREN: It's there.

25 MS. MCGINNIS: In the appendix. She's

1 saying it's no longer covered in the appendix
2 right now. Sheffield is the only one I have
3 right now and the other one --

4 MR. COSTER: We're going to do a solar
5 one as an example as well.

6 MS. MCGINNIS: I took it out.

7 MS. EASTMAN: Just leave it in here.

8 MR. JOHNSTONE: Perfect.

9 MS. EASTMAN: Okay. 39. Now 40.

10 MS. MCGINNIS: Those pictures are
11 courtesy of Anne.

12 MS. MCCARREN: How's my hair?

13 MS. EASTMAN: No thank you, Anne.

14 MS. MARGOLIS: Sorry about the hair.

15 MS. EASTMAN: So we're on page 40 and
16 the groups refer to just everybody else who
17 talked to us I guess, Louise. We have many
18 planning -- the last paragraph on page 40.
19 Many commentators, particularly institutions,
20 not governmental organizations and groups.

21 MS. MCCARREN: I don't have any problem.

22 MS. EASTMAN: But that's what it was.

23 MS. MCCARREN: We had all the important
24 people and then we had groups.

25 MS. EASTMAN: We thought they were

1 important. They were organized. And then
2 page 41.

3 MS. McCARREN: 39 farm methane is not a
4 new technology, but I am not going to argue
5 with that.

6 MR. JOHNSTONE: Where are you?

7 MS. McCARREN: Right under planning.

8 MS. MCGINNIS: Where?

9 MS. McCARREN: Farm methane planning.
10 Last line -- second to last line.

11 MS. EASTMAN: It's up on the top of page
12 41 and new technologies, and then we refer to
13 farm methane and she's just saying farm
14 methane isn't a new technology, just old
15 technology but new to Vermont.

16 MS. McCARREN: No, it isn't. Foster
17 Brothers 1983. I know we don't think that's
18 old. Just leave it in. I'm not going to
19 argue the point, but it's not -- it is not new
20 technology.

21 MS. SYMINGTON: Some noted the
22 increasing use of new technologies.

23 MS. McCARREN: Sure.

24 MS. EASTMAN: So instead of emergence,
25 increasing use. Okay. And then under

1 opportunity for public participation there's
2 some red.

3 MS. MCGINNIS: Just so that you know
4 this section is coming from the work that Joan
5 is currently doing and I'm going to be needing
6 to send that to you whenever she gets it to
7 me. This is all she had up until now and so
8 that's what I incorporated here, but it's
9 going to be a separate report on public
10 involvement.

11 MS. EASTMAN: I don't know if it's more
12 control. More influence. More influence. I
13 don't think it's control.

14 MS. SYMINGTON: I just didn't like --

15 MS. EASTMAN: More influence over
16 proposed projects.

17 MR. JOHNSTONE: I'm okay with that.

18 MS. EASTMAN: 42. And then now we're in
19 the 43.

20 MS. MCCARREN: Ensure adequate.

21 MS. EASTMAN: Where are we?

22 MS. MCCARREN: 41 starts ensure adequate
23 environmental health and other. Is it
24 protections and are we happy with other?

25 MR. COSTER: The bottom of 41 bold.

1 MR. JOHNSTONE: Got it. Thank you.
2 Sorry.

3 MS. EASTMAN: We just need to make that
4 consistent with our other language because
5 that's all she's pushing.

6 MS. MCCARREN: All I'm saying is a
7 consistency issue.

8 MS. EASTMAN: Yes. Okay. Linda, can we
9 leave that to you?

10 MS. MCGINNIS: Yes.

11 MS. EASTMAN: Okay. 43.

12 PUBLIC: Could I just insert under
13 ensure adequate environmental and other
14 protection impact of wind turbines that you
15 might put industrial wind turbines?

16 MS. MCGINNIS: Yes.

17 MS. STEBBINS: I think a better term
18 would be utility as opposed to industrial.

19 PUBLIC: I'm talking about size and I
20 don't understand whether utility addresses
21 size or not.

22 MS. MCGINNIS: Large.

23 MS. MARGOLIS: Large scale.

24 MS. MCGINNIS: Large scale.

25 MR. JOHNSTONE: This section is what we

1 heard from the public. I'm okay with that. I
2 want the context of the request. That's all.
3 I want to make sure I understand. It's not
4 what we think. It's what we heard from the
5 public. Thank you. So we're on 43 again now.
6 Is that where we are?

7 MS. MCGINNIS: Yes.

8 MR. JOHNSTONE: Thank you.

9 MS. SYMINGTON: There's no mention of
10 wildlife connectivity.

11 MR. JOHNSTONE: In the environmental.

12 MS. SYMINGTON: I feel like we had quite
13 a bit of --

14 MR. JOHNSTONE: We did.

15 MS. MCCARREN: Yes, we did. That's a
16 good catch, Gaye.

17 MS. MCGINNIS: I think that should be
18 added.

19 MS. MCCARREN: Also property values we
20 heard a great deal about. We are just
21 reciting what people told us.

22 MS. EASTMAN: We heard property value.

23 MS. MCGINNIS: In the fuller report all
24 those are pulled out in separate paragraphs in
25 the full report, including property values and

1 all that sort of thing, but I'm happy to
2 include in a summary here.

3 MS. McCARREN: Do you want to reference
4 the more detailed section?

5 MS. MCGINNIS: Well there's a separate
6 accompanying report which I start out talking
7 about in this section saying that everything
8 that's in this section will be fleshed out in
9 a completely separate full report on public
10 comments.

11 MS. McCARREN: Because most people won't
12 read that. I want to make sure we're doing --
13 we're being respectful of all the people who
14 came.

15 MS. MCGINNIS: That's why I want to say
16 just make sure if there's anything that's
17 missing here summary wise tell me. So habitat
18 connectivity is one. Is there another one you
19 want to have included here?

20 MS. EASTMAN: Property values she just
21 said. Again we say that -- go to the full
22 report, right, public involvement report.
23 Where do we make this reference, Linda?

24 MS. MCGINNIS: At the beginning of the
25 section.

1 MS. McCARREN: We do, but I'm just
2 saying most people won't read that.

3 MS. MCGINNIS: So on the previous page,
4 on page 40, just so you know where it is, next
5 to the graph it says a summary of the various
6 themes and recommendations generated by these
7 comments are contained in a companion volume
8 to this report.

9 MS. SYMINGTON: The problem with the
10 property value issue is it doesn't easily fit
11 into one of these categories so it would have
12 to be a separate reference.

13 MS. EASTMAN: I'm just trying to see
14 this. It's on page 40. Although the public
15 involvement report, and is that going to be
16 attached as a specific appendix?

17 MS. MCGINNIS: It's a separate report.
18 So we're following just what they did with the
19 CEP. They had two reports. One is the
20 technical report of the Commission and the
21 second is a summary of all of the public
22 comments received online.

23 MS. McCARREN: I think I'm going to ask
24 you put in property values. Here's why.
25 Because we reference it in our list of things

1 you should consider right now, Board. So it
2 would be a good tie-in.

3 MS. MCGINNIS: I actually think it
4 should be here because it's going to be a full
5 section in the separate report because a lot
6 of people commented on it so we should raise
7 it.

8 MS. EASTMAN: That's fine.

9 MS. MCGINNIS: And I think it can fit
10 just because we're talking ensure adequate
11 environmental, health, and other, and that
12 comes within other protections. It's property
13 value protection.

14 MS. EASTMAN: Okay. All right. So
15 we're okay with 41?

16 MS. MCGINNIS: Are there any others you
17 wanted included?

18 PUBLIC: I'm not exactly sure. I'm not
19 in the right place, but did you get efficiency
20 and conservation first listed as one of the
21 frequent concerns that you heard about?

22 MS. MCGINNIS: I think it's in the
23 broader report, but you're right it's not here
24 and I think that should be. That's a good
25 point.

1 MS. EASTMAN: Yes. Because I agree with
2 that totally.

3 COMMISSIONER MARKOWITZ: I was wondering
4 why you --

5 MR. JOHNSTONE: It's been so heart
6 warming to have everybody talk about
7 conservation. I loved it.

8 MS. EASTMAN: Things I learned from this
9 process we need to do more of it.

10 MR. CAMPANY: There's another one,
11 perception, we're already kind of awash in
12 power.

13 MS. EASTMAN: Can I say page 43?

14 MS. SYMINGTON: Health impacts of air
15 pollution from fossil fuel. I think you may
16 need to say and biomass plants.

17 MS. MCGINNIS: Chris has an additional
18 one.

19 MR. CAMPANY: I heard at the public
20 meetings this perception that why we need to
21 create more power when it seems we're already
22 awash in power.

23 MS. EASTMAN: Which goes to efficiency
24 and --

25 MS. McCARREN: Need.

1 MR. CAMPANY: Yeah, what is the need.

2 PUBLIC: Are you guys taking public
3 comment because you also received comments
4 about how are we going to get off fossil fuels
5 for cars and how are we going to address home
6 heating. It's not just conservation,
7 efficiency. It's also looking at, you know,
8 cold climate heat pumps which increases
9 electricity. Where are we going to get more
10 of that? So if you're taking public comment,
11 there are lots of sides to everything.

12 MS. EASTMAN: Yeah. Public comments, we
13 heard public comments.

14 MS. MCCARREN: What we're trying to do
15 is summarize what we heard.

16 MS. EASTMAN: I know you want to have
17 everything done, but you got to look at that
18 report to see what's in that report.

19 MR. JOHNSTONE: The other thing is we
20 can't list everything here or we won't have
21 the companion report.

22 MS. MCGINNIS: The purpose of this is a
23 summary.

24 MS. EASTMAN: But we have to have an
25 accurate summary. You're getting with Joan on

1 that.

2 MS. MCGINNIS: Yes. We've been having
3 some back and forth over the past four days,
4 yes.

5 MS. EASTMAN: That section is about what
6 the public report just says. On page 43 where
7 we have the red --

8 MS. SYMINGTON: I guess I would just --
9 I'm concerned that we not be haphazard about
10 this section, and I'm comfortable if you are
11 going to review it more closely because there
12 were two out of the five public hearings that
13 focused pretty exclusively on climate change
14 and the opportunities and challenges of
15 addressing climate change, and so I really
16 think we need to be careful not to just be
17 haphazard as to what we call out here and what
18 we don't.

19 MS. MCCARREN: I agree with Gaye. We
20 may need to step back, Linda, and a little
21 redo on this.

22 MS. MCGINNIS: Well it's tough because I
23 only got this very, very recently and it
24 hasn't been fleshed out fully. So I've just
25 incorporated the core of what I've gotten, and

1 Gaye is raising a good point in terms of what
2 you call out. There are a thousand plus
3 comments, right?

4 So in terms of what you call out we do
5 need to know as a group what we would like to
6 call out. I don't feel entirely comfortable
7 making that call myself because as you see in
8 the room everything you call out has an
9 opposite that needs to be called out, and the
10 more you call out the more you need to define
11 its opposite.

12 MS. McCARREN: One way to do this is
13 leave it out and say we have heard a great
14 many comments. We cannot do justice by them
15 by a short summary. Please read the
16 attachment.

17 MR. JOHNSTONE: You can roll it up to
18 the five theme areas and leave all the
19 specifics and refer them to the separate
20 report.

21 MS. MCGINNIS: However you guys want to
22 do it.

23 MS. SYMINGTON: You say the report
24 begins with an Executive Summary and put the
25 Executive Summary in here.

1 MS. MCGINNIS: This is the Executive
2 Summary. These five points right now are
3 where the Executive Summary is right now.

4 MR. JOHNSTONE: So you're saying bold
5 the five themes. I'm not sure that's where
6 you get into the problem of we got to have 12
7 pages of lists, pull up everything everybody
8 said.

9 MS. EASTMAN: I just want to clarify,
10 Linda, you're just telling me that what you
11 wrote here is Joan's Executive Summary to
12 date?

13 MS. MCGINNIS: Yes.

14 MS. SYMINGTON: I think it's missing
15 some important material.

16 MR. BODETT: I'm kind of leaning toward
17 leaving it out and just saying in addition to
18 the public hearings Commissioners received
19 these comments and then a summary of the thing
20 is attached. Keep the pie chart there just as
21 the visual, and just let all of this other
22 language be in the attachment so we aren't
23 incidentally highlighting one over another.

24 MS. EASTMAN: I'm worried too I guess.

25 MR. COSTER: I'm looking through her

1 draft report and almost everything you have
2 mentioned in there is hit in the longer part
3 of her report.

4 MS. EASTMAN: What does her Executive
5 Summary say?

6 MR. COSTER: It says exactly what's
7 printed here.

8 MS. EASTMAN: Then we have some issues
9 with her Executive Summary.

10 MR. BODETT: Sounds like we do.

11 MS. SYMINGTON: It's as if Burlington
12 and Brattleboro public hearings never happened
13 if you leave this Executive Summary as is.

14 MS. MCCARREN: I agree with Gaye that it
15 needs to be representative. That's why we
16 probably should -- that's why I would vote to
17 just do the five headings and refer people to
18 the full report.

19 MS. SYMINGTON: I agree with that, but
20 if this is the full report, I think it's a
21 problem because I don't think for that report
22 --

23 MS. MCGINNIS: And just to clarify what
24 she's analyzing are the written comments that
25 we've received. She is not analyzing the

1 public hearings that we heard from. So there
2 is a slight difference. For example, we have
3 one person who sent us 185 comments -- 195
4 comments one person. So when you're looking
5 at the written comments there are differences
6 in how and what you receive and all that sort
7 of thing, and that's part of what she's
8 struggling with.

9 PUBLIC: Could you make it clear these
10 were based on the written comments?

11 MR. BODETT: It does say that.

12 MR. JOHNSTONE: We title the section
13 public hearings and comments.

14 MS. MCGINNIS: Because we're talking
15 about in the first paragraph there are public
16 hearings and then in addition to the public
17 hearings there's the second paragraph and then
18 the third paragraph is these written --

19 MS. SYMINGTON: We don't cover the
20 content of the public hearings. We do cover
21 the content of the written comments.

22 MS. EASTMAN: And I don't think a public
23 involvement report just referring to the
24 written comments is a public involvement
25 report. So -- and we may get our report done,

1 but the other thing is we better model
2 behavior that we at least -- well I think we
3 have heard -- I mean I've got notes from every
4 public hearing of what we heard. We better
5 have some comments in the public involvement
6 report or hear separately about what we heard
7 at public hearings.

8 MS. McCARREN: I agree with Gaye. It
9 was very mixed and that needs to be provided.

10 MR. BODETT: How do we do that today?

11 MS. McCARREN: We don't.

12 MS. MCGINNIS: Well I think the way we
13 do it today is what Louise was suggesting is
14 that we cut out all of the specifics and keep
15 it short and then --

16 MS. EASTMAN: Deal with it in the public
17 involvement report.

18 MS. MCGINNIS: And apologies of late
19 arrival of what would be the companion report.
20 I don't have control over that.

21 MS. SYMINGTON: We had a court reporter
22 so it's not as if you can't go back and read
23 them.

24 MS. EASTMAN: I am totally comfortable
25 getting this report out. I think we need to

1 adjust the public involvement report to get
2 some stuff. Sorry -- I'm not sorry. We
3 should do that about the public hearings, and
4 yeah it will be late, okay, but what it will
5 be -- it will be in time for -- if this report
6 is taken up by the Administration or as now
7 the new House bill says they look at it, it
8 will be in time so -- for people to see what
9 we heard.

10 MS. MCCARREN: They are not doing
11 anything on this, this year.

12 MR. JOHNSTONE: That's right. We may
13 even suggest we'll get them that companion
14 report by a certain date. By the middle of
15 May or something like that. I don't know what
16 we think -- tell me what we think is rational.
17 Not that obviously or the end of May.

18 MS. EASTMAN: Here's the thing. We kept
19 taking public comments until April 8th and
20 kept taking and taking and so --

21 MS. MCGINNIS: (Arabic spoken) That was
22 in Arabic. That means God willing. If you
23 say something is going to happen, you have to
24 say that. You have to say that in order to
25 assure it's going to happen.

1 COMMISSIONER MARKOWITZ: It's like my
2 relatives would spit. Okay.

3 MS. EASTMAN: So I think that's how we
4 handle it, Linda. We make this one short and
5 we leave the public involvement report. It
6 needs some work. Okay.

7 MR. JOHNSTONE: Good.

8 MS. EASTMAN: So page 43. It says --
9 we're talking about the rationale for
10 maintaining siting with the Public Service
11 Board. The first red things here are land use
12 and environmental considerations. It's not --
13 right now what they are currently -- isn't it
14 municipal and environmental considerations
15 that they are balancing now? I mean the
16 language currently.

17 MS. McCARREN: You want to take out land
18 use and put in municipal?

19 MS. EASTMAN: I want to put in
20 municipal.

21 MS. MCGINNIS: I'm sorry. Take all
22 three of those words and replace it with
23 municipal.

24 MS. EASTMAN: That's what I would do.

25 MS. MCGINNIS: Okay.

1 MS. EASTMAN: In light of trying to get
2 at what the fault is you were saying, Louise,
3 following everything about what is. So the
4 next red is --

5 MS. MCCARREN: I had a note on this
6 section that started finally with regard to
7 natural impact -- resource impacts, I just
8 made a note in the margin, and I'm sure Linda
9 has done this just because it's an expansion
10 of a previous paragraph earlier in the
11 document, and I had a concern whether it was
12 consistent and I didn't have the time to go
13 back.

14 MS. MCGINNIS: This doesn't appear
15 anywhere else.

16 MS. MCCARREN: Then I'm wrong. All
17 right.

18 MS. EASTMAN: And can you say -- instead
19 of local say municipal and regional planning
20 in that paragraph?

21 MS. MCGINNIS: Yes.

22 MS. EASTMAN: I just want to -- again if
23 we follow the language --

24 MS. MCGINNIS: At the end.

25 MS. EASTMAN: Municipal. Okay. So then

1 the next red is why a package of
2 recommendations. So, Louise.

3 MS. McCARREN: You can ignore that
4 because I have said it over and over and you
5 guys don't agree with me which is absolutely
6 okay. And actually you like this better,
7 don't you, the paragraph that says the
8 recommendations are presented as a package,
9 but that the PSB implements the suggestions
10 for which they have current jurisdiction.

11 MS. EASTMAN: That looks good. Is that
12 okay?

13 MS. McCARREN: She's happy. That's all
14 that matters.

15 COMMISSIONER MARKOWITZ: The rest of
16 that page is fine to me.

17 MR. JOHNSTONE: It all looks great.

18 MS. McCARREN: Okay. We have just -- we
19 now have the word conformance. See the first
20 bullet, and I have no problem. I'm just
21 saying --

22 MS. EASTMAN: Well here's what we're
23 going to do. Once we decide what our planning
24 process is, which we haven't decided, right,
25 and that will decide what weight something

1 gets, we'll have to make a note to come back
2 here and see if that's where it gets --

3 MS. McCARREN: Because we're going to
4 skip over all the planning until -- poor
5 Chris, until Chris comes back.

6 MR. BODETT: He'll never come if he gets
7 wind of this.

8 MS. EASTMAN: Are we okay with 44 then
9 noting that issue?

10 MS. McCARREN: We're going to come back
11 to the planning issues?

12 MS. EASTMAN: Yes. We'll come back to
13 the planning issues, but the other issues on
14 44 aren't about planning. There's no red so
15 we're okay about the rest of it?

16 MR. JOHNSTONE: Yes.

17 MS. McCARREN: Go to the first
18 paragraph, the first full paragraph above 4.3.

19 MS. EASTMAN: We haven't gotten there.
20 Now we can get there. 45.

21 MS. McCARREN: Go to little two new
22 typos.

23 MS. MCGINNIS: Where the red is.

24 MS. EASTMAN: Of electric generation
25 deployment.

1 MS. MCCARREN: I would take out
2 deployment.

3 MS. EASTMAN: I would take out
4 deployment too. Now we're going to increase
5 the -- increase on planning. Skip those until
6 Chris is here. 49. 50 I see new Public
7 Service Board siting web site. That's all I
8 see.

9 MR. JOHNSTONE: That looks good.

10 MS. EASTMAN: We get to 51 and we have a
11 question. Is it region or RPC in order to
12 reflect the top priorities of a given
13 municipality or region. I think it's -- isn't
14 it region, guys, behind me?

15 MS. MCGINNIS: For recommendation number
16 seven --

17 MS. MCCARREN: This should be a that.

18 MR. BODETT: I think region matches
19 municipality. RPC would match.

20 MS. EASTMAN: Planning Commission.

21 MR. CAMPANY: Yes. Region. I think it
22 would be understood what you're talking about.

23 MS. EASTMAN: So then where is the
24 which, Louise?

25 MS. MCCARREN: Just in the -- in the

1 first --

2 MS. MCGINNIS: Yes.

3 MS. MCCARREN: I'm just going to point
4 this out again and I won't say it again, but
5 we talk about energy siting and I've given up
6 guys.

7 MS. EASTMAN: Where is that?

8 MS. MCCARREN: Energy generation
9 project.

10 MS. EASTMAN: And we want electric
11 there, don't we? Electric generation project,
12 and we're with you, Louise, about what's
13 electric versus energy.

14 MS. MCCARREN: All right. Again --

15 MS. EASTMAN: I'm with you.

16 MS. MCCARREN: We want a really good
17 document.

18 MS. EASTMAN: So that should be
19 electric. Okay. And then we get to the
20 bottom of 52.

21 MR. JOHNSTONE: We dealt with that.
22 Wouldn't we just carry the same language. We
23 have language up front we changed for that.
24 We didn't keep it that way I don't think. We
25 changed it. We would just do the same

1 language, right, or am I nuts?

2 MS. EASTMAN: This is exactly -- yup.
3 We talked about this.

4 MS. MCGINNIS: We took it out.

5 MR. JOHNSTONE: That's what we did. So
6 we would take it out here as well. Things you
7 already decided we shouldn't redo, right?

8 MS. MCGINNIS: Right.

9 MS. EASTMAN: No. We don't have time to
10 redo.

11 MR. BODETT: This is a ratchet. It only
12 goes one way.

13 MS. EASTMAN: It just would be great if
14 we could get other than having -- okay. Page
15 54 I've got --

16 MS. MCCARREN: Go back to 52 last
17 paragraph, PSB shall also.

18 MS. EASTMAN: We just said we're going
19 to make it match the language from earlier.

20 MS. MCCARREN: Thank you. I wasn't
21 paying attention. Taking a nap.

22 MS. EASTMAN: That's all right. Page
23 54. These funds. If the community raises an
24 issue and the statutory parties cannot resolve
25 the issue, then the PSB has the authority to

1 hire an expert to address the concern. You
2 want to just delete that. Maybe you think it
3 doesn't -- maybe it's not necessary.

4 MR. JOHNSTONE: I don't remember my
5 concern so I withdraw whatever my point was.
6 If I can't remember it, it's not important.

7 MS. EASTMAN: And here's where we refer
8 to bill back and we took it out up above.

9 MS. McCARREN: You're on page 54?

10 MS. EASTMAN: 54.

11 MS. McCARREN: First full paragraph.

12 MS. MCGINNIS: Under recommendation 11
13 the first paragraph.

14 MS. EASTMAN: Where Scott said delete
15 previous sentence and this is where we earlier
16 took out bill back.

17 MS. McCARREN: They already have that
18 authority.

19 MS. MCGINNIS: But it's under the
20 following limits. It's describing how they
21 can receive --

22 MR. JOHNSTONE: I remember my thing
23 there and what I suggested was to take that
24 out and then move it below the bullets because
25 we're commingling RPC questions and municipal

1 questions.

2 MS. EASTMAN: That's right.

3 MR. JOHNSTONE: What I suggested was you
4 take that sentence and then repeat the second
5 -- the sentence after it and put it as a new
6 paragraph below the second bullet as a
7 separate thought so --

8 MS. EASTMAN: Not as a bullet, but as a
9 separate thought. So the first paragraph and
10 the two bullets are about RPCs, and then the
11 point about community cost and the fact they
12 can be funded by bill back, if that's
13 appropriate, is a second thought about munies
14 so we don't could mingle the two because there
15 are really two things.

16 MR. BODETT: That makes sense.

17 MS. EASTMAN: In fact, we should not say
18 community. We should say municipality.

19 MR. JOHNSTONE: That's what I was trying
20 to do there.

21 MS. McCARREN: We have the term
22 consistent and then we have the term
23 conformance.

24 MS. EASTMAN: Here's the thing because
25 what we had talked about earlier was that

1 there would be a conversation of consistency
2 between RPCs between the regional plans with
3 the CEP. That's where we had used the term
4 consistent last time.

5 MS. MCCARREN: We're going to have that
6 discussion later. So that's fine.

7 MS. MCGINNIS: We'll put that in the
8 Chris discussion. Now -- so this comes back
9 to whether we talk about bill back or not
10 because I guess we could say the cost should
11 be funded under the following limits. I don't
12 have to say through bill back. So it should
13 be funded under the following limits, and then
14 we'll talk about what those limits are with
15 Chris because it's directly related to the
16 planning. Gabrielle has a question behind
17 you.

18 MS. EASTMAN: Yes.

19 MS. STEBBINS: So REV has said the
20 developers understand there's a need for
21 Public Service Board funding, et cetera. One
22 of the concerns that has been raised is
23 whether or not there are multiple funding
24 types like bill back versus filing fees versus
25 different types, and, I apologize, I was

1 unable to review this document beforehand, but
2 is there some place where there's one entity
3 that's overseeing the overall maximum and
4 there's a cap? Otherwise it's kind of like --

5 MS. EASTMAN: I think where we were
6 going is we get to a specific recommendation
7 about funding and think that we shouldn't
8 determine that, that the Public Service
9 Department should determine which of these
10 things should be an annual revenue source if
11 it's covering a staff cost that's ongoing
12 versus what ought to be covered by permit fees
13 versus, you know, whatever.

14 So we're not -- we know there are
15 different possibilities, but we're not
16 recommending in this document a specific --
17 you know do this, this way and this, this way.

18 MS. SYMINGTON: So we're going to take
19 out the reference should be funded by bill
20 back.

21 MS. EASTMAN: Yes.

22 MS. MCGINNIS: It's on page 62. There's
23 a whole section on considering funding
24 mechanisms and there is mention of being aware
25 of the need for a cap.

1 MS. STEBBINS: Thanks.

2 MS. EASTMAN: We decided not to do it.

3 MS. MCGINNIS: It's in the second
4 paragraph on page 62. You can look at it.

5 MS. STEBBINS: Thank you.

6 MS. MCCARREN: Are we on the paragraph
7 improve the siting?

8 MS. EASTMAN: I think so.

9 MR. BODETT: No. We're still on the
10 bullets.

11 MS. MCGINNIS: I thought we were pushing
12 the bullets to the discussion with Chris
13 because it's directly related to planning.

14 MR. JOHNSTONE: On the second bullet I
15 didn't see it -- my point on the second one is
16 I don't think of the RPCs -- I don't think
17 municipalities would see the RPCs as defending
18 a municipal plan. I think the municipalities
19 would think they do that. So I didn't see
20 funding the RPCs to defend municipal plans was
21 consistent.

22 MS. EASTMAN: I think it should just be
23 with the regional plans.

24 MR. JOHNSTONE: They defend their own.
25 They are in conformance. They define their

1 own.

2 MS. McCARREN: That was my suggestion.
3 Take it out. Fine.

4 (Commissioner Recchia arrives.)

5 COMMISSIONER RECCHIA: So this gets
6 worse. I have literally ten minutes.

7 MS. SYMINGTON: We can resolve the
8 planning section in ten minutes.

9 COMMISSIONER RECCHIA: I'm sorry you
10 guys.

11 MS. EASTMAN: You're going to be able to
12 be here this afternoon?

13 COMMISSIONER RECCHIA: Yes.

14 MS. EASTMAN: We're trying to get
15 through everything else but the planning
16 stuff, or I would like to try and get through
17 it.

18 MS. McCARREN: The paragraph starts the
19 vast majority of cases, Linda.

20 MS. EASTMAN: On page 54.

21 MS. McCARREN: Yes. I rewrote that and
22 -- but it was in the second batch, okay,
23 because it's awkward and I don't think it's
24 correct. I don't know, but I don't think the
25 Hearing Officer presides over the docket on

1 behalf of the Board. Not a Board member.

2 MS. EASTMAN: That's true.

3 MS. McCARREN: All right, and then I
4 suggested the following language, all
5 contested cases before the PSB are subject to
6 the rules prohibiting ex parte communication,
7 which includes prohibition from discussing the
8 merits but not the process with any party, and
9 then delete the part that starts they. I sent
10 it to you, but it was the second batch.

11 MS. MCGINNIS: Okay. Can you read that
12 again?

13 MS. McCARREN: Sure.

14 MS. MCGINNIS: And it would start where?

15 MS. McCARREN: I'll read the paragraph
16 and then I can just give it to you.

17 MS. MCGINNIS: And it would replace the
18 paragraph starting with the vast majority?

19 MS. McCARREN: Yes. The vast majority
20 of cases before the PSB are heard by Hearing
21 Officers who preside over a docket on behalf
22 of the Board. All contested cases before the
23 PSB are bound, subject by the rules
24 prohibiting ex parte communication, which
25 includes prohibition from discussing the

1 merits, but not the process with any party.

2 MS. MCGINNIS: That's much better.

3 That's much clearer. Thank you.

4 MS. MCCARREN: Okay.

5 MS. MCGINNIS: And then --

6 MS. MCCARREN: It says the way the ex
7 parte rules are interpreted by PSB staff
8 prevents them from providing advice, technical
9 assistance, information. They could never
10 provide advice. All right. I tried to
11 improve it.

12 MS. MCGINNIS: So you'll just give me
13 that language?

14 MS. MCCARREN: I'll give it to you.

15 MS. EASTMAN: We like it. Sounds fine.
16 Okay. Page 55. Is that red language okay?

17 MS. MCCARREN: I'm fine with it.

18 MR. JOHNSTONE: I didn't comment. From
19 plain English I had a hard time tracking
20 exactly what it was saying.

21 MS. MCGINNIS: In the red?

22 MR. JOHNSTONE: Yeah. Yeah.

23 MS. MCGINNIS: That's why I put it in
24 red.

25 MR. JOHNSTONE: It seemed very legal to

1 me and I couldn't quite track it.

2 MS. EASTMAN: Why don't we forget what
3 it is because we're talking about the public.
4 Why don't we just say the Commission
5 understands that the PSB recognizes the need
6 to enable Hearing Officers to.

7 MS. McCARREN: I had proposed a change
8 which is the Commission understands the PSB
9 recognizes the need to explicitly enable
10 Hearing Officers to communicate about timing,
11 filing formats, and other procedural issues.

12 MS. EASTMAN: I think that's good.

13 MR. JOHNSTONE: That would be better. I
14 would understand what that means.

15 MS. EASTMAN: I think that's good. I
16 like the simplicity of that.

17 MS. GRACE: I wondering whether
18 encourage instead of enable.

19 MS. EASTMAN: Yeah, encourage because
20 they can do it now.

21 MS. MCGINNIS: Okay. Just so I
22 understand the Commission understands that the
23 PSB recognizes the need to explicitly
24 encourage Hearing Officers to communicate
25 about time, filing formats, and other

1 procedural issues, thus, enabling Hearing
2 Officers to have procedural discussions with
3 parties and/or initiate, and then we have the
4 noticed conference calls?

5 MS. EASTMAN: Well this is where we want
6 the parties and others because this means they
7 can also talk to other people.

8 MR. JOHNSTONE: We've changed it in the
9 other place.

10 MS. MCGINNIS: I'm just wondering --

11 COMMISSIONER MARKOWITZ: Do we need
12 noticed conference call?

13 MS. EASTMAN: No. We want to take that
14 out like we did before. So we go back to what
15 we put before.

16 COMMISSIONER RECCHIA: You may want to
17 add the word directly encourage Hearing
18 Officer to communicate directly, otherwise
19 they will use the proxy they are currently
20 using.

21 MS. EASTMAN: Okay.

22 MS. MCGINNIS: To communicate directly.

23 MS. EASTMAN: About timing.

24 MS. MCGINNIS: About -- communicate
25 directly with whom?

1 COMMISSIONER RECCHIA: I thought parties
2 and others followed that piece.

3 MS. MCGINNIS: Should we say communicate
4 directly with all parties here about?

5 COMMISSIONER RECCHIA: Parties and
6 others.

7 COMMISSIONER MARKOWITZ: Parties and the
8 public.

9 MS. SYMINGTON: I think direct was right
10 before with parties or members of the public.

11 MR. JOHNSTONE: Fine. Got it.

12 COMMISSIONER MARKOWITZ: It would be and
13 the public.

14 MS. EASTMAN: Okay.

15 COMMISSIONER MARKOWITZ: So it's to
16 encourage Hearing Officers to communicate
17 directly with parties and the public about
18 timing, filing formats, and other procedural
19 issues period.

20 MS. EASTMAN: Period.

21 COMMISSIONER MARKOWITZ: And then going
22 right to the sentence this will also allow
23 them to provide all the necessary information.

24 MS. EASTMAN: Yes, directly to the case
25 manager.

1 COMMISSIONER MARKOWITZ: Great.

2 MS. EASTMAN: And then the next one
3 we've taken out technically on the
4 recommendation 14.

5 COMMISSIONER RECCHIA: Can I ask just in
6 the official transcript so are you guys okay
7 with that because I keep putting technically
8 in because I keep on thinking --

9 MR. JOHNSTONE: We asked them that
10 question.

11 MS. SYMINGTON: I keep taking it out.

12 COMMISSIONER RECCHIA: And she keeps
13 taking it out.

14 MS. MCGINNIS: Which makes my job really
15 interesting.

16 COMMISSIONER MARKOWITZ: Billy, we're
17 okay with it?

18 MR. COSTER: Yes.

19 MS. EASTMAN: They are okay with it.

20 COMMISSIONER RECCHIA: I'll stop
21 fighting you.

22 COMMISSIONER MARKOWITZ: Thank you for
23 trying to protect us, your old family.

24 COMMISSIONER RECCHIA: I know.

25 MS. EASTMAN: So we get to page 56 and

1 there's another technically to come out.

2 MS. McCARREN: Hang on. Yes. I have a
3 comment right below that.

4 MR. JOHNSTONE: Where do you have a
5 comment?

6 MS. EASTMAN: 16. We have check it
7 says.

8 MS. McCARREN: 16 the PSB shall
9 establish statutory timelines.

10 MS. EASTMAN: We don't want statutory.

11 MS. McCARREN: And they can't do that
12 anyway.

13 MS. EASTMAN: Didn't we -- Linda, we
14 fixed that earlier.

15 MS. MCGINNIS: I'm just going to make it
16 the same as the front.

17 MS. EASTMAN: Yup. And what did we do
18 with recommendation 17 above? Is this the
19 same issue?

20 MS. MCGINNIS: Yes. Just add an S to
21 applications and take out statutory.

22 MR. JOHNSTONE: We took statutory out of
23 there as well.

24 MS. EASTMAN: And statutory is in the
25 black too. Take that out.

1 MR. JOHNSTONE: Yeah. Right there.

2 MS. EASTMAN: Okay. Recommendation 18.
3 What did we say earlier about that? We had no
4 comments about that.

5 MS. MCGINNIS: None, but there was an
6 addition that ANR had suggested and a couple
7 people said they didn't want that suggestion.
8 So I just want to make sure we resolve that.

9 MS. MCCARREN: That's above 19. You're
10 still on 18.

11 MS. MCGINNIS: Right. It's at the
12 bottom of the paragraph 18, recommendation 18
13 above the table.

14 MR. JOHNSTONE: I probably was one of
15 them and it was probably because I didn't see
16 the point of having language with some
17 examples, but I don't know if I was one of
18 them or not, but it would be like me to say
19 that.

20 MS. MCGINNIS: I think it was you, but I
21 thought there were two of them.

22 COMMISSIONER RECCHIA: I'll join in and
23 say I think that is a level of specificity
24 that we're not really at, at other places so

25 --

1 MS. EASTMAN: Let's just -- I would
2 agree, sorry, with taking it out.

3 MR. COSTER: I think just to be clear
4 our experience with the Board has been they
5 set a very high bar for extending deadlines
6 and we wanted to add some specificity, but if
7 you're not comfortable with it, that's fine.

8 MS. EASTMAN: Page 19 -- I mean
9 recommendation 19 page 57.

10 MS. MCCARREN: I have a question. Did
11 we resolve or we do not need to resolve or we
12 have resolved this timing issue where a
13 developer can come to you and get a permit
14 before they go to the PSB, right? So they
15 have the permit in hand and the appeal period
16 has expired. Then they go to the Board for
17 their CPG. Any opponent could not appeal the
18 permit. It would have to use the rebuttable
19 presumption.

20 MS. EASTMAN: Who uses the rebuttable
21 presumption is the applicant. They are the
22 only ones who use the rebuttable presumption.
23 The applicant has the possibility, yeah, I
24 mean they are the ones -- the applicant gets
25 the permit from ANR so that they can use that

1 permit and -- instead of providing other
2 testimony, okay, to say whatever this permit
3 dealt with, then we're presumed to have, you
4 know, met that.

5 COMMISSIONER MARKOWITZ: They have to
6 prove the underlying facts of the permit
7 essentially.

8 MS. McCARREN: I'm raising a different
9 issue. We have recommended that there be a
10 requirement of simultaneous filings for a CPG
11 and for an ANR permit, which I think will
12 solve this problem, but conceptually now I can
13 go to the ANR and I can ask for a permit. You
14 can give me that permit and the appeal period
15 expires. Therefore, that permit is not
16 appealable.

17 It now goes to the Public Service Board.
18 I totally support -- I mean okay, so it gets
19 rebuttable presumption from the developer's
20 point of view. I understand that, but what
21 about an opponent? Can -- an opponent can't
22 appeal, right, and these are appealable to the
23 Board because the appeal period has run, but
24 can the -- in front of the Board can an
25 opponent say this only has a rebuttable

1 presumption and I am going to rebut the
2 underlying --

3 COMMISSIONER MARKOWITZ: They can.

4 MS. EASTMAN: They always can.

5 COMMISSIONER MARKOWITZ: So there's a
6 second bite at the apple.

7 MS. McCARREN: Or a first because they
8 didn't get to appeal it and we're trying to
9 fix that problem.

10 MR. JOHNSTONE: The way this does this,
11 the PSB replacement language which we accepted
12 does it in the last sentence kind of in the
13 reverse order where it says introduction of
14 contrary evidence, it demonstrates compliance
15 with the specific criteria, and the way that
16 it would be -- if somebody introduces contrary
17 evidence then we're rebutting the presumption.

18 MS. McCARREN: Okay. We're trying to
19 fix this by requiring simultaneous --

20 MR. COSTER: I think we're recommending
21 at a minimum they are simultaneous. People
22 may choose to pursue our permits earlier
23 though it's unlikely.

24 MS. McCARREN: Also if we have better
25 communication to the public as we're trying to

1 do, then the public may be aware of a permit
2 earlier on. Okay. I'm good.

3 MS. EASTMAN: So really we should just
4 have this match what we did earlier.

5 MS. MCGINNIS: Yes. Just taking that
6 red paragraph and replacing what's in black
7 from the red below from PSD.

8 MS. EASTMAN: What we did earlier.

9 MS. MCCARREN: Are we going to -- the
10 siting web shot should include -- are people
11 going to be really angry at us?

12 MS. EASTMAN: Where are you?

13 MS. MCCARREN: I'm on page 58. We're
14 done with recommendation 19. Is that all you
15 need from us, Linda?

16 MS. MCGINNIS: Yup.

17 MS. EASTMAN: Okay. Okay.

18 MR. JOHNSTONE: What was the question?
19 So now we're on recommendation 20 on page 58.

20 MS. MCCARREN: There's a typo. I don't
21 believe it's Weslaw. I think it's Westlaw.

22 MS. MCGINNIS: Yes, it is.

23 MS. MCCARREN: I agree with everything
24 that's here, but are we going to make some
25 really cranky agencies because we're trying to

1 tell them what to do?

2 MS. EASTMAN: Well here's the thing --

3 MR. JOHNSTONE: Maybe.

4 MS. EASTMAN: -- we say should. I think
5 why we have this here is these are things we
6 said are important throughout this document
7 and other recommendations, right, and so now
8 we're trying to put them in a -- in play here
9 where they are then accessible to the public.
10 It says should.

11 MR. JOHNSTONE: I think that's fine.
12 Anne, who is doing --

13 MR. COSTER: Public Service Board is.

14 MS. EASTMAN: Again -- again, this is
15 going to be a PSB and a PSD web site in some
16 respects because everything that happens
17 before the application for the CPG is going to
18 be PSD. This has got to go in conjunction or
19 we don't get the information out early enough.
20 So do we change this?

21 MS. MCGINNIS: Well we have number 21
22 that talks about everything that comes before,
23 and we do say that it needs to be in
24 coordination with everything that PSD is
25 doing.

1 MS. EASTMAN: Okay. Then fine. Let's
2 -- let's leave it.

3 MR. JOHNSTONE: There's new stuff in 22
4 and 23.

5 MS. MCCARREN: Where are you?
6 Recommendations? There's a typo at the top of
7 page 59. It is PSD not DPS.

8 MR. JOHNSTONE: There's nothing new
9 here.

10 MS. MCCARREN: Are you over on 22?

11 MS. EASTMAN: We didn't change anything.

12 MR. JOHNSTONE: Nothing else changed
13 until then.

14 MS. EASTMAN: We took out to the extent
15 feasible.

16 MR. JOHNSTONE: And we came up with new
17 language for 23. Unless there's something new
18 we did those two.

19 MS. MCCARREN: On 22. How picky do you
20 want to get with the sentence that says in
21 making siting decisions the PSB relies on
22 testimony, facts of the case, and Board
23 precedent. Well what the PSB does is it
24 decides facts based on the testimony and then
25 applies Board precedent.

1 MS. EASTMAN: Wait a minute. Where are
2 we?

3 MR. JOHNSTONE: First sentence under 22.
4 First non-bolded sentence.

5 MS. McCARREN: Yes.

6 MR. JOHNSTONE: Sorry.

7 MS. McCARREN: It should read in making
8 siting decisions the PSB determines the facts
9 based on the testimony and then applies Board
10 precedents.

11 MS. SYMINGTON: They find facts.

12 MS. McCARREN: Didn't I say that?

13 MS. EASTMAN: You say determine. Right.
14 In making siting decisions the Public Service
15 Board finds facts based on testimony and
16 applies Board precedence to make a decision.

17 MR. JOHNSTONE: Yes.

18 COMMISSIONER MARKOWITZ: It's more than
19 Board precedence.

20 MS. EASTMAN: And statute.

21 COMMISSIONER MARKOWITZ: Legal
22 precedence. Why don't we do legal precedence.

23 MS. EASTMAN: Why are we doing all this?
24 Why are we telling them how to do a case?

25 MR. COSTER: I think there was confusion

1 as to the role of the guidelines, and if they
2 actually had control over the Board's
3 decision. So I think there was an effort to
4 separate how the Board acts and what the role
5 of the guidelines were.

6 MS. EASTMAN: Can I tell you I think --
7 I really think that first sentence has to come
8 out. I really think we don't need to tell
9 them how to do their work.

10 MS. McCARREN: I'm fine with that and
11 take out however.

12 MS. EASTMAN: Yeah, just take out
13 however.

14 COMMISSIONER MARKOWITZ: I can see why
15 somebody put that in, but I'm fine with it
16 coming out.

17 MR. JOHNSTONE: That's good. So then it
18 will start in the planning stages of a
19 project. Is that what we're saying?

20 COMMISSIONER MARKOWITZ: Yes.

21 MR. JOHNSTONE: Excellent.

22 MS. EASTMAN: I guess now I'm getting
23 picky.

24 MS. McCARREN: Maybe it's time for
25 lunch.

1 MS. EASTMAN: We keep talking about new
2 technologies. We're not here for just new
3 technologies. We're here for all
4 technologies. So for me, given that there are
5 several in that last -- in the last sentence
6 there, given there are several areas of impact
7 resulting from the siting of electric
8 generation technologies, these agencies shall
9 determine which of these impacts fall within
10 the following categories.

11 MR. BODETT: Yes.

12 MR. JOHNSTONE: I agree.

13 MS. EASTMAN: Because we're about all
14 siting.

15 MR. BODETT: Yeah, because the new
16 impact is specifically mentioned in B.

17 MS. EASTMAN: Wait. Can I say new
18 guidelines that reflect additional impacts
19 from?

20 MS. MCGINNIS: New types of electric
21 generation.

22 MS. EASTMAN: I think from each type or
23 something. It's not just new types.

24 MR. COSTER: From electric generation.

25 COMMISSIONER MARKOWITZ: We can take new

1 out altogether.

2 MS. EASTMAN: Electric generation and
3 not deployment.

4 MR. JOHNSTONE: New guidelines are
5 reflect -- from electric generation.

6 MS. EASTMAN: Electric generation.

7 MR. JOHNSTONE: Blah blah blah. Great.
8 Perfect.

9 MS. EASTMAN: Okay. Okay. So then 23
10 we've done.

11 MS. McCARREN: Yes because we've redone
12 that. Of course you took out as regards. On
13 24 delete may. Should say just shall be a
14 statutory party or granted statutory party
15 status.

16 MR. JOHNSTONE: That's fine.

17 MS. EASTMAN: Okay.

18 MS. McCARREN: There's a typo on 27.
19 Are we that far?

20 MS. EASTMAN: Yes.

21 MS. McCARREN: Monitoring experts to be
22 funded for by. Take out for.

23 MS. MCGINNIS: Where? Sorry.

24 MS. McCARREN: 27 bolded.

25 MS. EASTMAN: By. Take out the for.

1 MS. MCGINNIS: Yup.

2 MS. EASTMAN: So now did we change
3 recommendation 28 earlier?

4 MR. JOHNSTONE: I think so. Yup.

5 MS. MCGINNIS: Not significantly.

6 MR. JOHNSTONE: We just changed it to
7 the word under and put if within. That's what
8 I have.

9 MS. MCCARREN: Within its current, and
10 we like current, right?

11 MR. JOHNSTONE: Within its current
12 jurisdiction. That's what we changed.

13 MS. SYMINGTON: Yes. Thank you.

14 MS. EASTMAN: So let's change that from
15 earlier though within its current
16 jurisdiction. Okay. So we're at 29.

17 MR. JOHNSTONE: Looks like it.

18 MS. MCCARREN: Is it shall propose?

19 MS. MCGINNIS: Yeah. The wording got
20 changed in the Executive Summary and it should
21 reflect that.

22 MS. EASTMAN: Are we on 29?

23 MS. MCGINNIS: 29 in the Executive
24 Summary, the PSD shall make a recommendation
25 to the Legislature regarding funding options.

1 That's how it was changed. Is that all right?

2 MS. McCARREN: Perfect. Good.

3 MS. EASTMAN: Okay.

4 MR. JOHNSTONE: Can I suggest that,
5 maybe it's here, but consistent with what we
6 have heard numerous times, I'm not -- in here
7 somewhere, maybe it's before the four topical
8 areas you have, Linda, I'll have to think
9 about the language if people like the idea, we
10 have heard a lot about and we've spoken as a
11 group a lot about the idea that you can't have
12 14 different funding sources that don't have
13 any bounds. I'm overstating of course, but
14 this notion of trying to get a clear system
15 that people can understand what the cost
16 impacts to them, the developers, alike, a
17 sentence to that before you get into the four
18 areas. Maybe it's already there.

19 MS. MCGINNIS: It's only one sentence at
20 the end of the second paragraph and it might
21 need to be made more clear. Once the
22 mechanisms are established it would be
23 important to consider an overall cap as is
24 done in all other New England states to ensure
25 predictability for applicants. Is that

1 sufficient?

2 MS. EASTMAN: Can we say to ensure
3 fairness and predictability?

4 MR. JOHNSTONE: That would be better.
5 Great. Thank you.

6 MS. McCARREN: Okay. Are you on
7 potential funding mechanisms to consider?
8 There's a typo in that heading.

9 MS. EASTMAN: We're going to change the
10 heading to what it is earlier.

11 MS. McCARREN: Got it.

12 MS. EASTMAN: Sorry. It didn't match.

13 MS. MCGINNIS: In that paragraph?

14 MS. EASTMAN: No. She said the heading.

15 MS. MCGINNIS: The heading.

16 MS. EASTMAN: Okay. Are we done on
17 that?

18 MS. McCARREN: 4.8.

19 MS. EASTMAN: Other important issues
20 related to siting but not within the
21 Commission's charge.

22 MS. McCARREN: I had a note, Linda, that
23 the table below --

24 MS. MCGINNIS: That should go up.
25 That's a formatting problem when I'm adding all

1 these comments, but yes that goes up above.

2 MS. McCARREN: Okay. I'm impressed you
3 know how to do all this formatting.

4 MS. EASTMAN: So PSD should -- the first
5 thing we have is on page -- the top of 64 PSD
6 should explore the possibility of spreading
7 the cost of electrical integration of manure
8 digester projects among the ratepayer base,
9 but remain cognizant of electric retail rates.

10 MS. McCARREN: I suggested adding that
11 because you start -- because --

12 MR. JOHNSTONE: Being cognizant is fine
13 with me.

14 MS. EASTMAN: Fine with me.

15 MS. McCARREN: Thank you. So --

16 MR. JOHNSTONE: We should always be
17 aware. I agree.

18 MS. EASTMAN: So then we have the siting
19 issues around energy.

20 MS. McCARREN: And, Gaye, I tried to do
21 my best to fix this, and if you haven't had
22 time to read it and I'm happy with any changes
23 to it. I just tried to say hey energy storage
24 is here. It's on the horizon. The PSB needs
25 to look at it. But, Gaye, I was trying to --

1 MS. SYMINGTON: Yes.

2 MS. EASTMAN: And then there's --

3 MS. SYMINGTON: That's fine.

4 MS. EASTMAN: So the storage is fine.

5 COMMISSIONER MARKOWITZ: There's some
6 typos in that paragraph.

7 MS. McCARREN: That's because I typed
8 it.

9 MS. EASTMAN: Let's get them.

10 MS. MCGINNIS: Extended pondage and then
11 it needs a period after Hydro-Quebec.

12 MS. McCARREN: Is pondage misspelled?

13 MS. MCGINNIS: No. I wanted to make
14 sure it was the right term.

15 COMMISSIONER MARKOWITZ: Increased
16 capability can increase, and there's an extra
17 E with efficiency.

18 MR. CAMPANY: I just know that may be a
19 hotter issue than you realize, the pump
20 storage facilities. That's one of the
21 facilities being licensed for renewable right
22 now, and the Northfield pump station is, and
23 that's a very hot issue in Massachusetts and a
24 lot of people are aware of that. Just a heads
25 up. I'm not saying don't include it.

1 MS. EASTMAN: I think that's why we want
2 to include it.

3 MR. JOHNSTONE: We said explore the
4 preliminary implications.

5 MS. EASTMAN: Because we haven't done it
6 and then the retail pricing.

7 MR. JOHNSTONE: I saw what you wrote.
8 You should see what I wrote, and I wrote to
9 say there's a lot of uncertainty about price.

10 MS. MCCARREN: I told you in my e-mail,
11 and I don't think Linda got this because she
12 got it late, I have gotten off my soap box and
13 here is what I propose to simplify it and not
14 get on my soap box any more.

15 Vermont does not exist in energy
16 isolation and there exists the distinct
17 possibility that substitutions for electric,
18 including fuel, natural gas, and wood may
19 decline in price in both absolute and relevant
20 terms in the short and medium term.
21 Therefore, the cost implications of improved
22 siting processes need to be considered. End.

23 MS. SYMINGTON: Do you mean relevant or
24 relative?

25 MS. MCCARREN: Relative. Thank you.

1 MS. EASTMAN: So --

2 MS. McCARREN: All I want to say is we
3 just want to be careful about increasing the
4 cost of the siting process will -- could flow
5 to the retail customer.

6 MS. MCGINNIS: Read it out again from
7 the therefore.

8 MR. JOHNSTONE: Therefore, the cost
9 implications of improved siting processes need
10 to be considered.

11 MS. EASTMAN: Well we've said that sort
12 of above where we talked about that overall
13 cap issue. Here's --

14 MS. McCARREN: If you don't -- guys
15 don't want it in --

16 COMMISSIONER MARKOWITZ: I think it's a
17 good thing to add.

18 MS. EASTMAN: No. I'm not saying it's
19 not a good thing to have, but I'm also on the
20 issue that I understand people's concerns
21 about planning, but if we had any luck like
22 they did in transmission, they say they are
23 saving money now because they plan better.

24 MS. MCGINNIS: Her issue isn't, though,
25 about cost in that definition. Her issue is

1 about the cost of the retail price of
2 electricity which is an entirely different
3 one.

4 MS. EASTMAN: No. What she's saying is
5 that what the costs are relative to the siting
6 process can get rolled into the retail price.

7 MS. McCARREN: All I'm saying is that it
8 should just be a consideration. All right.
9 It just should be something that is considered
10 because I support them. I support scenario
11 analysis, and, you know, it's not worth
12 fighting about.

13 COMMISSIONER MARKOWITZ: And I don't
14 mind adding maybe Scott's last sentence to
15 that, the point of this section is to remind
16 all involved that price does matter both for
17 businesses concerned with the performance in
18 the next quarter and for those who value the
19 longer term cost of energy with externalities
20 at full value.

21 MR. BODETT: I like that.

22 COMMISSIONER MARKOWITZ: If you add that
23 in, we're not taking a position. We're just
24 saying --

25 MS. EASTMAN: Okay. So how about that?

1 So we got two from Liz and one from Scott.

2 COMMISSIONER MARKOWITZ: Does that work,
3 Scott, because it puts hers in context?

4 MR. JOHNSTONE: I think it's fine. I'm
5 trying to understand the connectivity. I
6 understood what you wrote the first time more
7 clearly to be honest about it because we're
8 talking about the potential of a reduction in
9 cost for certain fuel sources which could go
10 down, they could go up over time, and before
11 it was really clear that what you were saying
12 is, you know, other choices could result in
13 higher cost for electricity, which may -- I
14 may or may not agree with you on. That's
15 fine.

16 You're setting that aside and now you're
17 connecting the first sentence to the cost of
18 siting matters, which it matters whether or
19 not the first sentence is there or not.

20 MS. McCARREN: All I was trying to do, I
21 was trying to take a dose of my own medicine
22 because I suggested to you guys that let's
23 take out extraneous stuff and my soap box or
24 argument about price separation is just that.
25 It's a soap box issue of mine. So I was

1 trying to make it simple and say, you know --
2 that's why I related it to siting. Taking the
3 whole thing out is fine, you know, because we
4 do talk earlier about cognizant of retail
5 costs.

6 MS. EASTMAN: We do talk about that. I
7 guess for me because --

8 MS. MCGINNIS: I thought it was kind of
9 nice the way you had -- I mean it seemed like
10 a balanced paragraph once there were both of
11 them in there.

12 MS. MCCARREN: Then the question is, is
13 it needed?

14 MS. MCGINNIS: Right.

15 MS. MCCARREN: I don't disagree with
16 what Scott wrote. The question is do we want
17 it in here or not, and I started this problem.
18 I admit it.

19 COMMISSIONER MARKOWITZ: I think it's
20 fine to have it in. It's like an emphasis.
21 We do mention it elsewhere, but I think folks
22 would appreciate that we're not in lala land
23 here. We're trying to be in reality and
24 recognize cost matters and ultimately it's the
25 customer who pays.

1 MS. EASTMAN: So we leave it with both
2 Louise and Scott's.

3 COMMISSIONER MARKOWITZ: I'm comfortable
4 with that.

5 MR. BODETT: I am too.

6 COMMISSIONER MARKOWITZ: I'm comfortable
7 with it as I see it or the shortened version
8 both work fine.

9 MS. EASTMAN: Let's go for the whole
10 thing as we see it but with relevant changed
11 to relative.

12 MS. MCCARREN: Yes. We need to change
13 that, and also there's a typo right before the
14 paren as to the customers.

15 MS. EASTMAN: So then we just get to,
16 and maybe we want to do nothing about these
17 things at this point, but other important
18 issues related to siting but not within the
19 Commission's charge.

20 The issue I raised earlier about the
21 Administration wanting to take a look at how
22 the Act 250 process will play out going
23 forward, you know, in conjunction with the 248
24 project -- 248 process, especially on lands
25 that may already have Act 250 permits.

1 MR. COSTER: I did a little research on
2 that. There's an Environmental Court decision
3 for a met tower that for projects that
4 wouldn't otherwise trigger Act 250
5 jurisdiction that don't have the size or scale
6 of Act 250 it's clear it would go to the
7 Public Service Board, but for things like a
8 large biomass or wind facility that would
9 otherwise trigger Act 250 it's unclear how
10 that would be handled.

11 MS. EASTMAN: But is that on new lands
12 or lands that already have a permit?

13 MR. COSTER: Lands already under Act 250
14 jurisdiction.

15 MS. McCARREN: She's asking a different
16 question.

17 MS. EASTMAN: No, I'm not.

18 MR. COSTER: If you have a property
19 that's under Act 250 jurisdiction and you want
20 to put a met tower or a cell tower on it, it
21 just goes through 248 because that activity
22 alone wouldn't otherwise trigger Act 250. But
23 for a larger scale development on a land
24 currently under jurisdiction, it's unclear
25 what would happen.

1 MS. MCGINNIS: Even if it's an electric
2 generation --

3 MR. COSTER: I just don't think it's
4 been tested.

5 MS. EASTMAN: I think people are going
6 to start testing it and so -- right, Chris?
7 People are going to start testing it, and I
8 just think it's something that it would be
9 great for you guys in the Administration to
10 try and deal with before it's done on a
11 case-by-case contested case matter where the
12 Environmental Court is deciding how you do
13 public policy in Vermont as opposed to you
14 guys. Sorry.

15 MR. COSTER: Yeah.

16 MS. EASTMAN: So that's all. I think
17 that there's --

18 MS. MCGINNIS: So would it be a separate
19 section entitled lands under Act 250
20 jurisdiction.

21 MS. EASTMAN: I just think a separate
22 section that says relationship between Act 250
23 and Section 248 or something.

24 COMMISSIONER MARKOWITZ: Should be
25 clarified.

1 MS. EASTMAN: Yeah, it's pretty simple
2 but I want --

3 MR. JOHNSTONE: Can you write two
4 sentences during lunch?

5 MS. SYMINGTON: We need a section titled
6 you didn't ask us, but this is what we think.

7 MS. McCARREN: That's what we need.

8 MS. EASTMAN: I just worried about it.

9 COMMISSIONER MARKOWITZ: Is that where
10 we're also putting RECs?

11 MS. MCGINNIS: It's the first one.
12 That's the first one.

13 COMMISSIONER MARKOWITZ: It's along that
14 same line.

15 MS. EASTMAN: So did we have enough in
16 here about the issue of waste? Is it in here
17 that language that we started talking about?

18 COMMISSIONER MARKOWITZ: Inefficiency.

19 MS. EASTMAN: Well the efficiency is
20 there. The issue about, you know, don't build
21 things if we're not going to use them or don't
22 give them permits if you're not going to use
23 them.

24 MS. MCGINNIS: No. There's no language
25 in here on that as far as I know.

1 COMMISSIONER MARKOWITZ: I didn't see
2 it. We talked about it, but I didn't see it.

3 MR. COSTER: They wouldn't permit
4 something if it didn't have a transmission
5 solution.

6 MS. EASTMAN: Are you sure? My concern
7 is -- my concern is they will permit it and
8 say but of course you have to have the
9 transmission issue, and so for me it is if
10 you're never going to get it, this is just my
11 issue of wasting resources okay, I've been
12 involved when I was Secretary spending lots of
13 resources that I knew were never going to come
14 to naught. So I'm just curious about that.

15 MR. COSTER: I'm all for it.

16 COMMISSIONER MARKOWITZ: You have to
17 because you never know for sure.

18 MS. EASTMAN: Because that's my concern.
19 That puts stress on the system. You have to
20 do all your work and if it's not going to be
21 --

22 MR. CAMPANY: I thought you heard
23 testimony to that effect that was going to
24 happen, but I could be wrong.

25 MS. EASTMAN: That it does happen.

1 MR. CAMPANY: Right. Right. Right.

2 MS. EASTMAN: I'm just concerned about
3 that.

4 MR. COSTER: What I meant to say is that
5 they condition the project ultimately on the
6 transmission solution, but you're saying they
7 may never be able to meet that condition so
8 why go through the process.

9 MS. MCGINNIS: Why put up a met tower if
10 you think the project will never occur.

11 MS. EASTMAN: No. I'm okay with the met
12 tower. I'm really concerned about -- I just
13 want a little proviso here. The Public
14 Service Board, and I don't know, we talked
15 about this in some sessions back where we said
16 why can't ISO --

17 COMMISSIONER MARKOWITZ: We talked about
18 it as a threshold issue. There should be some
19 threshold issues that applicants should meet,
20 and I don't know why we ended up not following
21 up on this as a threshold issue.

22 MS. MCCARREN: ISO has -- a proposed
23 generating facility under the ISO's
24 jurisdiction needs to get in the queue for an
25 interconnection study, and that probably

1 should, to your point, be a condition of
2 granting a permit because getting into the
3 interconnection queue means that the ISO will
4 -- when it's your turn will study the effects
5 that you have on the entire system, and that
6 will tell you the extent and cost of a
7 generator lead or a piece of transmission,
8 right, to the system and/or the limits that
9 could exist on your facility.

10 Whether -- the issue I think here is
11 that many of these small projects do not
12 trigger an ISO interconnection study. They
13 should trigger a distribution company
14 interconnection study. Right.

15 MS. MCGINNIS: Gabrielle.

16 MS. STEBBINS: So pretty much all of the
17 projects that are 2.2 megawatts, all of those
18 do go through -- there's only been one project
19 and that was the project in Ferrisburg, only
20 one project that went -- that did not have to
21 go through the full system interconnection
22 study, only one, and the only reason why they
23 didn't have to is because it happened to be
24 located right next to a full substation. So I
25 guess --

1 MS. EASTMAN: They were already going
2 through them.

3 MS. STEBBINS: They are already going
4 through that process because it is a
5 requirement. I guess I would just say I would
6 think it would be challenging for developers
7 to go through a full ISO-New England --

8 MS. McCARREN: You missed my point. You
9 missed my point. The vast majority of the
10 smaller projects do not need an ISO review.
11 They need an interconnection study done at the
12 distribution company level, right. So I'm
13 agreeing.

14 MS. STEBBINS: Yes.

15 MR. JOHNSTONE: Does the Board require
16 that? Does the distribution utility require
17 it? Who requires that?

18 MS. McCARREN: It's the Board because
19 it's a condition of Section 248.

20 MR. JOHNSTONE: That's what I want to
21 make sure. So it's already required in 248.
22 We can still call it out.

23 MS. EASTMAN: No, no, and maybe I'm the
24 only one who cares about this and maybe I'm
25 nuts to care about this and maybe it will

1 never happen and it doesn't happen, but the
2 point for me is just -- and I believe projects
3 should be reviewed and all of that kind of
4 stuff, but if there's something that's going
5 to prevent something from happening, then why
6 did we use all those resources.

7 MR. JOHNSTONE: What we're hearing is
8 that is reviewed. Are you thinking that
9 should be reviewed sooner in the process?

10 MS. McCARREN: One of the things we
11 don't know right now, and it may have an
12 incredibly positive effect on the system, is
13 what the effect of large distributed
14 intermittent generation is going to have. We
15 just don't know.

16 MS. EASTMAN: Exactly. Don't know.

17 MS. McCARREN: Loads are down. We think
18 it's caused by that, right, but we don't know
19 at the end of the day what the cumulative
20 effect is going to be.

21 MS. EASTMAN: Okay. Well I don't know
22 what to do about that and we need to take a
23 break. I'm going to try to come up with
24 language on the Act 250 issue, just a couple
25 of sentences.

1 MR. JOHNSTONE: When do you want us
2 back?

3 MS. EASTMAN: Can we do it by 1?
4 (Luncheon recess.)

5 MS. EASTMAN: Back on the record so we
6 can get through things. Here's my suggestion.
7 We had these two issues, one that Scott was
8 writing up and one that I was writing up, sort
9 of that related -- Scott's related to the
10 language relative to the Public Service Board,
11 and I had that issue between, you know, the
12 relationship between Act 250 and Section 248,
13 and in light of needing other language.

14 So I would like to deal with those
15 things first, then we can go on to planning,
16 and then, Linda, the issue of the public
17 involvement document I mean for me it's going
18 to be that I think we want us -- we want to
19 look at the, you know, at least -- we want to
20 look at the whole thing, but really look at
21 the Executive Summary, but I think can't we do
22 that via e-mail?

23 MS. MCGINNIS: Yes. That's basically
24 the only way we can do it now.

25 MS. EASTMAN: Via e-mail and I don't

1 have any problem and we'll have to take the
2 amount of time it will take. Okay.

3 MS. MCGINNIS: I agree.

4 MS. EASTMAN: And we just explain that
5 when we hand off the report.

6 MS. MCGINNIS: Yes.

7 MS. EASTMAN: I'll go first because I
8 think I'm easier. So on page --

9 MS. MCCARREN: That's one way to look at
10 it.

11 MS. MCGINNIS: She personalized that
12 one, Scott.

13 COMMISSIONER RECCHIA: Finally something
14 we can vote on.

15 MS. EASTMAN: This would to me be added
16 on page 64 because it's under the other items
17 related to siting but not within the
18 Commission's charge, and I just have it
19 entitled relationship between Act 250 and
20 Section 248, and I can give this to you.

21 So I just say as noted in this report
22 the Commission has recommended that electric
23 generation siting approval remain with a
24 revised Section 248 process. The Commission
25 recognizes that new generation proposals on

1 land subject to Act 250 permits may raise
2 complications. The Commission encourages the
3 appropriate state agencies, departments, and
4 boards analyze and address possible
5 complications and/or jurisdictional issues.

6 MR. BODETT: Where is that located
7 precisely?

8 MS. EASTMAN: It goes on page 64 which
9 is at the end of other important issues
10 related to siting, but not within the
11 Commission's charge.

12 COMMISSIONER MARKOWITZ: Miscellaneous.
13 That sounded fine to me.

14 MS. EASTMAN: This comes up there's some
15 issues with District Commissions or reviewing
16 or saying no to certain things potentially
17 because it then may go to 248 and whatever,
18 and I think there's some things you guys need
19 to talk about before they become matters that
20 are in Act 250 cases and then before the
21 Environmental Court or the Board.

22 MS. MCGINNIS: So everybody is okay with
23 that?

24 MR. JOHNSTONE: Sounds great.

25 MS. MCGINNIS: Thank you, Jan.

1 MS. EASTMAN: Wait until the last day to
2 propose something and I just heard about this
3 stuff and I was concerned for you guys.

4 COMMISSIONER RECCHIA: Thanks. We like
5 that.

6 MS. EASTMAN: So Scott has got some
7 language in two places.

8 MR. JOHNSTONE: Trying to follow our
9 process with things in the summary part and
10 then introduction part and then being more in
11 the detail. So this is the issue of
12 acknowledging what the Public Service Board's
13 been grappling with and how they have been
14 muddling through from my perspective fairly
15 admirably.

16 So the first place where I tried to
17 adjust one sentence, on page 13 at the end of
18 the third paragraph where we're talking about
19 248 and the Public Service Board for the first
20 time, I add a sentence to the end of the
21 paragraph.

22 MS. MCGINNIS: Sorry. The end of which
23 paragraph?

24 MR. JOHNSTONE: Third paragraph. I
25 added a paragraph -- a sentence saying lacking

1 an updated process to keep with current
2 conditions, the Public Service Board has
3 performed admirably considering the new and
4 varied issues of today's projects albeit
5 case-by-case. I don't know if that's exactly
6 the right thing to say there, but that's all I
7 put there.

8 And then if you go to page 43, 43 is
9 where we're talking about maintaining siting
10 with the PSB, it seemed appropriate to say
11 more there. If we do this, we would strike
12 the word finally in the second paragraph
13 because it wouldn't be finally and capitalize
14 the word with, and I would add a new third
15 paragraph which would say something like the
16 PSB has met their current obligations to
17 siting of new generation in Vermont through
18 testimony set in cases the Board has managed
19 to expand and adapt the issues they consider
20 environmentally and have managed the public's
21 interest in new projects such that projects
22 most often are modified substantially to
23 address public comment.

24 Considering the process in use did not
25 contemplate these current type and volume of

1 projects, the PSB has performed a positive
2 public service to Vermont or something like
3 that. I'm not very good with the language but
4 --

5 COMMISSIONER MARKOWITZ: So once you see
6 it in writing you can wordsmith it a little
7 bit.

8 MS. MCGINNIS: Great.

9 MR. JOHNSTONE: I already sent it to
10 you.

11 MS. MCGINNIS: Thanks. Both of them?

12 MR. JOHNSTONE: Yes.

13 MS. MCGINNIS: So you don't want it in
14 the Executive Summary?

15 MS. EASTMAN: He put a sentence in the
16 Executive Summary.

17 MS. MCGINNIS: No. In the intro. I
18 just want to make sure.

19 MR. JOHNSTONE: I was trying to follow
20 the format.

21 MS. EASTMAN: Okay.

22 MR. JOHNSTONE: That may not be the
23 right language.

24 COMMISSIONER MARKOWITZ: It's the right
25 sentiment.

1 MR. BODETT: I found one typo at lunch
2 that I think we missed on page 11.

3 MS. McCARREN: Oh Tom.

4 MR. BODETT: Sorry, but number 29 on
5 there where you have after the red letter it
6 says options 42 cover cost.

7 MS. MCGINNIS: Yes. That's another one.
8 Thank you.

9 MR. BODETT: See I did something today.

10 MS. EASTMAN: And you have a typo,
11 Chris.

12 COMMISSIONER RECCHIA: Well I have a
13 couple of things like that, but I'm feeling
14 we're not there yet. This is just feeling
15 good to postpone the inevitable so I'm feeling
16 like the typos and stuff like that I should --

17 COMMISSIONER MARKOWITZ: Just send them.

18 MS. EASTMAN: Just send them to Linda
19 because what we would like to get to now, and
20 I guess what we're doing is really we have --
21 we have not done the section on increased
22 emphasis on planning. So we have
23 recommendations 1 through 5 to do. We can
24 look at it first things or we can go to page
25 45 and look at this because there are still

1 issues here around what we're talking about,
2 and what Louise suggests that before we
3 actually look at the specific language in any
4 of these recommendations we try and do a
5 sketch or schematic of what are we proposing
6 for planning process here, who does what, and
7 then what happens next, and is it consistent
8 with or does it conform with and what are we
9 talking about.

10 MS. McCARREN: And, Chris, thank you for
11 being so patient. I thought my suggestion was
12 that we make you go to the white board or one
13 of your assistants.

14 COMMISSIONER RECCHIA: I can do that.

15 MS. McCARREN: And then diagram what it
16 is that you think this is going to do. It
17 would be really helpful to me.

18 COMMISSIONER RECCHIA: Great. So thank
19 you for the invitation. You won't be able to
20 read my handwriting, but I appreciate it.

21 COMMISSIONER MARKOWITZ: Which is really
22 true. I've tried it.

23 MS. McCARREN: He's left handed.

24 COMMISSIONER MARKOWITZ: There you go.
25 I didn't know you could write like this.

1 COMMISSIONER RECCHIA: I never wanted
2 you to see what I was writing. Okay. So what
3 I'm thinking is --

4 MS. MCCARREN: Chris, see on the left
5 there those terms are used throughout the
6 document, and so to the extent you can help us
7 understand what you mean when we use them that
8 would be great.

9 COMMISSIONER RECCHIA: Cool. Okay. So
10 right now town plans are getting due
11 consideration. Regional plans are given due
12 consideration.

13 MS. SYMINGTON: Chris, is that where you
14 want me to get into the statute says that the
15 recommendations of the town and municipal
16 plans so -- are given due consideration and
17 the land conservation measures in a town plan.

18 MS. EASTMAN: No. That isn't what it
19 says.

20 COMMISSIONER RECCHIA: I don't want to
21 go there.

22 MS. EASTMAN: It talks about the
23 recommendations of municipal and regional
24 planning commissions.

25 MS. SYMINGTON: I'm just saying --

1 instead of saying the town plans I'm just
2 saying --

3 COMMISSIONER RECCHIA: So the first
4 thing I would say is let's suspend the entire
5 existing statute because whether it's talking
6 about the recommendations of the commissions
7 versus the plan I'll just say for the record
8 that I think it's a mistake to base any of
9 this on anything other than something in
10 writing. So I'm going with the plans. You
11 guys can tell me that's not where you want to
12 be later, but I'm just starting with that
13 piece.

14 MS. MCCARREN: Can we ask you clarifying
15 questions or would you rather go all the way
16 through to the end?

17 COMMISSIONER RECCHIA: Let me try and
18 give you the model that I'm thinking of and
19 then we'll go back and do questions and we'll
20 also do whatever else you want to.

21 MR. JOHNSTONE: Is this the model you're
22 thinking of what you think is written in the
23 document now?

24 COMMISSIONER RECCHIA: Not -- no.
25 Written in the document now. What now exists.

1 That's what I'm thinking.

2 MR. JOHNSTONE: I'll shut up. Go ahead.

3 MS. EASTMAN: Let's let him do it.

4 COMMISSIONER RECCHIA: This is a real
5 easy group. Linda, I don't understand what
6 you have been talking about.

7 MR. BODETT: What have you been talking
8 about.

9 COMMISSIONER RECCHIA: Pretend that
10 right now a reasonable interpretation of all
11 the existing stuff is that town plans would be
12 given due consideration and regional plans
13 would be given due consideration in spite of
14 what the language says.

15 What we're trying to get to is if they
16 updated those plans -- I think what we're
17 trying to get to, if they updated those plans
18 to incorporate energy considerations, and we
19 can call that a variety of things, then they
20 are given substantial consideration. Okay.
21 And then I think where I'm trying to get to is
22 that a next step is an evaluation of the
23 regional plans. I'm not going to do the town
24 plans, but in the context of regional plans
25 that if they do the energy updates and we find

1 them to be consistent with the CEP in its
2 entirety, that they are then dispositive. The
3 regional plans are dispositive.

4 The pieces of this -- things that can
5 happen, if in our review of this we find that
6 it's consistent with the CEP, then I would
7 send a letter to the regional commission and
8 it would say thank you very much, we've
9 reviewed your plan, we think it's consistent
10 with, and I would use the word consistent with
11 the Comprehensive Energy Plan.

12 The conformance word is what the towns
13 have to do with respect to the regional plans.
14 They need to conform with the regional plans
15 or be found in conformance with the regional
16 plans. What that means I don't know, but
17 that's the word that's used.

18 MS. MCCARREN: In the statute?

19 COMMISSIONER RECCHIA: It's in the
20 statute and I'm not suggesting we need to
21 change that. So I think --

22 MR. JOHNSTONE: Chris, when you say
23 consistent, individually or in total?

24 COMMISSIONER RECCHIA: Each individual
25 regional plan needs to be found consistent

1 with the CEP.

2 MR. JOHNSTONE: Can any of them be
3 consistent if it doesn't add up?

4 COMMISSIONER RECCHIA: Well yes.

5 MR. JOHNSTONE: My question is so you
6 got however many regional plans, if two of
7 them would, Chris, be deemed consistent but
8 the rest are not and therefore we don't have a
9 pathway to meet our goals, can any of them be
10 consistent? Right? And you said yes they
11 could be alone.

12 COMMISSIONER RECCHIA: Yeah because --

13 MR. JOHNSTONE: That's fine. I just
14 wanted to understand.

15 COMMISSIONER RECCHIA: Because you said
16 if they don't add up, and adding up is going
17 to be -- there's going to be a wide range and
18 several different options to get to where we
19 want to get to because we're not specifying
20 that we need x amount from in-state.

21 MR. JOHNSTONE: That's true. Yup.

22 COMMISSIONER RECCHIA: Okay. Continuing
23 on.

24 MR. JOHNSTONE: Thank you.

25 COMMISSIONER RECCHIA: I think that 95

1 percent of the time this thing gets resolved
2 simply by iterative discussions between us and
3 the regional planning commission in terms of
4 any disagreements that we might have, but in
5 the event that we agree to disagree and that
6 we can't -- we don't reach the decision that
7 the regional planning commissions and we
8 agree, then there's still a substantial
9 consideration, but if a project comes along
10 where they need to weigh in, they are a party
11 to the Board proceedings, they go to the
12 Board, they present their reasons as to why
13 they think their plan should be followed and
14 why it is in conformance -- consistent with
15 the CEP. My staff goes and explains why they
16 don't think it is, and the Board decides in
17 the context of that application for that
18 particular piece whether they are going to
19 give them substantial consideration or it be
20 dispositive, and I don't care which way it
21 goes. The Board's got the information there.

22 They are doing that now in terms of
23 evaluating town plans under the provisions
24 that Sheila was mentioning. So I don't see
25 that as a big step or a big complication for

1 the Board to do, and I appreciate Gaye's
2 concern with this piece, but when we had it
3 earlier we had it that the PSD, Department.
4 In the spirit of trying to bring Louise along
5 I had said well let's let the Board do the
6 whole thing, and that in thinking it through
7 was going to be a problem because then the
8 Board's got all these different plans and they
9 have no basis for deciding anything about
10 whether it's consistent or not, and doing it
11 within the microscope of an individual project
12 wouldn't help them, but I think this is a fair
13 resolution of the disagreement in a docket
14 that these two pieces can feed into a Board
15 decision so that they can decide whether it's
16 substantial consideration or dispositive.

17 Now to make this happen -- I mean if you
18 agree with this in concept, then to make this
19 happen there are several things that need to
20 occur. The Department needs to work on
21 guidelines and expectations for the components
22 that should be in a regional plan. The
23 regional plans right now have a statutory
24 provision that says they have to have an
25 energy component, but it can -- it may have a

1 variety of things addressed. We need to make
2 that a shell and beef that up a bit, including
3 in my mind consistency with the Comprehensive
4 Energy Plan as one of the criteria.

5 Ironically the municipal plans require
6 an energy component that does require a bunch
7 of different steps that are actually more
8 thorough right now than the regional plan
9 piece. So I would suggest, as we've done in
10 the report, statutes may need to be changed
11 and we list a bunch of sections and say among
12 others, and I don't think we need to go into
13 more detail about how they need to change, but
14 I think just flagging that those would need to
15 change to make that work.

16 Okay. Now I'll stop. That's my concept
17 of how this works.

18 MS. EASTMAN: And so once a town plan
19 would have to be in conformance with a
20 regional plan that is consistent with the CEP
21 to get substantial consideration?

22 COMMISSIONER RECCHIA: Right. Right.
23 And maybe this is conformance. Conformance.

24 MS. McCARREN: Jan, could you ask that
25 question again?

1 MS. EASTMAN: A town plan currently gets
2 due consideration --

3 MS. McCARREN: Yes.

4 MS. EASTMAN: -- under this proposal and
5 a regional plan gets due consideration.

6 MS. McCARREN: Yes.

7 MS. EASTMAN: Under this proposal for a
8 town plan to get substantial consideration --

9 MS. McCARREN: Yes.

10 MS. EASTMAN: -- it would have to be
11 found to be in conformance with the regional
12 plan, which is -- the process is already in
13 place for that with a regional plan that is
14 consistent with the CEP.

15 MS. McCARREN: Okay. So just help me
16 understand the -- conceptually the qualitative
17 difference that would be required to go from
18 substantial consideration to dispositive.

19 MS. EASTMAN: And this only happens
20 relative to regional plans.

21 MS. McCARREN: Only regional plans.

22 MS. EASTMAN: Only regional plans in
23 this proposal, and I'm not willing to go to
24 dispositive for local plans, for municipal
25 plans.

1 So for regional plans, for it to be
2 dispositive a regional plan has to be found to
3 be consistent with the CEP after review by the
4 Commissioner, and I agree there's a
5 possibility that -- how many regions are
6 there? 9?

7 COMMISSIONER RECCHIA: 11.

8 MS. EASTMAN: 11. Maybe only 9 out of
9 11 plans are found to be consistent with, but
10 that he may be able to determine that we're
11 still -- it's okay. It will work out. Note
12 that for a community where the regional plan
13 is not inconsistent with the CEP doesn't
14 matter what they do in their town plan, they
15 only get due consideration which is the carrot
16 and stick issue which means you got to play in
17 the regional planning process.

18 MS. SYMINGTON: Along that line same
19 issue.

20 MS. MCCARREN: I'm sorry to interrupt
21 you because I really want to understand this
22 and I want to follow it. For a town to get
23 substantial consideration that town plan must
24 be in conformance with the CEP?

25 COMMISSIONER RECCHIA: No.

1 MS. EASTMAN: No.

2 MS. McCARREN: Just help me out.

3 MS. EASTMAN: In conformance with the
4 regional plan.

5 COMMISSIONER RECCHIA: I'll walk you
6 through. So right now they get due
7 consideration. They need to do an update of
8 some kind that's reflecting the energy pieces
9 of this whole thing, right, but they really
10 can't do that until the regional plans do
11 their update.

12 So because you want to find that the
13 town plan is in conformance with the regional
14 plan and you don't want it to be in
15 conformance with the old regional plan, you
16 want it to be in conformance with the new
17 regional plan that addresses the energy pieces
18 of this. So to me this is the first piece
19 that needs to happen. This is the second
20 piece that needs to happen for a municipality
21 to move from there to there.

22 MS. EASTMAN: Actually to me the first
23 piece that needs to happen is your work
24 relative to -- that's going to guide that.
25 Sorry.

1 COMMISSIONER RECCHIA: That's right.
2 Sorry. No. And this is in the form of not
3 changes to the CEP, but guidance and standards
4 and criteria that should be included in the
5 region, and we're going to do that
6 interactively with the regions.

7 So I'm going to just put that as one and
8 then this becomes a two and this becomes three
9 and this is four. Our approval of regional
10 plans becomes four to get them to dispositive,
11 and the PSB is five.

12 MS. EASTMAN: Guess what I have to tell
13 you. You have to determine whether the
14 regional plan is consistent. So it's one,
15 two, your CEP approvals is three, and then you
16 can get to town plans as four. Well you just
17 said --

18 COMMISSIONER RECCHIA: You can see how
19 well we understand this. That's right.

20 MS. EASTMAN: You said a town plan
21 that's in conformance with a regional plan
22 that's consistent with the CEP.

23 COMMISSIONER RECCHIA: Except slight
24 modification. That's not true actually, but
25 this is good that we're doing this because

1 this helps. Because they get substantial
2 consideration if they -- if independent of me
3 they update their regional plans to address
4 energy.

5 MR. BODETT: How is that judged whether
6 they have or not?

7 COMMISSIONER RECCHIA: They have --
8 there will be a statutory change that requires
9 that they do that work and then they just have
10 to do it.

11 MS. McCARREN: Because right now, and
12 I'm just trying to understand, right now the
13 municipal or town plan requires both an energy
14 plan, right, and it also has a section that
15 requires a consideration of utility siting.
16 So.

17 (Interruption.)

18 MS. McCARREN: So right now you can have
19 plans, existing town plans that have -- and
20 there are some of them where there have been
21 very serious consideration of coming up with
22 an energy plan under the statute and filled
23 all these other things out.

24 COMMISSIONER RECCHIA: Right.

25 MS. McCARREN: What I'm hearing you say

1 is that would only get due consideration
2 because it needs to go up a level and be
3 reconsidered and reconfigured. Don't let me
4 put words in your mouth.

5 COMMISSIONER RECCHIA: Right.

6 MS. MCCARREN: Pursuant to what you, the
7 Department, will outline in terms of what the
8 Department's view is -- plan is needed to be
9 consistent with the CEP.

10 COMMISSIONER RECCHIA: The word I would
11 take off I would say reconsidered yes.
12 Reconfigured not necessarily. In other words,
13 those plans, there may be some town plans out
14 there that are just fine even when -- even
15 when the region makes a change to update their
16 energy considerations. The town -- the town
17 just needs to then look at this new thing and
18 say oh yeah we're good and no we need some
19 changes.

20 MS. EASTMAN: I really need -- because I
21 heard something different than now I'm hearing
22 you saying. So I just really need to clarify
23 this so -- I'm good at this so bear with me
24 one more time.

25 So municipal plans would get substantial

1 consideration if they are found to be in
2 conformance with regional plans that are
3 consistent with the CEP.

4 COMMISSIONER RECCHIA: Right. They have
5 made changes to become consistent with the
6 CEP. The distinction I'm making there is I
7 haven't approved those yet.

8 MS. EASTMAN: Okay.

9 MS. SYMINGTON: It's a self judging
10 process.

11 COMMISSIONER RECCHIA: It's a self
12 judging process, right.

13 MS. MCGINNIS: I have a diagram that
14 might help.

15 MS. EASTMAN: I just wanted to get -- so
16 I just wanted to get to that, but we're not --
17 it's okay. We do need to change some language
18 in our recommendations.

19 COMMISSIONER RECCHIA: Well if you
20 agree, this is what I'm visualizing, and then
21 once I review and approve them in context,
22 then the regional plans become dispositive at
23 that point. They haven't changed necessarily
24 from what they did before, but reviewed them
25 and found them okay.

1 The town plan still stay at substantial
2 consideration. Towns can stay at due
3 consideration if they chose not to do this at
4 all, if they are not interested in doing any
5 more, and regional plans can stay at due
6 consideration if they chose not to do the
7 update.

8 MS. EASTMAN: Yes. Gaye.

9 MS. SYMINGTON: So I think one -- I
10 would suggest just running through it one more
11 time because our friends came in and they
12 actually know what's going on.

13 MS. GRACE: They actually know exactly
14 what's going on. We did it between the
15 elevator and here.

16 MS. EASTMAN: Gaye.

17 MS. SYMINGTON: I still think three and
18 four are -- I'm misunderstanding if number
19 three and four are correct.

20 MS. EASTMAN: I think they are wrong
21 now. I think it's back the way he wanted it
22 because he's not saying he has to have made a
23 determination about whether they are
24 consistent before he's going to say town --
25 municipal plans can move to substantial. It's

1 just that the regional plans have to have done
2 some work.

3 MR. BODETT: So towns can't move to
4 substantial unless the regions go along.

5 COMMISSIONER RECCHIA: That's true.

6 MR. BODETT: Which is also a nice carrot
7 and stick because regions are driven by their
8 towns, and if there's enough towns that want
9 it, that's how they can force their regions.

10 MS. EASTMAN: So --

11 PUBLIC: Can I --

12 MS. EASTMAN: I'm going to let us do it
13 because this has been the confusion thing
14 about where we're willing to go and not go and
15 -- okay. So not to -- you have been very
16 important and we've been listening, but we
17 just got to see if we can get a consensus
18 about this.

19 MR. CAMPANY: Can I ask a clarifying
20 question?

21 MS. EASTMAN: Sure.

22 COMMISSIONER RECCHIA: That's up to the
23 Chair. I'm not calling on anybody.

24 MR. CAMPANY: Never mind.

25 MS. EASTMAN: Thanks, Chris. So how do

1 we --

2 MS. McCARREN: Okay. Again just trying
3 to understand. The Department will make a
4 list of criteria -- I'm going to use the word
5 criteria, but a list of issues that need to be
6 addressed or criteria that must exist in a
7 plan so that the plan is inconsistent -- is
8 consistent with or carries out the intention
9 of the CEP, and again I'm just trying --

10 COMMISSIONER RECCHIA: I know you're not
11 agreeing, but yes.

12 MS. McCARREN: The CEP is going to be
13 the centerpiece here, and what we want to do
14 is then make sure that all of the regional
15 plans are done in a way that they fulfill
16 whatever -- I'm not trying to put words in
17 your mouth -- carry out --

18 MS. EASTMAN: Consistent with.

19 MS. McCARREN: Consistent with the
20 objectives of the CEP. That is work to be
21 done later?

22 COMMISSIONER RECCHIA: Yes.

23 MS. McCARREN: All right, and then you
24 will -- the Department will review all the
25 regional plans to see whether or not they have

1 fulfilled this or consistent with, and then
2 you will not look at the municipal plans, but
3 expect the regions to have reviewed the
4 municipal plans for the same consistency with
5 the criteria?

6 MS. EASTMAN: No.

7 MS. McCARREN: I'm lost.

8 COMMISSIONER RECCHIA: For conformance
9 with their plans.

10 MS. EASTMAN: Which is their current
11 standard.

12 COMMISSIONER RECCHIA: Which is the
13 current standard. So the municipal standard
14 doesn't need to change as far as I can tell.

15 MS. McCARREN: Okay. Bear with me. So
16 we get these criteria out. Give them to the
17 regions. Regions say thank you very much.
18 They adopt and modify their plans to make the
19 changes. They take it to you guys the
20 Department. The Department says good job.
21 That does it.

22 Now, however, for a municipal plan to be
23 in conformance with the regional plan won't it
24 by definition have to fulfill those same
25 things and meet those same criteria?

1 COMMISSIONER RECCHIA: I don't think
2 necessarily. If you look at what the criteria
3 are, they are not saying -- under existing
4 statute even they don't say you better
5 provide, you know, 27 megawatts of such and
6 such, right?

7 MS. McCARREN: Right.

8 COMMISSIONER RECCHIA: What they say is
9 you have to have --

10 MS. EASTMAN: I was looking for that.

11 COMMISSIONER RECCHIA: Okay. So in the
12 case of regional plans -- no. Start with
13 municipal plans. Okay.

14 The municipal plan has an energy
15 component that includes, and this is the
16 nature of the criteria that we're talking
17 about, an analysis of existing energy
18 resources.

19 MS. McCARREN: Are you reading from
20 municipal?

21 COMMISSIONER RECCHIA: Municipal statute
22 4382 something 9 -- (A) (9).

23 MS. McCARREN: You're looking at (A) (9)?

24 COMMISSIONER RECCHIA: Yes. Include an
25 analysis of energy resource needs, scarcities,

1 cost, and problems within the municipality, a
2 statement of policy on the conservation of
3 energy, including programs such as thermal
4 integrity, standards for buildings to
5 implement that policy, a statement of policy
6 on the development of renewable energy
7 resources, et cetera.

8 So these are not directing them to do a
9 particular thing. In fact, I'm a little
10 nervous of the statement of development of
11 renewable energy policy will be we don't want
12 any, we don't need any. You know, we'll deal
13 with that if that comes about, but I don't
14 believe that's where we are. So I'm having
15 faith this process will work out.

16 MS. McCARREN: So --

17 MS. EASTMAN: But now you want to look
18 at --

19 COMMISSIONER RECCHIA: That's currently
20 required.

21 MS. EASTMAN: Now what you want to look
22 at what's the review standard for -- what's
23 the -- which one is the statute where the
24 municipal plan is reviewed by the region?
25 What section is that?

1 COMMISSIONER RECCHIA: For conformance
2 with the regional plan?

3 MR. SULLIVAN: 4350.

4 MR. CAMPANY: Yeah.

5 MS. MCCARREN: Chris, is it your view --
6 let me start with this statement. I read the
7 municipal plan as they have a number of
8 sections, one of which is energy, but they
9 also have sections dealing with land use and
10 what I am going to call special places.
11 That's not what it says, but I'll call it
12 special places.

13 COMMISSIONER RECCHIA: Open space, yeah.

14 MS. MCCARREN: It will all -- will all
15 of that be taken together in front of the
16 Board so it's not just the energy piece?

17 COMMISSIONER RECCHIA: Right. I think
18 so. I think the town plans and the regional
19 plans come in their entirety before the Board.

20 MS. EASTMAN: I agree.

21 COMMISSIONER RECCHIA: And the Board can
22 talk about -- I mean they can focus on
23 whatever they wish to focus on, but I think
24 the plan needs to go in, in its entirety, and
25 I think the way we've got this drafted is in

1 terms of the CEP interests we are looking at
2 all -- we're looking at the whole plan too for
3 all energy components because we're dealing
4 with an energy plan that deals with
5 transportation, land use, and a variety of
6 other things.

7 It doesn't mean that I'm going to get
8 into whether somebody -- I'm not going to be
9 looking at a plan for whether they're zoning,
10 you know, for two-family or three-family
11 housing, but their transportation plan is
12 relevant to their energy component, and to the
13 extent that it's relevant we should look at
14 it.

15 MS. MCCARREN: I was actually thinking
16 of it the opposite way because a town could
17 meet all the requirements of the energy plan
18 now because as you point out it doesn't say
19 what you have to say. It just says you need
20 to have considered it.

21 COMMISSIONER RECCHIA: Right.

22 MS. MCCARREN: But the really
23 controlling sections might be the land use
24 section and the special places section. So
25 all of that is going to roll up together.

1 MS. EASTMAN: And right now the review
2 process in 4350, okay, in 4350 it says that
3 what the region looks at is consistency -- I
4 got to get this right -- consistency with the
5 goals set out in 4302 which have a line about
6 energy resources, consistency with the goals
7 -- let me just get it in 4302 -- and then
8 you're going to love it, there's a new C word,
9 and it's compatible with its regional plan,
10 not conformance with the regional plan but
11 compatible with the regional plan, and so --
12 and do we have Black's again? How is
13 compatible defined?

14 MS. GRACE: I'll be back.

15 COMMISSIONER RECCHIA: I want to do it
16 ible or a.

17 MS. EASTMAN: It's ible.

18 COMMISSIONER RECCHIA: That's what I
19 thought. Okay.

20 MR. CAMPANY: Chris, do you need this?

21 COMMISSIONER RECCHIA: Thank you. So I
22 mean truthfully in my mind I'm trying to stay
23 out of the municipal plans. I really am
24 trying to deal with this at the regional
25 level, and if the regions change their plan

1 for consistency with the CEP and they in turn
2 at some point decide that a town plan is in
3 conformance, I'm good with that. I don't need
4 to do --

5 MR. JOHNSTONE: And you totally have me
6 on that column. You know it's the next one
7 over that I get -- start to get uneasy about
8 because we don't know that -- a betting person
9 would say you're never going to get the money
10 for this from the Legislature for the regions,
11 and we're saying that we're not going to
12 require them all to roll up, and so
13 dispositive is a really high test, and if any
14 part of that breaks, you've got dispositive
15 standing without the planning.

16 MS. SYMINGTON: How good is a regional
17 plan that's in conformance with the CEP when
18 the majority of the towns in the region aren't
19 conforming to that now consistent regional
20 plan?

21 COMMISSIONER RECCHIA: So those towns
22 stay here. They stay where they are. The
23 regional plan does become more -- I think of
24 more value in the process and so let's give it
25 more consideration.

1 MR. BODETT: Would that be likely to
2 happen since it's the towns that approve the
3 regional plans?

4 MR. JOHNSTONE: You need 60 percent.

5 MR. BODETT: I wonder if there's a
6 recommendation that number needs to change.

7 MR. JOHNSTONE: And further complicate
8 it, it also means --

9 MS. SYMINGTON: You can pull Chris off
10 the ceiling right now.

11 MR. JOHNSTONE: It also means the CEP is
12 going to kept up to date and the scenario is
13 kept up to date and the guidance is kept up to
14 date.

15 COMMISSIONER RECCHIA: You're such a
16 pessimist, Scott. Chris will be doing the
17 work and the money will be there.

18 MR. JOHNSTONE: I like groups of fate
19 when they are singular. When you stack
20 multiple on top of each other I start to
21 become nervous. I'm not saying I'm off the
22 ship on this. I'm saying there's a tremendous
23 amount of uncertainty for the level of new
24 authority being offered here and it's making
25 me think as we sit here.

1 COMMISSIONER RECCHIA: Fair enough.

2 MS. EASTMAN: Theoretically, you know,
3 if, if, if, if it happens, you know, I can do
4 it. I think it's better than what we have
5 now.

6 MS. MCCARREN: If I might with your
7 permission, Madam Chair.

8 MS. EASTMAN: Sure.

9 MS. MCCARREN: I've read Chris's letter
10 that the Windham Regional Commission wrote to
11 Ms. Stern and, Chris, if I understand what you
12 said, and it was a very clearly written
13 letter, right now, right now with no changes a
14 town can, in its -- we're using town, but we
15 mean municipal. A municipal plan determine
16 that it will exclude industrial land, we'll
17 pick on industrial land, and that that plan
18 can be in conformance -- is that the right
19 word, Chris -- with the regional plan?

20 MS. EASTMAN: Compatible.

21 MS. MCCARREN: I'm sorry. Chris, is the
22 right word compatible?

23 MR. CAMPANY: I don't know that I would
24 split the hair that fair.

25 MS. EASTMAN: The word is compatible in

1 the statute.

2 MS. McCARREN: I'm fine with compatible
3 whatever it is.

4 COMMISSIONER RECCHIA: Is compatible
5 with the regional plan consistent with the
6 goals, compatible with the regional plans.

7 MS. McCARREN: All right. So this is a
8 real case which is -- real case, and that that
9 plan, town plan now under the statute gets due
10 consideration. I mean I'm just trying to
11 understand the way it works today. No
12 changes.

13 MS. EASTMAN: Just a second. A town
14 plan that hasn't -- that isn't compatible gets
15 due consideration.

16 MR. CAMPANY: Right.

17 MS. EASTMAN: Right now any plan, any
18 municipal plan gets due consideration. It
19 doesn't have to be compatible or consistent
20 with anything.

21 MS. McCARREN: That's fine, but it's
22 possible, Chris, that you can have a town say
23 no industrial wind. Can that be found
24 compatible with the regional plan?

25 MR. CAMPANY: As long as it meets -- so

1 it still has to have that energy chapter. It
2 has to have energy policies. It can't just
3 say no energy no how.

4 MS. MCCARREN: It has to completely
5 cover it all.

6 MR. CAMPANY: Right. So the way I
7 characterize it that's a -- when you develop
8 any kind of plan there are also natural
9 resource requirements. So you're balancing
10 that with everything else when they develop
11 that plan, and so we're -- so when we're
12 looking at a plan, and remember again towns
13 request to have their plans approved and
14 planning process confirmed by RPCs it's not
15 required, that we're looking at it in toto.

16 So in one case -- so one town says no
17 wind, but they have to provide some kind of
18 justification. It can't just be we don't like
19 it. In this case they built their case about
20 how they should develop and that kind of
21 thing.

22 MS. MCCARREN: The point is that if it's
23 done properly with thoughtfulness, et cetera,
24 and analysis it's possible today -- we have
25 one that says that has your Regional Planning

1 Commission -- God I'm going to use the wrong
2 word again -- accepted the plan.

3 MR. CAMPANY: Yeah. Now we have three
4 or four. Now their plan is about to expire so
5 they have to resubmit it.

6 COMMISSIONER RECCHIA: Maybe I can jump
7 ahead to the crux of the issue.

8 MS. MCCARREN: I'm done. As I
9 understand it that is the way it can work
10 right here right now today.

11 COMMISSIONER RECCHIA: That's right, and
12 I would say that although I'm really nervous
13 about this, in the spirit of trying to meet
14 all of these issues, I was willing to leave
15 the town that way. The towns can say no to a
16 specific technology.

17 What I don't -- because I can picture
18 towns where a given technology is not
19 appropriate, where it won't work for them or
20 give an option. They still have to address
21 the energy thing the way it's described, but I
22 can live with them having flexibility there.

23 What I couldn't picture is, and the
24 reason I don't want to take out the sentence,
25 is in any of these 11 regions I can't picture

1 them just wiping out one of the options. So
2 I'm not -- so if we're okay with that
3 distinction that, that the region's got to
4 address all of them and has to be able to
5 somewhere in the region accommodate these
6 concepts that we're talking about in terms of
7 -- now I'm not going to remember the
8 adjectives we're using -- suitable, not
9 suitable, right, then I feel like they should
10 be able to do that, and I'm okay with towns
11 getting substantial consideration that still
12 say, you know, for us, I'm sorry, we took a
13 town wide vote and we really don't like the
14 spiral light bulb. So we're going to do
15 everything else. We're not going to do the
16 spiral light bulb. I can live with that.

17 MR. SULLIVAN: One comment.

18 MS. EASTMAN: Yes.

19 MR. SULLIVAN: I think one of the things
20 you said can a town exclude a certain type of
21 land use or something, and they certainly can
22 as long as it's not inconsistent with the
23 regional plan, and, you know, so if we had a
24 municipality in our region that's identified
25 in the regional plan as being an important

1 regional growth center and they don't allow
2 for any commercial or industrial growth in the
3 town, then that will be a real problem, but at
4 the same time some towns that are very rural,
5 remote towns, and they don't include that type
6 of designation in their plan that's entirely
7 appropriate because it's consistent with the
8 regional plan, and I think the same type of
9 analysis would apply to the energy siting
10 criteria.

11 PUBLIC: What about -- can I just ask a
12 question? What about a town that is like in
13 Huntington which is part of Chittenden County
14 and has a completely different type of
15 topography than the rest of the region? What
16 do you do there? And the other thing is, is
17 there anyway that citizens can get together
18 and bypass these town plans or regional plans
19 if they had to?

20 MS. EASTMAN: The role of -- I mean
21 citizens vote on their town plans. All town
22 plans are voted on by the voters and you have
23 to have -- is it a majority approval for a
24 town plan?

25 MR. SULLIVAN: Well now I believe the

1 plans are adopted by the selectboard.

2 MS. EASTMAN: Except in small towns.

3 COMMISSIONER MARKOWITZ: Unless they
4 petition.

5 MS. EASTMAN: So there's a way to get
6 towns citizens voting on town plans.

7 MR. JOHNSTONE: Citizens can still
8 bypass the system. What level the status of
9 plans have, citizens will still be able to
10 participate in the Public Service Board
11 dockets.

12 MS. EASTMAN: It doesn't affect people's
13 ability to be a party.

14 MR. JOHNSTONE: That's right. I think
15 that's the question.

16 MS. EASTMAN: Sorry. Doesn't affect
17 anybody's ability to be a party. This is just
18 the role of the plan in the process.

19 MS. SYMINGTON: It feels like there have
20 been a series of questions from outside the
21 room, but we turned one down. Do you mind?

22 MS. EASTMAN: Yes because I'm trying to
23 get us to be able to come to terms, but what
24 was your issue because I've allowed other
25 people.

1 PUBLIC: I guess I just had a concern if
2 a town has a really good plan and you would
3 like it but they haven't convinced their
4 regional people to get together, you know,
5 like they have done their work and the region
6 hasn't because I'm just wondering of the
7 timeline of this, and so the town has done
8 their job and it's not their fault that the
9 regional plan people haven't, they are going
10 to suffer the consequence.

11 MS. EASTMAN: That's right.

12 PUBLIC: But that's counting a lot that
13 you can motivate when you have 26 towns.

14 MS. EASTMAN: We have 52 in the
15 Northeast Kingdom.

16 COMMISSIONER RECCHIA: It's a valid
17 point.

18 MS. SYMINGTON: That becomes a pressure
19 point on the region to get its work done.

20 COMMISSIONER RECCHIA: It's a pressure
21 point. There's pressure on the Legislature to
22 fund them. There's pressure on the region to
23 do it. There's pressure on towns.

24 PUBLIC: Because it also takes time.

25 MS. EASTMAN: Right. So where are we

1 with this proposal?

2 MR. BODETT: I like it. I want to make
3 sure that I understand it now with the
4 scenario. So say a town does ban industrial
5 wind, spiral light bulbs are not allowed in
6 their town plan. The region, though, has a
7 consideration where there are other ridgelines
8 that they have designated with the approval of
9 the town. So the regional plan has become
10 dispositive. Everyone has done everything
11 right, but you have one town that doesn't want
12 any wind on their ridge. That's where the
13 developer wants to put it. So that project
14 can happen as I understand it.

15 COMMISSIONER RECCHIA: Right.

16 MR. BODETT: Because the regional plan
17 says no. If you want to put wind in this
18 region, you can put it here and here but not
19 there. So that's -- so that's where we're
20 trying to get to.

21 COMMISSIONER RECCHIA: Yup.

22 MR. BODETT: In the beginning of this.
23 Okay. I just wanted to make sure that's the
24 read.

25 MS. EASTMAN: Can I say just -- so I'm

1 clear already in statute, right, projects have
2 to be consistent with the CEP.

3 COMMISSIONER RECCHIA: Projects --

4 MS. EASTMAN: No.

5 COMMISSIONER RECCHIA: Well to get a
6 Certificate of Public Good we certainly are
7 there testifying as to whether it is or not,
8 but that's not the only reason. That's not a
9 requirement.

10 MS. GRACE: We do. Except as to natural
11 -- so I'm reading from 248 (B) (7) except as to
12 natural gas facility that is not part or
13 incidental to an electric generating facility,
14 the Board needs to find that it is in
15 compliance with -- the facility is in
16 compliance with the electric energy plan
17 that's approved by the Department under
18 Section 202 of this title which is the energy
19 plan, and for my understanding from talking to
20 our planning department is the same as the CEP
21 at this point in time.

22 COMMISSIONER RECCHIA: We have melded
23 those two. So there is no distinction between
24 the electric energy plan --

25 MR. JOHNSTONE: So is there a statutory

1 requirement on how frequently the Department
2 has to update that?

3 COMMISSIONER RECCHIA: Yes, there is.
4 It's every five years right now. It last was
5 done in 19 the -- 1998.

6 COMMISSIONER MARKOWITZ: It was a long
7 five years.

8 MR. JOHNSTONE: It wasn't a trap
9 question. I was thinking forward.

10 COMMISSIONER RECCHIA: So we are asking
11 up at the Legislature that they change that to
12 a six-year rotation so we can align it with
13 the electric plan which is every five years
14 but a different five years, and biennial which
15 is every two years. So we're trying to get
16 three biennials between the two plans.

17 MS. MCCARREN: I want to make sure I
18 understand what you said. You believe that
19 Section 7 which says electric energy plan you
20 read it to mean comprehensive energy plan?

21 MS. GRACE: Right now, as Chris
22 mentioned, those two are one at this stage.

23 MR. BODETT: I'm ready to look at
24 language.

25 COMMISSIONER RECCHIA: Here's where,

1 Louise, I think in fairness to her this is one
2 of the statutory clarifications. This may
3 need to be made. The electric energy plan has
4 things it has to do. The Comprehensive Energy
5 Plan has a bunch of other things it's supposed
6 to do and I understand this point. I don't
7 agree with it, but I understand you don't want
8 to expand the things that need to be
9 consistent to include all those comprehensive
10 energy things.

11 MS. EASTMAN: Until the Legislature has
12 done that.

13 COMMISSIONER RECCHIA: Right.

14 MS. MCCARREN: If the Legislature speaks
15 and approves the CEP or speaks further on the
16 issue of in-state renewables, that's fine. I
17 may not agree with it, but they have spoken.

18 MS. EASTMAN: You fight it over there.

19 MS. MCCARREN: You fight it across the
20 street. I have two major issues and I'll do
21 them very briefly. One is what I believe is a
22 overpowering of a state agency with respect to
23 the siting of generation and the natural
24 result which could be determining where
25 renewables go. That's one.

1 I have a different proposal because I
2 view it differently than you guys. I view it
3 from the bottom up, from the towns up. So I
4 would simply leave all the legislation as it
5 is now except change the language in Section
6 248 from due consideration to substantial
7 consideration, and leave it at that because I
8 think there's all kinds of protections in
9 here. That's how I would do it. Done. I'm
10 done. I said what I have to say.

11 MS. EASTMAN: Give both of them
12 substance -- regional and towns plan
13 substantial consideration.

14 MS. MCCARREN: I would simply change
15 Section 248 and change the term due
16 consideration to substantial consideration and
17 be done with it because, as Sheila has so
18 carefully pointed out to me, there's all kinds
19 of requirements with respect to energy
20 planning, consideration of renewables at the
21 town level, et cetera.

22 MR. JOHNSTONE: I would either have the
23 -- I'm in two ways of thinking right now. I
24 would either use getting to substantial
25 consideration linked to the planning efforts

1 we're talking to and not do dispositive at
2 all, or if we're going to get to dispositive,
3 I would want some additional safeguards to
4 make sure the system's working like we have a
5 currently valid CEP where the Commission they
6 are -- can certify a dispositive status that
7 they can declare that some of the region is
8 adequate to meet the CEP only because I come
9 at it a little differently.

10 I think we hired an Administration to
11 fulfill policy. That's why we hire a Governor
12 and we have an Administration. So it seems to
13 me before the Commissioner should be able to
14 certify a region that they believe that
15 there's sufficient across the whole state to
16 be able to certify the first one. So that may
17 not be exactly the right language, but I want
18 to make sure there's enough protection that
19 we're actually going to fill the goals if
20 we're going to go to that level step of
21 dispositive which can stop everything.

22 COMMISSIONER RECCHIA: I thought I would
23 comment on that. I agree, you know, there are
24 a bunch of things that aren't explicit in the
25 language that we've talked about, but one of

1 the things that we did say, and it was clearly
2 something that was important to me, these come
3 in relatively contemporaneously. I don't need
4 it to all be in August 27th of a given year,
5 but I do think they need to be considered
6 within a window of time such that I can make
7 that type of assessment, or whoever is in my
8 place three months from now, make that, right?
9 Because I think that is important to be able
10 to see are we making it.

11 What I don't think we can get to is
12 we're going to have a range of options for
13 getting to it, right?

14 MR. JOHNSTONE: We're only giving you,
15 the Commissioner, the discretion within the
16 scenario they see fit because, again, I see
17 the Administration's job, whoever is in
18 office, as fulfilling statutory policy, and so
19 whoever is in office it's their job to move it
20 forward. So when -- whatever scenario process
21 you do there's a bandwidth, but my point is
22 before you can certify the first one you got
23 to believe that we're trending towards the
24 next milestone and in an appropriate manner.
25 Then those plans will be able to have that

1 level of force, or I would rather not do
2 dispositive now and just use the planning
3 process to drive people to substantial
4 consideration and stop there for now and see
5 how we're doing.

6 So it depends on how heavy handed people
7 want the Administration to be. I don't see it
8 as heavy handed. I see it as implementing the
9 statutes that have been passed by the
10 Legislature, but I know others totally
11 disagree with that point of view. I get that.

12 MS. MCGINNIS: Gaye also mentioned
13 something to this effect with her language
14 that we have on page 46. She was talking --
15 at the very bottom of page 46 she was talking
16 about the aggregate of the regional plans
17 should conform with the CEP in effect as long
18 as that plan has been adopted by the PSD with
19 broad public input and engagement.

20 So I think, Gaye, you were trying to hit
21 at the same point the aggregate needed to be
22 considered and not on a one region by one
23 region basis.

24 MS. SYMINGTON: I would personally --
25 I'm personally -- the place I get really

1 uncomfortable is moving to dispositive. I
2 agree with Scott. I'm not sure if it's
3 different from Louise, but just if the region
4 and the towns follow this -- the process of
5 planning, then I think that gets them to
6 substantial and leave it at that.

7 MS. EASTMAN: I don't. I'm not willing
8 to give a municipal plan substantial
9 consideration unless it's at least approved by
10 the Regional Planning Commission because they
11 can say no. They can say whatever they want.
12 It's at the regional planning commission where
13 at least it's reviewed for is it consistent
14 with the goals, which have goals in there
15 already about energy issues, and a whole lot
16 of other things, and if it's at least
17 compatible. So for me --

18 MS. SYMINGTON: All that means is the
19 process would stop at the second column. It's
20 the third which has that in it.

21 MR. JOHNSTONE: Which is different -- I
22 want to be fair to Louise. It is different
23 from what Louise said, and I want to be fair
24 about that.

25 MS. McCARREN: Right, and again we don't

1 agree on this, but right now Comprehensive
2 Energy Plan is not in the statute. It is not
3 been approved by the Legislature. It is a
4 piece of incredibly hard work that was done by
5 the Department, but if the State wants to
6 enshrine the CEP as the driver and centerpiece
7 of renewable siting, then the Legislature
8 needs to say that.

9 MR. JOHNSTONE: See I would argue that
10 it is. They are required to do it every five
11 years and it's a vehicle that the Legislature
12 has required of the Administration to fulfill
13 the statutory policies, and so yes? Does the
14 plan then go back for a vote up or down by the
15 legislative body? No.

16 COMMISSIONER RECCHIA: It certainly gets
17 sent to them and --

18 MR. JOHNSTONE: I do see it as a
19 fulfillment of our statutory policy. Again we
20 may disagree about it. That's okay.

21 MS. MCCARREN: What we're trying to do
22 here it seems to me is we heard a great deal
23 that the current process which the Public
24 Service Board by enacting the public good can
25 override a town plan and that's -- that is the

1 law today, and there's been what I understand
2 there's been a great deal of angst and we have
3 heard that, is that it creates an imbalance
4 between what a town thoughtfully might want.

5 So it's really less the Department than
6 it is more a statement to the Board that you
7 need to raise up the status of the town plan.

8 COMMISSIONER RECCHIA: And can I just
9 say so I'm hearing Scott and Gaye sort of say
10 I'm feeling nervous about dispositive. You're
11 saying you really want -- you think it should
12 just be substantial consideration regardless
13 whether a town does any work or not, and I'm
14 feeling like okay I've been on town planning
15 commissions before. I'm currently on my
16 development review board that reviews the town
17 plan. Every time we have an application and
18 try to figure out whether it works or not. I
19 know Tom is on the Selectboard.

20 You know towns are great, but they are
21 not great at this sort of thing without a lot
22 of hand holding and a lot of help, and what
23 I'm trying to do is, and I'll say this, maybe
24 it's weird that I'm the one saying it, I want
25 to provide the dispositive goal. I want to

1 provide that as a carrot for people to revisit
2 this issue and look at it in the context of
3 the energy plan and really do the hard work to
4 figure out how we're going to get to where we
5 want to be, and so in exchange for that, you
6 know, being dispositive at the regional level
7 we can build planning capacity through the
8 regions to the towns to help them do this.
9 Again not telling them what they need to say,
10 but really walking them through what they need
11 to consider because frankly most of them have
12 not. Some of them might have and some of them
13 have done it under duress as a result of the
14 process that we've been through, but I think
15 we'll be better off if they all do it. I
16 would not force them to.

17 MS. SYMINGTON: I wonder if there's a
18 way to -- my concern is that the capacity will
19 not be provided, the resources will not be
20 provided to the regional planning commissions,
21 and I wonder if we could do, you know, the
22 second column, in other words, provide a
23 process through which the town and regional
24 plans can move to substantial consideration,
25 and then recommend that if the Legislature is

1 willing to provide the resources to the
2 regions to do the necessary planning, that at
3 that point they can consider a further level
4 of weight being given to regional plans that
5 the Commissioner determines are consistent
6 with the CEP, but have the hurdle there that's
7 only viable if the financial resources are
8 provided to the regions to do that level of
9 planning.

10 MR. BODETT: And there would be
11 political pressure on them to provide those
12 resources if the towns were in that position.
13 So I think -- I agree with you, Chris, for the
14 same reasons why dispositive is an important
15 carrot because it's the only way that a town
16 that absolutely -- let's use ridgeline wind
17 development because that's the thing that
18 stirred so much passion. It's the only way a
19 town can hope to just not have that ever is to
20 work with their neighboring towns, work with
21 their region, work with the plan that the
22 Department comes up to, the statewide plan,
23 and make a convincing case to why their town
24 should be left out of it and they are going to
25 do this instead. Otherwise, there's no way to

1 ever have that security.

2 COMMISSIONER RECCHIA: And I think this
3 sends all the right incentives. Instead of
4 having every town, you know, siting their own
5 landfill on the southern part of their borders
6 where their waters are nice and clean, but the
7 northern part or the next town down their
8 waters are getting polluted, this provides a
9 better incentive for towns, as you described,
10 to work with their neighbors, figure out okay
11 if not here where, or what can I do instead of
12 you so you can take this burden off of me,
13 whatever they want to do, but it provides all
14 the right planning incentives at the right
15 level I think.

16 COMMISSIONER MARKOWITZ: So what I like
17 about it is we do want to give -- we do want
18 to encourage planning, and the way you
19 encourage meaningful planning is by making the
20 planning have some real impact and effect, and
21 that's -- I would say even without the
22 funding, Gaye, it would become a priority.
23 The funding is good, but I would bet that even
24 if that fell apart, the fact that you could
25 end up with your plan being dispositive would

1 in many cases be enough of an incentive to
2 make that a priority in that region.

3 You know that's really what this is all
4 about is can we incentivise good planning, and
5 linking it with impact there's no better way
6 to do it.

7 COMMISSIONER RECCHIA: But I do agree
8 with you the fundamental -- this could occur
9 without money over a long period of time.

10 COMMISSIONER MARKOWITZ: It would be
11 ideal to bring in money.

12 COMMISSIONER RECCHIA: It would be ideal
13 to bring in money, and frankly after this
14 session that I have had over there, if they
15 had spent the time actually just doing what
16 they can do in terms of funding something, it
17 would have been far more effective in my mind
18 than all the other stuff.

19 MS. EASTMAN: Okay. So --

20 COMMISSIONER RECCHIA: That's on the
21 record, isn't it? It's okay. I said it over
22 there already in Committee.

23 MS. EASTMAN: So I think what I'm
24 hearing though we may be at a -- you know if
25 you do this much you get this. If we go for

1 the whole banana well --

2 MS. SYMINGTON: How in the world are the
3 regions going to be able to do this planning
4 without somebody providing resources? I don't
5 get it.

6 COMMISSIONER MARKOWITZ: That's why we
7 have the resource recommendation, and, you
8 know, regions get planning grants for a
9 variety of things. There are sources of funds
10 and make decisions on how to use them.
11 There's never enough money, but they -- there
12 are regions who aren't doing it. Rutland just
13 did reup their energy plan.

14 MR. JOHNSTONE: Over time their flexible
15 dollars have winnowed and the agencies have
16 sent them discrete money to accomplish
17 discrete things so they have less flexibility
18 than they have ever had I think.

19 COMMISSIONER MARKOWITZ: Yes, and just
20 so you know at ANR we spend a lot of time
21 thinking about how to get more resources to
22 the regional planning commissions, and they
23 know that we're thinking about it in terms of
24 flood resiliency and all these different ways.

25 So I recognize that, but I'm not sure --

1 so we can make a recommendation to provide
2 funding, but I would bet if you ask the RPC
3 they would love this anyway like if the -- I'm
4 not sure they would want a contingent of money
5 or maybe they would. They wouldn't.

6 MR. CAMPANY: What we really need, Jim,
7 jump in if I'm wrong, also it would be helpful
8 to have the guidance from the state agencies
9 too so we all know what the state policy
10 priorities are so that we -- that way we can
11 effectively respond to those.

12 COMMISSIONER MARKOWITZ: That's good.

13 MR. BODETT: I wonder if some of the
14 funding could come from the member towns as
15 well. We have heard there's a lot of towns
16 who have had issues. They have raised
17 hundreds of thousands of dollars for their
18 legal fees and other experts to fight this,
19 where the planning process is a way to fight
20 the fight once and for all. So it may be if
21 put in a context like that there may be some
22 resources maybe available at the local level.

23 COMMISSIONER RECCHIA: And I could
24 picture it being a statewide effort. I could
25 picture doing grant applications to, you know,

1 maybe the Department of Energy would be
2 interested in funding this. I don't know. I
3 do know that for them \$440,000 is a decimal
4 place that they don't usually go to. So we
5 would have to round it up to a million, but
6 they might be interested.

7 MR. JOHNSTONE: You need funding to
8 guide the effort.

9 COMMISSIONER RECCHIA: Right.

10 MR. JOHNSTONE: We can get there.

11 COMMISSIONER RECCHIA: I'm not hearing
12 -- I feel like this is going to be like the
13 Supreme Court decision with two concurring
14 opinions and one dissent, and whether they add
15 up to a majority I'm not clear yet. Whether
16 -- do we have a path?

17 MR. JOHNSTONE: So how much rigor and
18 tightness can you accept as the Commissioner
19 on your role? I laid it out as a two-part
20 path, and that there's some ways I can get
21 there. For me it means CEP needs to be
22 currently valid so you can provide that
23 guidance. Roll up within your scenario
24 capability you can -- before you approve them
25 you feel like we're still on track as a state.

1 You added one somewhere, something around
2 contemporaneously you have access to the plan
3 within a rational window of time. I don't
4 know how you want to word that.

5 COMMISSIONER RECCHIA: Well I think
6 that's fine. I don't think we need to get
7 that specific yet. I'm not sure. Work north
8 to south. I don't know.

9 MR. JOHNSTONE: The only reason I think
10 that is what's going to happen when this
11 report goes over there is they are going to --
12 it's going to be pick and choose unless we're
13 really explicit. They can't be pick and
14 choose the areas where you can't pick and
15 choose or there wasn't support for a
16 recommendation if one piece is pulled out.

17 MS. SYMINGTON: That's the way you word
18 it. You can't tell the Legislature what they
19 can and can't do.

20 MR. JOHNSTONE: This would not have had
21 support but for this whole package.

22 COMMISSIONER RECCHIA: Well then the
23 data -- the regional plans need to be
24 submitted within a year following the adoption
25 of the CEP because they are going to need to

1 be updated. I mean that's how I picture
2 those.

3 MR. CAMPANY: We're on an eight-year
4 cycle.

5 COMMISSIONER RECCHIA: You're on an
6 eight-year cycle. So every 48 years.

7 MR. JOHNSTONE: And they are not
8 consistent with each other.

9 MS. EASTMAN: Here's the thing. I think
10 right now you're right, we can't fix
11 everything. What we need to say is here's
12 what a process might look like. Okay. And
13 this is what we would suggest, and then
14 somebody is going to have to figure out, you
15 know, what then needs to change.

16 So I'm hearing this -- I'm still hearing
17 this okay sort of there are two, you know, two
18 tracks here maybe.

19 COMMISSIONER RECCHIA: I'll just say I'm
20 in the camp that would like this to be one
21 package the way you described and to go as far
22 as dispositive under these conditions, but
23 I'll just say that's kind of where I am.

24 MS. MCGINNIS: And you're okay with
25 going -- just so that I understand your

1 perspective on this, I know there's many
2 around the table, you're okay with going
3 dispositive without reviewing all 11 plans?

4 COMMISSIONER RECCHIA: No. No. I
5 didn't say that. I do want them within a -- I
6 mean you can't make a region do it if they
7 don't want to. I might end up with nine. I
8 might end up with five. I want them in a
9 window of time.

10 MR. JOHNSTONE: The challenge is they
11 are on eight-year cycles and they are not on a
12 normalized eight-year cycle. The regions are
13 all over the map.

14 COMMISSIONER RECCHIA: But they update
15 them regularly, right?

16 MS. EASTMAN: This may encourage --

17 MR. JOHNSTONE: My CEP is updated
18 regionally. Depending on the region it's a
19 wide variability is what I'm saying to be
20 fair.

21 COMMISSIONER RECCHIA: If they wish to
22 do this, which again I feel like the
23 incentives are enough for them to do, and they
24 have got the resources to do it, then if they
25 want to take advantage of those resources

1 which will be a contractual relationship, then
2 we would say here's \$40,000, you know, have a
3 draft by three months from now and final by
4 six months from now that does these things and
5 that's --

6 MR. JOHNSTONE: As an update. Okay.
7 Might be able to do that.

8 MS. EASTMAN: Here's -- and I don't
9 know. This may not help. Here's where I am.
10 I think that the PSD needs to do more
11 planning, okay, and provide guidance. I think
12 they should be doing that anyway which is
13 recommendation 1. All right. And maybe this
14 throws a whole new thing into it and you don't
15 want it, but if you did that and we changed
16 the language that Louise is concerned about
17 and the Legislature said consistent with not
18 just Section 202 plan, but consistent with
19 CEP, you know, I think that a project should
20 be consistent with a CEP, but the Legislature
21 -- but the Legislature would have to make that
22 decision. The language you would have to have
23 statutory change before I think you get there.
24 So you get there --

25 COMMISSIONER RECCHIA: The argument

1 could be made it's already there for a
2 project. I mean it's pretty darn close; is in
3 compliance with the electric energy plan
4 approved by the Department under Section 202.

5 MS. MCCARREN: With all --

6 MS. SYMINGTON: Right now my
7 understanding from talking to our planning
8 division the electric energy plan and the CEP
9 are the exact same document. When we do a
10 202(f) letter underneath that we are looking
11 at the Comprehensive Energy Plan.

12 MS. EASTMAN: Okay.

13 MS. MCCARREN: I heard what you said and
14 I can't dispute that's what the Department
15 does. I find there is a broad, broad chasm
16 between an electric plan and the overall CEP.
17 Okay. And I heard what you said and I respect
18 it but I -- I --

19 COMMISSIONER RECCHIA: I understand what
20 you're saying as well, but that said, I think
21 there are statutory changes that need to be
22 made. The CEP is not the only criterion. You
23 see that one with the dashes, the type of
24 criteria it would be and statutory goals and
25 policies, you know, those would have to be in

1 there because they are statutory requirements
2 that the plans would need to be in conformance
3 with.

4 MR. JOHNSTONE: So where are you again?
5 You said Chris should continue to do more
6 planning.

7 MS. EASTMAN: What we have in
8 recommendation one, the kind of planning we've
9 talked about them doing which gives the
10 guidance to the RPCs, the stuff they need
11 anyway to do a better regional plan, right.

12 COMMISSIONER RECCHIA: Yes.

13 MS. EASTMAN: I think the regional plan
14 ought to have more than -- well now some of
15 them are great. Some of them aren't so great,
16 and you're telling me that municipal plans
17 have more specificity required by statute than
18 regional plans. So I'm with you that, you
19 know, we should have regional plans be -- have
20 some specific things that they need to have.
21 That's, you know, there.

22 Town plans obviously already have
23 requirements relative to things and they are
24 mentioned, but I am not -- I think a town plan
25 before it gets substantial consideration

1 should be whatever the language is.

2 MR. JOHNSTONE: Compatible.

3 MS. EASTMAN: I'm going to say found to
4 be approved or whatever in conformance with 24
5 V.S.A. Section 4350, whatever the language is,
6 because I think it ought to be consistent with
7 the goals because it talks about energy goals
8 and a lot of the other stuff and then I would
9 give it substantial consideration. If the
10 regional plans --

11 MS. SYMINGTON: That's in the passive
12 tense. Who is doing the finding?

13 MS. EASTMAN: The regional plan -- okay.
14 Regional --

15 MS. SYMINGTON: By the Regional Planning
16 Commission.

17 MS. EASTMAN: Found to be approved,
18 whatever, via the current process. I'm not
19 changing the process. It's --

20 MS. SYMINGTON: It's here.

21 MS. EASTMAN: It isn't. It's all these
22 three things. So what I'm saying I just
23 wanted to go through the 4350 -- 24 V.S.A.
24 4350 process, and if the region approves it,
25 then to me it can have substantial

1 consideration. I don't have a problem with
2 that.

3 MS. MCGINNIS: The Department put
4 together just over lunch some language that
5 might be helpful.

6 MR. JOHNSTONE: Can she finish? Make
7 sure --

8 MS. MCGINNIS: Sounds like what she's
9 saying --

10 MR. JOHNSTONE: I'm interested to you
11 getting all the way to the end.

12 MS. EASTMAN: No. Here's the thing. I
13 can ultimately get to dispositive, but I think
14 there's a long road. I can get to dispositive
15 there so long as we're really -- you know
16 we're really doing the work. I have no
17 problem though having something, you know,
18 that is okay we're not there yet so what do we
19 do, but for me I'm not willing to move from
20 due to substantial for a town until at least a
21 town is found there's some relationship back
22 up, and relative to a regional plan I mean I
23 wanted somebody to have looked at it that it
24 somehow, you know, I don't want it to be able
25 to just say no kind of thing.

1 MS. SYMINGTON: In order to be
2 dispositive or in order to be substantial?

3 MS. EASTMAN: Substantial. I think it's
4 got to have done --

5 MS. MCGINNIS: If you look at the
6 language they have, it sounds a lot what Jan
7 just said. Under town plans -- there's only a
8 couple copies so, Jan, can you share with
9 Scott there?

10 Under town plans first get due
11 consideration if you do nothing as is
12 currently the case. You get substantial
13 consideration if your town plan has been
14 approved by the regional commission, and we
15 can use whatever language needs to be there as
16 consistent with the energy elements of a
17 regional plan that has itself been approved by
18 the Department.

19 COMMISSIONER RECCHIA: That's the
20 modification I'm saying we don't necessarily
21 need to be there, at least that's not entirely
22 consistent with what I drew up here. I know
23 this came from my staff, but we've been having
24 this battle.

25 MS. MCGINNIS: I know.

1 COMMISSIONER RECCHIA: So the approval
2 by the PSD is not necessary.

3 MR. JOHNSTONE: She's saying that's what
4 she wants.

5 MS. EASTMAN: No. I'm not saying I want
6 approval by the PSD relative to a town plan.

7 MR. JOHNSTONE: I'm on the regional
8 plan.

9 COMMISSIONER RECCHIA: We were on the
10 town plan so let me be clear.

11 MS. MCGINNIS: I started at the very
12 last line. That's the one Jan was talking
13 about.

14 COMMISSIONER RECCHIA: I don't know why
15 you didn't know we're starting at the bottom.

16 MR. JOHNSTONE: I'll listen more
17 clearly. Sorry about that.

18 COMMISSIONER RECCHIA: The difference is
19 really subtle, but I think it's important. I
20 think that the regional plans can get
21 substantial consideration without our
22 approval, and I think the town plans can get
23 substantial consideration with regional
24 approval whether or not we have approved their
25 plan.

1 MS. EASTMAN: Me too.

2 COMMISSIONER RECCHIA: So the only thing
3 that shifts into that third column up there is
4 if we do review and approve a regional plan it
5 becomes dispositive. The town plan still
6 stays the same.

7 MS. MCGINNIS: Okay. So in this last
8 language it would be get substantial
9 consideration if had been approved by a
10 regional commission and consistent with the
11 energy elements of a regional plan period.

12 MS. EASTMAN: No. I say get substantial
13 consideration if have been approved by a
14 regional commission pursuant to 24 V.S.A.
15 Section 4350.

16 COMMISSIONER MARKOWITZ: I agree with
17 that because it's broader.

18 COMMISSIONER RECCHIA: Yes.

19 MR. JOHNSTONE: That's fine.

20 MS. EASTMAN: So it's the current
21 process that's there.

22 MR. JOHNSTONE: I can deal with that.
23 So go up to regional. I thought you wanted
24 even -- Jan, even for substantial for the
25 Department to say that it was consistent.

1 MS. EASTMAN: My concern on substantial
2 for regional plans is just, again, it's what's
3 currently, you know, required. We've got a
4 lot of different regional, you know, regional
5 plans. So -- so --

6 COMMISSIONER MARKOWITZ: Are we all in
7 agreement? I hear, you know, still a little
8 confusion, but I'm also hearing some general
9 agreement about these first two pieces getting
10 to substantial compliance.

11 MR. JOHNSTONE: Close.

12 COMMISSIONER MARKOWITZ: Are we not
13 there yet?

14 MR. JOHNSTONE: There's only one point
15 of differentiation I think, unless I misheard
16 people. One is the regions can self prove
17 that they are in compliance, and one is even
18 for substantial that the Department should say
19 they are consistent --

20 MS. EASTMAN: No. I look at what they
21 have here in regional plans get substantial
22 consideration if revised to comply with new
23 energy elements required to be, you know,
24 we're going to add, we're saying we need a
25 statutory change here that they must do

1 certain things at least. That's what I think.
2 The towns have already got that more
3 specificity from what I hear. So then I'm
4 okay with substantial. You know.

5 MR. JOHNSTONE: Okay.

6 MS. EASTMAN: But to get dispositive for
7 two --

8 COMMISSIONER MARKOWITZ: Let's just
9 stick -- let's first see if we've got
10 agreement on the substantial because if we do,
11 then let's carve off dispositive and talk
12 about that next because it can be stand alone
13 without the dispositive. Then we'll see if we
14 have enough consensus to do the add on because
15 otherwise we'll never find consensus on the
16 substantial I think.

17 MR. JOHNSTONE: What's not in here is
18 the language which is in other places under
19 planning around the region needing to make
20 room for all technologies and I agree with you
21 that's important. What I think you said
22 earlier.

23 COMMISSIONER RECCHIA: Yes. Yes, and
24 it's in there. Sometimes it's taken out.
25 Sometimes one portion is taken out and it's

1 left in other places. So it wasn't clear to
2 me whether people object to that concept or
3 whether they agree with that concept.

4 COMMISSIONER MARKOWITZ: So Gaye had
5 added some proposed language in here.

6 MS. MCCARREN: Where are you, Deb?

7 MS. MCGINNIS: On recommendation.

8 COMMISSIONER MARKOWITZ: On the
9 recommendation sheet, but in terms of finding
10 Gaye's --

11 COMMISSIONER RECCHIA: Page?

12 COMMISSIONER MARKOWITZ: 47.

13 MS. MCGINNIS: 46 is the first one where
14 she has some language and 47 is the second
15 one, and 48 is the third.

16 COMMISSIONER RECCHIA: So we're starting
17 on 46.

18 MS. EASTMAN: No. I think we're trying
19 to get it at one issue. So --

20 COMMISSIONER RECCHIA: 48.

21 MS. EASTMAN: To talk there where she
22 says no region can ban a specific technology
23 outright.

24 MR. BODETT: I like Gaye's new wording
25 that she suggesting here.

1 MS. EASTMAN: Or is the intent of the
2 Commission to provide regions the opportunity
3 to proactively indicate how they prefer to
4 contribute. However -- I like that language
5 -- however for a region to simply opt out or
6 construct a blanket prohibition against any
7 particular technologies does not constitute
8 adequate planning or meet the intent of this
9 recommendation. So if we had that added into
10 two --

11 COMMISSIONER MARKOWITZ: I like that as
12 well.

13 MR. JOHNSTONE: I like that.

14 MR. BODETT: Yes.

15 MS. EASTMAN: Then I could --

16 MR. BODETT: Does that work?

17 COMMISSIONER MARKOWITZ: That works.

18 That works for us on this side of the table.

19 MR. JOHNSTONE: Works for me.

20 COMMISSIONER RECCHIA: Does it work for
21 us on this side of the table?

22 MS. EASTMAN: It works for me, but then
23 they get substantial consideration. So we
24 need some statutory change around that kind of
25 language because we want them to have done at

1 least the kind of work the towns have.

2 MR. JOHNSTONE: I think Gaye used to be
3 a legislator or something.

4 COMMISSIONER RECCHIA: That's why I was
5 feeling badly talking about money, but yeah.

6 COMMISSIONER MARKOWITZ: So do we have
7 consensus yet on substantial?

8 MS. McCARREN: I don't support this
9 language. You know that.

10 MS. EASTMAN: You want substantial right
11 now.

12 MS. McCARREN: This weakens the
13 authority that the towns now possess.

14 MR. JOHNSTONE: No it doesn't because
15 we're only suggesting that it's linked to a
16 move to substantial which neither the town nor
17 the region have today. It weakens nothing.
18 They can have exactly what they have.

19 MS. SYMINGTON: We don't take away the
20 due consideration they currently have.

21 COMMISSIONER MARKOWITZ: Just if you
22 want something more than that --

23 MS. EASTMAN: All we did for the town
24 plan under substantial consideration, this is
25 what I just want to say, substantial

1 consideration, if the town plan's been
2 approved by a regional commission pursuant to
3 24 V.S.A. Section 4350, which that is already
4 in play in the statute and we're not
5 suggesting any changes to the statutory
6 language relative to what a town has to have
7 in their plan.

8 The only place we're suggesting some
9 statutory language is relative to the regional
10 commission plans because they don't currently
11 have the specificity relative to energy
12 components or elements that the town plan has.

13 MS. MCCARREN: Boss, can we take a
14 break?

15 MS. EASTMAN: Yes. We'll take a
16 8-minute break.

17 (Recess.)

18 MS. EASTMAN: So where are we here?

19 MR. BODETT: I think we agreed to the
20 substantial methodology to get to that.

21 MS. EASTMAN: No.

22 MS. SYMINGTON: Other than Louise.

23 MR. BODETT: Who knew.

24 MS. MCCARREN: That's fine.

25 MS. EASTMAN: So actually what I'm

1 hearing from regional planners is with respect
2 to statutory changes for them to get
3 substantial consideration of the regional plan
4 I mean they are suggesting we might want to
5 add some more language about -- that's more
6 related to the site, but so maybe what we do
7 is say that maybe we're not so, you know,
8 specific that that gets worked out, that this
9 may not be the legislative language, but I
10 think what we're saying is for a regional plan
11 to get substantial consideration we got to
12 have some statutory language added so that,
13 some stuff gets beefed up, right, but
14 we're going to give them substantial
15 consideration after they have done that
16 planning.

17 MR. JOHNSTONE: And we add Gaye's
18 language.

19 MS. EASTMAN: And we add Gaye's
20 language.

21 MS. SYMINGTON: Can I just clarify that
22 language that we added is in place of the
23 language no region can ban any technology.

24 MS. EASTMAN: Yes. That's what I
25 understood.

1 MS. SYMINGTON: We wouldn't have both.
2 Okay.

3 MR. JOHNSTONE: That's fine.

4 MS. McCARREN: Would you mind or would
5 someone read what they now think it's going to
6 read?

7 MS. EASTMAN: Well I don't know what
8 it's going to say exactly. I don't know. I'm
9 trying to just get consensus on is this what
10 the idea is so we can do some drafting.

11 MS. McCARREN: Would you summarize the
12 idea? I'm not trying to be pesky.

13 MS. EASTMAN: Okay. We're talking about
14 giving regional plans substantial
15 consideration in the 248 process if plans --
16 if plans comply with new energy elements
17 required to be in regional plans which are
18 going to have to be statutory changes.

19 MR. JOHNSTONE: We're not going to
20 define that.

21 MS. EASTMAN: I'm not going to define
22 what that is, but it's going to be the kind of
23 things that need to be in a regional plan
24 relative to energy elements, and we're going
25 to include language that a region cannot

1 simply opt out or construct a blanket
2 prohibition against any particular technology
3 in their regional plan.

4 MS. MCGINNIS: If we go down to
5 recommendation 4, which is where we talk about
6 this --

7 MS. MCCARREN: Page 48.

8 MS. MCGINNIS: Page 48, so because it
9 also was related to formal party status, I'm
10 just wondering if we can maybe work on this a
11 little bit because some of it is already
12 there. The RPCs shall have formal party
13 status upon notice to the Board and their plan
14 shall be given substantial consideration once
15 the planning work in recommendation two has
16 been completed and the revised regional plans
17 have been adopted.

18 This doesn't have anything to do with
19 approval by anybody. It's just saying that
20 they need to incorporate more elements
21 regarding energy in their plans. Okay.

22 MS. MCCARREN: Linda, this is new
23 language.

24 MR. JOHNSTONE: No. This is what's
25 right here.

1 MS. MCGINNIS: Page 48.

2 MS. EASTMAN: Recommendation 4.

3 MS. McCARREN: I'm with you.

4 MS. MCGINNIS: Compared to the one you
5 made comments on yes because these were
6 comments that were brought in from the PSD and
7 from others. So -- and that's why it's in
8 red. Anything that's new is in red. Okay.
9 So I'll read it again.

10 The RPCs shall have formal party status
11 upon notice to the Board and their plan shall
12 be given substantial consideration once the
13 planning work and recommendation number two
14 has been completed and the revised regional
15 plans have been adopted.

16 Okay. I know we have to define what the
17 planning work is in number two, but basically
18 that's with no approval by the Department or
19 anybody. It's just saying you have to have a
20 plan that incorporates energy elements more
21 specifically, and we can use some of the
22 wording that Jan said reflected in V.S.A.
23 4350.

24 MS. EASTMAN: No.

25 MS. MCGINNIS: But then the next line is

1 the RPCs shall have formal party status.

2 MS. EASTMAN: Linda, I'm sorry. I have
3 to interject here. The thing that has to
4 happen is there has to be statutory change to
5 Section 4348(A) regarding elements of a
6 regional plan before they can do this.

7 MS. MCGINNIS: And that's in
8 recommendation number two. Okay. So the very
9 first line of recommendation number two is a
10 first step is to ensure that the elements of
11 the regional plans affecting energy are
12 clearly defined in statute, and with respect
13 to a given regional plan consistent with
14 legislated energy goals and the CEP, and we
15 can change that language if we have to. This
16 will require amending the statutes governing
17 RPCs and their plans, and I named every single
18 statute that would need to be amended as a
19 result. So --

20 MS. EASTMAN: Great.

21 MS. MCCARREN: Will you tell me again
22 where you are?

23 MS. MCGINNIS: Page 46 recommendation
24 number 2.

25 MS. MCCARREN: Okay.

1 MS. EASTMAN: That's where, though, we
2 need to be sure that Gaye's language relative
3 -- and that's what we do.

4 MR. JOHNSTONE: That's the section it's
5 in. Right now it's at the end of that whole
6 section on page 48 at the very top is where
7 her language is here.

8 MS. MCGINNIS: All I'm saying I think
9 we're actually -- we have gone around a little
10 bit, but I think the language is actually
11 closer than you think.

12 MR. JOHNSTONE: For this part.

13 MS. MCGINNIS: For this part, and once
14 we get to dispositive that might be a separate
15 thing, but I want to, like Deb said, get
16 through substantial at least. So if we start
17 just to make sure everybody is okay with the
18 current language, which I think you might be,
19 so recommendation number two, page 46, RPCs
20 shall develop energy guidelines, policies, and
21 land use suitability maps as part of the
22 energy aspects of regional plans. That
23 language came directly from regional planning
24 commissions. To identify high load potential
25 areas for electric siting consistent with

1 state goals.

2 A first step, the first thing they have
3 to do, is ensure that the elements of the
4 regional plans affecting energy are clearly
5 defined in statute, which they currently are
6 not, and with respect to a given regional plan
7 are consistent with legislated energy goals
8 and the CEP. Just in terms of what components
9 should statutorily be included in a regional
10 plan. That's what that language means.

11 This will require amending the statutes
12 governing RPCs and their plans as well as
13 those governing municipal plans. Okay. And
14 then they are named. This language too comes
15 from what Jim and Chris carefully worked on to
16 ensure a clear definition of what should be
17 included in municipal and regional plans with
18 regard to energy siting and planning.

19 MS. EASTMAN: Okay. Right. So -- and
20 then --

21 MS. MCGINNIS: I just want to make sure
22 the rest of the language is okay. So the best
23 places for energy development and the
24 resources to fund their development are
25 limited. To this end identification of these

1 places, relative to the requirements of the
2 type of energy generation technology in
3 question and the potential impacts of that
4 technology, are essential for Vermont's energy
5 and land use policies to succeed. That too
6 came from the regional planning groups. Okay.

7 Now Gaye suggested some wording in here
8 and Scott suggested too some wording in here.
9 I don't know if we want to go through that or
10 we want to continue.

11 MS. EASTMAN: Here's the thing. If
12 we're just doing substantial, then I don't
13 think we take Gaye's language because we're
14 not talking about -- do we --

15 MS. SYMINGTON: Right.

16 MR. JOHNSTONE: If that's all it is.

17 COMMISSIONER MARKOWITZ: So far it's
18 just substantial.

19 MS. MCGINNIS: So far it's just
20 substantial.

21 MS. EASTMAN: So that red in the bottom
22 --

23 MS. MCGINNIS: For the time being we put
24 it to the side and decide if it needs to come
25 somewhere else.

1 MS. EASTMAN: Correct.

2 MS. MCGINNIS: So using many of the
3 tools described above.

4 MS. SYMINGTON: Where does it say they
5 get substantial.

6 MS. MCGINNIS: That's in recommendation
7 number four. This recommendation is just
8 talking about how the RPCs have to do more
9 planning.

10 MS. SYMINGTON: Okay.

11 MS. MCGINNIS: This recommendation is
12 all about RPCs and their plans including
13 energy.

14 MS. EASTMAN: Okay.

15 MR. JOHNSTONE: So right now we're
16 reviewing two from the perspective of --

17 MS. EASTMAN: Just planning what their
18 RPC plan should look like.

19 MR. JOHNSTONE: Right now from the
20 perspective of how regular substantial
21 consideration. Not dispositive. Just go
22 through it with that in mind. When we get to
23 dispositive we go back through it to see if we
24 need other stuff if we're going to
25 dispositive. Is that okay?

1 MS. MCGINNIS: Now this next paragraph
2 is more related to the dispositive paragraph
3 so we may have to shift things. So just bear
4 with me here.

5 Using many of the tools described above,
6 the Department and ANR will provide the
7 necessary guidance, training, and resources to
8 RPCs to work with municipalities to develop
9 energy elements of regional plans that reflect
10 their geographic characteristics, as well as
11 their energy generation, conservation, and
12 efficiency priorities.

13 Okay. So we're still just defining that
14 they are going to work with towns and they are
15 going to work -- they have to. By statute
16 they have to work with towns, right.

17 Once completed, the elements of regional
18 plans, I'm on the next paragraph now, okay,
19 because the part that was suggested to be
20 deleted and that's the part that deals with
21 dispositive, is to ensure consistency with the
22 state energy goals established by the PSD,
23 these goals should be included in statute with
24 other state planning goals used in municipal
25 and regional planning process. So I don't

1 know if we keep that or delete that.

2 MR. JOHNSTONE: It strikes me that the
3 top paragraph is simply good planning and is
4 useful whether it's substantial or
5 dispositive. That's just good planning
6 process, and then that second paragraph is the
7 one that, depending on what we do with
8 dispositive, it links to dispositive. That's
9 the way I read this.

10 MS. MCGINNIS: Right.

11 MR. JOHNSTONE: Do you read that the
12 same?

13 MS. MCGINNIS: The second line, not the
14 second paragraph.

15 MS. EASTMAN: Well I think we -- the
16 second -- I think that we're already confusing
17 apples and oranges here if we talk about
18 consistency with state energy goals. So I
19 think you take -- you leave the first sentence
20 there and that you take the second sentence --
21 just take it out for now. I think that's the
22 language we use later. It may be this has to
23 become a whole separate recommendation about
24 dispositive.

25 MS. MCGINNIS: Okay. That for now is

1 going to be taken out, right, because we're
2 just keeping with what should be included in a
3 good plan. Once completed --

4 MS. SYMINGTON: Are you doing the land
5 use?

6 MS. MCGINNIS: Well that's what I'm
7 getting to here and that's what we have to
8 decide.

9 Once completed the elements of regional
10 plans affecting energy, and Louise suggested
11 adding, and land use, because they are
12 integrally linked.

13 MS. MCCARREN: My point is -- I'll make
14 it one more time. The language appears to
15 take out the energy portion of both the
16 regional and municipal plans for consistency
17 and discussion. The point I've made all over
18 and over again is that there are other
19 critical pieces in both of those plans.
20 Enough said.

21 MS. EASTMAN: The whole thing here is to
22 me this stuff doesn't relate to substantial.

23 MS. MCGINNIS: Right.

24 MS. EASTMAN: It relates to dispositive.

25 MS. MCGINNIS: This next one is

1 dispositive.

2 MS. EASTMAN: Can we just skip it? I
3 want to get to the substantial.

4 MS. MCGINNIS: But I want to go through
5 it piece by piece to make sure what we get rid
6 of and what we keep.

7 MR. JOHNSTONE: Make a note there's two
8 paragraphs that say basically the same thing
9 there.

10 MS. MCGINNIS: These next two are
11 different ways of revising that one paragraph,
12 yes. So we'll skip over those for now. Okay.
13 So --

14 MS. EASTMAN: Skipping over three
15 paragraphs.

16 MS. MCGINNIS: And we get to examples,
17 and this is just providing examples of what
18 good planning with respect to siting and
19 designation would contain.

20 High potential and low potential areas.
21 The final paragraph, these high potential, low
22 potential areas may differ significantly by
23 technology, and here's where we get into the
24 language of no RPC can say no projects in the
25 region. This language would be replaced by

1 Gaye's much more elegant language.

2 MS. EASTMAN: It is the intent of the
3 Commission to provide, right.

4 MS. MCGINNIS: Which states it is the
5 intent of the Commission to provide regions
6 the opportunity to proactively indicate, et
7 cetera, et cetera. So that language would be
8 replaced.

9 MR. JOHNSTONE: You basically put a
10 period after technology is what I'm thinking
11 and then you would use Gaye's language; is
12 that right?

13 MS. MCGINNIS: Correct.

14 MR. JOHNSTONE: Is that all right?

15 MS. MCGINNIS: Yup. So all of that is
16 related to substantial. It's basically make
17 sure that every region has a decent energy
18 component of their plan with no approval by
19 anybody whatsoever. Just that it meets
20 statute. You define the statutes better and
21 you ask the regions to meet them and they get
22 substantial; is that correct?

23 COMMISSIONER MARKOWITZ: That's good.
24 Yes.

25 MS. EASTMAN: Yes.

1 MS. MCGINNIS: So the next level, and I
2 do think maybe it just needs to be broken up
3 into two separate things, is where we haven't
4 had our discussion or we've begun it is on
5 dispositive, right?

6 MS. EASTMAN: Do we want to do
7 recommendation five first?

8 MR. JOHNSTONE: Which one is that?

9 MS. EASTMAN: That's regarding municipal
10 plans.

11 MR. JOHNSTONE: Sure.

12 MS. MCGINNIS: Okay. So recommendation
13 five and this is -- this mixes the two because
14 initially that's where we were going.
15 Municipal plans found to be in conformance
16 with regional plans, and then here's the sub
17 language, that are determined by the PSD to be
18 consistent with the legislated energy goals
19 and the CEP shall be given substantial
20 consideration. This is where we were going
21 before.

22 MR. BODETT: So now we're giving
23 substantial to the regions without the PSD
24 approval. So do we still want to keep that as
25 a criteria?

1 MS. MCGINNIS: Well I think we had
2 always -- at least the way I understood it we
3 had always said regions could get substantial
4 consideration if they just did the job of
5 having a decent energy component in their
6 plan. No approval necessary. But where the
7 discussion had turned the last time was that
8 for municipalities to get substantial
9 consideration they had to be in conformance
10 with regional plans that had been approved,
11 hence, dispositive.

12 MR. BODETT: So we do need to have the
13 dispositive discussion first I think.

14 MS. EASTMAN: Well I don't think so.

15 MR. JOHNSTONE: I don't think so either.

16 MS. EASTMAN: I don't think so. I'm
17 happy to have this language changed that, as I
18 say, I don't want it just to be compatible or
19 in conformance with the regional plan. I want
20 it to be the 4350 process that talks not only
21 about the plan, but it talks about goals that
22 are already established in Section 4302 of
23 Title 24. So that -- and maybe we want -- or
24 maybe we want to say the same thing here, that
25 perhaps we need to have some legislative

1 additional specificity in the 4302 either
2 goals relative to energy for the communities
3 so that -- so like we did with the regional in
4 recommendation two, you know, beef up their
5 stuff, but not have it -- but not have to wait
6 until the Public Service Department finds a
7 regional plan consistent with a CEP.

8 MR. BODETT: So can we just -- can we
9 freight that same language, where you cite the
10 statutes that may have to be amended, over to
11 here?

12 MS. MCGINNIS: So say municipal plans
13 found to be in conformance with regional plans
14 that are -- and we don't go to the that are --
15 just municipal plans found to be in
16 conformance with regional plans subject to
17 Section 24.

18 MS. EASTMAN: No. Can I say -- this is
19 what I want to keep saying. It's not in
20 conformance with. The statute requires a
21 review and an approval process pursuant to
22 Section 4350 and it goes beyond the
23 relationship with the regional plan.

24 It also talks about consistency with the
25 goals in 4302, and I think that's good

1 language to keep. Just use the 4350 process,
2 but what we might do is change the -- have
3 more specificity in the goals.

4 MR. JOHNSTONE: Right. So review and
5 approval per 4350. Is what you're really
6 asking for?

7 MS. EASTMAN: Yes.

8 MS. MCGINNIS: Say it again.

9 COMMISSIONER MARKOWITZ: Review and
10 approval pursuant to 24 V.S.A.

11 MS. MCGINNIS: So municipal.

12 MR. COSTER: Municipal plan is reviewed
13 and approved.

14 MS. EASTMAN: In accordance with Section
15 4350.

16 COMMISSIONER MARKOWITZ: Of Title 24.

17 MS. EASTMAN: 24, 4350.

18 MR. JOHNSTONE: Shall be given
19 substantial consideration.

20 COMMISSIONER MARKOWITZ: Shall be given
21 substantial consideration, and as a reminder
22 it's because many, many municipal plans never
23 really get approved. They don't have to.

24 MR. JOHNSTONE: That's right, and it
25 doesn't mean they are dispositive. It means

1 they are Black's definition of substantial
2 consideration.

3 MS. SYMINGTON: Don't want to go through
4 all that. They still have their due.

5 MS. MCGINNIS: We also would need to
6 include, at least I'm trying to understand,
7 that if they are reviewed and approved in
8 accordance with V.S.A. 24 Section 4350
9 together with the updated plans that we just
10 talked about in recommendation number 2,
11 right?

12 COMMISSIONER MARKOWITZ: We have
13 separated that at the moment. So the real
14 question is do we only apply this in cases
15 where the regional plan has been approved or
16 do we want this to apply in any event?

17 MS. SYMINGTON: We want it to apply in
18 any event.

19 MR. JOHNSTONE: We're not approving the
20 regional plans at least for substantial
21 consideration. So you can't link them.

22 MS. EASTMAN: What Linda is asking us do
23 we want to wait and give them substantial
24 consideration after the regional plan has gone
25 through this new process.

1 COMMISSIONER MARKOWITZ: We should
2 figure that out.

3 MS. EASTMAN: So that the regional plan
4 has gone through the new process and has been
5 updated and then the town plan can be -- it's
6 both compared with the regional plan and it's
7 consistent with state goals.

8 MS. MCGINNIS: How about on
9 recommendation number five once the regional
10 plans have been updated municipal plans
11 reviewed and approved in accordance blah blah
12 shall be granted substantial consideration.
13 Does that sound okay?

14 MR. JOHNSTONE: Consistent with
15 recommendation number two.

16 MS. MCGINNIS: Consistent with
17 recommendation number two.

18 COMMISSIONER MARKOWITZ: I'm comfortable
19 with that.

20 MS. EASTMAN: I'm good with that.

21 MR. JOHNSTONE: That's fine. I like
22 that. Regions are doing their good planning
23 and they have gotten through that process so
24 now they get substantial, and any town that's
25 meeting 24 V.S.A. 4350 can also rise to

1 substantial.

2 MS. MCGINNIS: Okay. Now, in addition,
3 under that if we're going to be doing that,
4 will we need to have any amendments of the
5 statutes governing municipalities to be able
6 to do that or not?

7 COMMISSIONER MARKOWITZ: No. We don't
8 need any amendment.

9 MR. JOHNSTONE: I don't believe so.

10 MS. MCGINNIS: Okay.

11 MS. EASTMAN: I don't think so. I'm
12 willing to do this.

13 MR. JOHNSTONE: Yup. Me too.

14 COMMISSIONER MARKOWITZ: How about you
15 guys on my side?

16 MR. BODETT: I'm good with this.

17 COMMISSIONER RECCHIA: I'll check with
18 my end of the table.

19 MS. GRACE: If I'm your end of the table
20 --

21 MS. MCGINNIS: So basically we're
22 focusing just on substantial consideration and
23 all that's needed for substantial
24 consideration is all regions update their
25 plans to have a decent energy component or

1 aspects of their plan that focus on energy,
2 and, number two, that towns that are using
3 this number two that towns -- once those have
4 been done towns plans that are reviewed and
5 approved in accordance with these statutes
6 will be given substantial consideration.

7 MS. EASTMAN: Of course it's not all
8 regions. It's just -- it's done region by
9 region.

10 MS. MCGINNIS: Right.

11 MS. SYMINGTON: Do we need to add any
12 statement saying that it's not our intent to
13 change -- they can currently keep their due
14 consideration if they do nothing. Do we need
15 to say that?

16 MS. EASTMAN: We now need to read
17 through this, but right.

18 COMMISSIONER MARKOWITZ: So if we can
19 just make sure.

20 COMMISSIONER RECCHIA: Should I wait
21 until she says what it is before I say I'm
22 good with it. Okay.

23 COMMISSIONER MARKOWITZ: She's good with
24 it.

25 MR. JOHNSTONE: I think it's worth just

1 noting that a town that chooses not to follow
2 that 4350 will retain its right to due
3 consideration. Whatever the right language.
4 I think that's perfectly reasonable to state.

5 MS. SYMINGTON: Just to clarify they are
6 not going backwards relative --

7 MR. JOHNSTONE: No one is taking
8 anything away.

9 MS. McCARREN: I am okay with -- when I
10 use the term a town plan getting substantial
11 consideration I have in mind a plan that has
12 been properly voted on, right, and I'm totally
13 fine with it and it has to be properly
14 adopted. I'm even willing to say -- magic
15 words somebody -- compatible with the regional
16 plan.

17 Where I can't go with you guys -- I'm
18 okay with that, but I don't think -- but what
19 I can't get to is that the governing
20 overriding controlling document will be the
21 CEP or that --

22 COMMISSIONER MARKOWITZ: We haven't gone
23 there yet.

24 MS. McCARREN: I know, but I'm just
25 laying this out for you, or that there will be

1 some yet undetermined, right, some yet
2 undetermined changes in the statute with
3 respect to energy not now named.

4 COMMISSIONER RECCHIA: Right. So can I
5 just --

6 MS. EASTMAN: Let me just run it. The
7 only place we're talking about making changes
8 right now in statute is relative to regional
9 plans, having them be sure there's stuff in
10 there. We're not right now saying any changes
11 to municipal statutes. We're saying -- but we
12 are saying, you know, municipal plan that's
13 adopted and is reviewed, you know, and so
14 found to be compatible with a regional plan,
15 and then consistent with the goals already in
16 4302.

17 MS. MCGINNIS: Now Louise's issue comes
18 on the previous page on page 46, and it's the
19 first line which I think is where a separate
20 opinion may be necessary, and that's that a
21 first step is to ensure that elements of the
22 regional plans affecting energy are clearly
23 defined in statute, and with respect to a
24 given regional plan are consistent with
25 legislated energy goals and the CEP. That's

1 the part where you're having a problem.

2 MR. JOHNSTONE: That's on the regions
3 not the towns?

4 MS. MCGINNIS: Correct.

5 MS. MCCARREN: I also, with all due
6 respect to Gaye, I think saying that a town
7 can offer up other things, say okay I don't
8 want any of those funny light bulbs, here is
9 -- let me just say this to you.

10 Let's say a small Northeast Kingdom
11 town, which has an entire town load of one
12 megawatt, right, says no ridgeline wind and
13 that ridgeline wind would have been 50
14 megawatts. How in the hell can they make up
15 50 megawatts? The answer is they can't.

16 COMMISSIONER RECCHIA: They shouldn't
17 have to.

18 MS. MCCARREN: Well see that's --

19 COMMISSIONER RECCHIA: That's not --
20 that isn't the analysis they would need to go
21 to.

22 MS. MCCARREN: With all due respect I
23 understand what you're saying, Gaye, but what
24 we have just done is create this overlay of
25 administrative review of just what towns are

1 supposed to do without really knowing --

2 COMMISSIONER RECCHIA: Let's stop. Just
3 before we get there can I just say I heard you
4 say before I got up and came over here,
5 because this is I was thinking, I felt like
6 you were to this point. You're good with
7 this, with where we are in this area.

8 MS. McCARREN: I think any town plan
9 that gets substantial consideration must be a
10 town plan that has been duly adopted, and I
11 would also go so far as to say determine that
12 it was compatible with the regional plan, but
13 -- and I'm fine with that, but I would not
14 change -- I can't support changing a regional
15 plan that has to quote be in conformance with
16 the CEP.

17 COMMISSIONER RECCHIA: I just wanted to
18 make sure.

19 MS. MCGINNIS: And that's where I think
20 I said a separate opinion is necessary.

21 COMMISSIONER MARKOWITZ: That can be a
22 separate opinion as well.

23 COMMISSIONER RECCHIA: That makes sense.

24 MS. McCARREN: What I was trying to say
25 I don't advocate just any municipal plan

1 thrown together, right?

2 MR. JOHNSTONE: That's helpful.

3 MS. EASTMAN: So that's good. We've
4 narrowed down the area of disagreement.

5 MR. JOHNSTONE: And on your point, Gaye,
6 under recommendation 5 that first -- the
7 second sentence in the black text says exactly
8 what you want about due consideration being
9 retained. So it's already in here for towns.
10 I found it.

11 MS. MCGINNIS: Say that again.

12 MR. JOHNSTONE: She was asking we add
13 language to retain due consideration and it's
14 already in there.

15 MS. MCGINNIS: Okay. I thought I had it
16 in there.

17 MR. BODETT: Continue to apply. Yeah.
18 I see it.

19 MR. JOHNSTONE: Okay.

20 MS. MCCARREN: All right. I think just
21 so we are all kind of got our heads screwed on
22 right on this, once we create a new category
23 of substantial compliance, you know, due
24 consideration doesn't really have any meaning
25 that's going to be a reality, and I guess my

1 only question to you all would be to just give
2 a little thought, and I think I'm okay here,
3 which is one of the things we're trying to do,
4 I think we have agreement on, is to right now
5 try to -- right now the Department -- the
6 Public Service Board has preemptive power over
7 state plans in essence by determining the
8 overall public good issue. We are, I believe,
9 trying to raise up the weight given to
10 properly develop and approve municipal and
11 regional plans.

12 Where we have a little disconnect is I
13 say municipal, you guys only want regional,
14 but we're --

15 MR. JOHNSTONE: We're all saying that.
16 That's why we're going to substantial.

17 MS. McCARREN: Okay.

18 MR. JOHNSTONE: I think we're almost --
19 the difference on municipal is very slight.
20 Still meaningful because we're not quite there
21 with each other, but it's really slight I
22 think. We're further apart on regional and
23 that's fine.

24 MS. EASTMAN: So can we do the language
25 then for recommendation five?

1 MS. MCGINNIS: What I have now --

2 MS. EASTMAN: I think we start with
3 current 30 V.S.A. I think you go currently 30
4 V.S.A. requires and this would continue to
5 apply to municipalities that have not been
6 approved according to 24 V.S.A. Section 4350
7 period. Okay. Then -- then have something
8 like however, I don't know, and then we just
9 in order to assist towns in developing
10 municipal plans.

11 MR. JOHNSTONE: We left it in two so why
12 not here?

13 MS. EASTMAN: Guidelines for what
14 constitutes.

15 MR. JOHNSTONE: I think it's good to
16 keep the need for that assistance in the body
17 of this thing personally.

18 MS. EASTMAN: The reason I ask this,
19 though, do we want to change -- PSD suggests
20 adding language from the statute. Do we want
21 to change the statutory language here where it
22 talks about the recommendations and just a
23 portion of the plan or do we want to be more
24 specific?

25 Right now by practice I understand they

1 consider town plans. I don't think this
2 language in the statute is very clear.

3 COMMISSIONER RECCHIA: I was told to say
4 yes, but I don't know what the question is.

5 MS. GRACE: That's why I said to say
6 yes.

7 COMMISSIONER RECCHIA: Can you go back
8 to the question again?

9 MS. EASTMAN: I guess we talk about town
10 plans and approval of town plans and I'll give
11 up on this, but as I read --

12 MS. MCCARREN: Where are you?

13 MS. EASTMAN: I am on page 49
14 recommendation five very top of the page.

15 COMMISSIONER MARKOWITZ: In order to
16 assist.

17 MS. EASTMAN: I'm fine with that. What
18 I would add is this issue of currently 30
19 V.S.A. requires that the PSB find this, the
20 facility dah dah dah, and what it refers to
21 are recommendations and land conservation
22 measures contained in a plan of a
23 municipality. It doesn't refer to the plan.

24 COMMISSIONER RECCHIA: Correct. This is
25 just to indicate existing -- the existing

1 statute.

2 MS. EASTMAN: So do we think we should
3 change the language and make it clearer that
4 we mean the plans?

5 MS. MCGINNIS: That's what I wonder too.

6 MS. GRACE: Well you could have just
7 said yes. You didn't have to go through all
8 this.

9 COMMISSIONER RECCHIA: Okay. I think
10 one of the statutory changes I would want to
11 see too is a change to this language.

12 COMMISSIONER MARKOWITZ: That's a long
13 way of saying yes.

14 MS. MCGINNIS: Should it be currently?
15 What PSD put in there is just currently V.S.A.
16 states this. Should we add something that it
17 should be modified to?

18 MS. SYMINGTON: My only reason for
19 adding this language is because currently 30
20 V.S.A. 248 requires that the PSB give due
21 consideration to town plans. I just thought
22 that you would want to be very accurate that
23 what 248 does is. So I added that language so
24 that you could put that in there. That is
25 what's currently happening.

1 MS. MCGINNIS: My question is, is that
2 based on that language -- do you want to say
3 something here that would modify that
4 language?

5 COMMISSIONER RECCHIA: Well I think if
6 you include this sentence, you've got to
7 include a sentence afterwards saying and the
8 Commission recommends that this language be
9 changed to be consistent with what we're
10 saying we want to have happen.

11 COMMISSIONER MARKOWITZ: Which we should
12 articulate at some point. Notice I did not.

13 MR. JOHNSTONE: We're getting there.

14 COMMISSIONER RECCHIA: Okay. So --

15 MS. EASTMAN: I believe that we -- I
16 understand what the practice is before the
17 Public Service Board. I still don't think
18 this language is clear, and so I mean if we
19 want town plans to have the kind of even due
20 consideration and we want the plan to have the
21 consideration and not just the measures
22 contained -- the land conservation measures,
23 then I think we should say that, and I think
24 it's only from the town and regional plans
25 that we really get at the cultural issues and

1 all those other things.

2 So I think we should recommend that the
3 statute be amended to clarify that we want due
4 consideration or substantial consideration
5 given to a municipal plan or a regional plan,
6 not just a portion of it.

7 COMMISSIONER RECCHIA: Correct.

8 Correct. I agree.

9 MR. JOHNSTONE: Make that change.
10 Onward.

11 COMMISSIONER MARKOWITZ: Let Linda
12 finish writing.

13 MS. EASTMAN: And I know they do that
14 now but --

15 MR. JOHNSTONE: You got that, Linda?

16 MS. MCGINNIS: The Commission recommends
17 that the language in this statute be amended
18 to clarify that a town plan needs to be given
19 either due or substantial consideration as per
20 above. Not just a portion of it. Something
21 along those lines. Excuse me, a regional
22 plan.

23 MS. EASTMAN: Town and regional. It's
24 both here.

25 MS. MCGINNIS: Okay.

1 MS. EASTMAN: So then we get to the next
2 paragraph.

3 COMMISSIONER MARKOWITZ: And so this is
4 where Gaye's language I think makes sense.

5 MS. MCGINNIS: Okay. This would be with
6 respect to towns, however, as opposed to
7 regions, right, municipalities?

8 COMMISSIONER MARKOWITZ: Yes.

9 MS. MCGINNIS: Because I can't use the
10 word town.

11 MR. JOHNSTONE: That's fine.

12 MS. MCGINNIS: It is the intent of the
13 Commission to provide municipalities the
14 opportunity to proactively indicate how they
15 prefer to contribute to meeting state goals.
16 We have not mentioned state goals any more
17 because we eliminated all mention of state
18 goals in this conversation.

19 MS. EASTMAN: Except may I say that in
20 -- relative to municipal plans already they
21 are required to -- if you want to be approved,
22 you're supposed to be consistent with state
23 goals already set forth in 4302. So for
24 municipal plans there are already state goals
25 established in 4302.

1 MS. MCGINNIS: All right. For a
2 municipality to simply opt out, et cetera, et
3 cetera.

4 MR. JOHNSTONE: Yes. Great language.

5 MS. MCGINNIS: It is. It's nice.

6 COMMISSIONER MARKOWITZ: Now is the
7 moment to talk about dispositive.

8 MS. EASTMAN: Can I just say are we --
9 so let me just -- I know I want to move on
10 here too, but for me we didn't talk about
11 recommendation one, but we're sort of leaving
12 that there because we still want this state
13 road map, don't we?

14 COMMISSIONER MARKOWITZ: Yes.

15 MR. JOHNSTONE: Where are you now?

16 MS. EASTMAN: Recommendation number one
17 which we haven't talked about. We still want
18 that road map. Louise has concerns about
19 this, but we think there ought to be a road
20 map with scenarios and all that from the
21 state.

22 MS. MCCARREN: I totally support
23 scenarios. That's different than determining.

24 COMMISSIONER RECCHIA: I get it.

25 MS. MCGINNIS: I changed the word

1 determined to recommend and --

2 MS. McCARREN: I don't support that, but
3 I totally agree that you should.

4 COMMISSIONER MARKOWITZ: Okay.

5 MS. EASTMAN: All right. So now can I
6 just -- so to me that means --

7 MR. JOHNSTONE: We're down to
8 dispositive.

9 MS. EASTMAN: In planning so we're down
10 to --

11 MS. SYMINGTON: I have a ditty. Would
12 you like a break?

13 MS. EASTMAN: Go ahead.

14 MS. SYMINGTON: You say compliance. I
15 say consistent. You say conformance. I say
16 compatible. Compliant, consistent, compatible
17 confirmation, let's call the whole thing off.

18 (Laughter.)

19 MS. EASTMAN: Very good. So now that's
20 where we are on substantial versus due and all
21 of that, and Louise has some difference of
22 opinion on a few of the pieces.

23 MS. McCARREN: I do.

24 MS. EASTMAN: Okay. But the rest of us
25 are sort of there. Okay. Now I think if we

1 go to the dispositive route I think we have a
2 whole other recommendation so it just doesn't
3 confuse things.

4 MR. JOHNSTONE: Yup. I agree.

5 MS. EASTMAN: And we put it in where it
6 ought to go. Something to the effect -- we
7 can have a recommendation that says we
8 recommend in order for a regional plan to be
9 -- to become dispositive before the Public
10 Service Board relative to whatever, you know,
11 a regional plan would have to be found
12 consistent with the CEP and statutory goals.
13 I know you're not there.

14 MS. MCCARREN: Can I ask a clarifying
15 question? It's really for the regional
16 planner here.

17 When you do an actual regional plan it's
18 not just a compilation. You just don't staple
19 together all the town plans, right?

20 MR. SULLIVAN: We don't, no. I don't
21 think most regional planners do.

22 MS. MCCARREN: That was not a trick
23 question. What I was trying to get at was if
24 you have one town, one town that has a very
25 different way of looking at energy planning

1 and energy than another town, do you just
2 recognize both of them and allow both of them
3 to live side by side or do you require
4 mediation and it was just one rolled up?

5 MR. SULLIVAN: Ordinarily we would
6 definitely try to go through a process where
7 we would work those things out so that the
8 conflict didn't exist going forward. You know
9 in our region we don't really have any of
10 those glaring conflicts right now. You know
11 probably the biggest place where they would
12 exist right now would be in the land use
13 sections of our plans, and we don't really
14 have those. So we haven't really had that
15 kind of controversy.

16 I suspect very strongly that in this
17 energy planning element that situation may
18 very well arise in more than one region.

19 MS. MCCARREN: But the point I was
20 trying to make, and I know we have to move on,
21 but if they had different choices, one said I
22 don't want any solar, another said I don't
23 want any wind, and the third said I don't want
24 any light bulbs, they could -- they are not
25 necessarily inconsistent with each other.

1 Could you allow that kind of diversity?

2 MR. SULLIVAN: I think we would
3 definitely allow that kind of diversity as
4 long as it comports okay with the overall
5 regional plan context. I think it's entirely
6 reasonable that town A not provide for spiral
7 lightbulbs as long as somewhere in the region
8 it is considered and it is consistent with the
9 regional plan.

10 MS. SYMINGTON: Some of the issues are
11 not really that people want to have control
12 within their borders. They want to be able to
13 have a say in what they are looking at, not
14 necessarily just what they -- where they live.

15 MR. SULLIVAN: In our region as far as
16 the wind issue goes that's absolutely the
17 case. The last significant wind project we
18 had proposed in Bennington County really the
19 town where the project was proposed was
20 generally okay with it, and it was an adjacent
21 municipality that was very much opposed to it
22 because they didn't like the look of it. So I
23 mean that's going to come up. There's no
24 question about it. That's something we have
25 to work with towns to get through.

1 MS. MCGINNIS: Back to the question of
2 dispositive. There's language in
3 recommendation number one that we put aside
4 and Gaye had some --

5 MR. JOHNSTONE: In one or two?

6 MS. MCGINNIS: Recommendation number
7 two. Excuse me. Recommendation number two on
8 page 47.

9 MR. JOHNSTONE: And 46.

10 MS. MCGINNIS: No. We didn't take out
11 any language.

12 MR. JOHNSTONE: Yes. Gaye's note.

13 MS. MCGINNIS: Gaye has some language,
14 the third paragraph in red on page 47, that I
15 think is really nice language, and I'm not
16 quite sure in our discussion of dispositive or
17 even outside of our discussion of dispositive
18 where we should put it, and that's the notion
19 if the Department is going to actually carry
20 out this planning and if it's going to make
21 any difference at all, it has to be done in
22 such a way that there's this back and forth
23 with RPCs, and so Gaye's language is this:

24 Once completed, the energy sections of
25 the regional plans will be reviewed by the

1 Department to determine whether in aggregate
2 they provide for reliable cost effective
3 energy generation in ways that meet the
4 state's goals. Something that kind of has to
5 be done if you're going to have any cojones to
6 the plan to begin with. So this is the third
7 paragraph.

8 COMMISSIONER MARKOWITZ: Is that Arabic.

9 MS. MCGINNIS: You should know cojones.

10 (Laughter.)

11 MS. EASTMAN: Stop. Okay. We just have

12 --

13 MS. MCGINNIS: The third paragraph it's
14 an important paragraph and meets -- and needs
15 some consideration. If the energy plans do
16 not meet these goals in the aggregate, the
17 Department should provide guidance for ways to
18 adjust the regional plans to bring them into
19 compliance with state goals, and that means
20 legislated targets.

21 If a region does not adjust the energy
22 component of a plan in a manner that brings it
23 into compliance, the plan will have a lesser
24 degree of standing as the PSB considers
25 dockets in the region in question. I kind of

1 think that's an important paragraph.

2 COMMISSIONER RECCHIA: It is. I have a
3 couple of -- I'll just throw these issues out
4 and then I think it's easily resolved in the
5 language, but conceptually I'm on board with
6 this. The concern is that there won't be just
7 energy sections of a plan. There needs to be
8 energy elements of a regional plan, and the
9 second sentence says cost effective energy
10 generation in a way that meets state goals,
11 which means we're talking about electrical
12 generation, and I would -- my preference would
13 be that we talk about energy because the whole
14 plan's energy, but I'm receptive to just
15 considering electrical in this context because
16 we're talking about what goes before the
17 Public Service Board, and the only thing
18 that's going to go before the Public Service
19 Board is electrical generation.

20 So I don't feel the need to nitpick
21 about that. I just want to make the point I
22 don't think a regional plan is not in one
23 section and it's not only about electrical
24 energy.

25 MR. JOHNSTONE: So in the context of

1 dispositive this will go way further than you
2 want to go, let me say it for you, this is
3 required -- the word compliance is in here so
4 -- of state goals and you need to have access
5 to all the information to determine that, and
6 you're saying electric alone is enough there,
7 which is fine, and if you can't make that
8 determination, then none of them can kind of
9 get there.

10 MS. EASTMAN: But I -- can I -- wait a
11 second. I think you've got to look at the
12 plans against all the energy -- all energy.

13 COMMISSIONER RECCHIA: I agree.

14 MR. BODETT: I think you do because I
15 think efficiency needs to be in there as well.
16 We discussed that.

17 MS. EASTMAN: And I think that's going
18 to give more leeway to towns and regions --
19 we're going to give them more possibilities.

20 COMMISSIONER RECCHIA: Right.

21 MR. JOHNSTONE: Are you against changing
22 to electric?

23 COMMISSIONER RECCHIA: Right, and I
24 would be happier if it wasn't limited to
25 electric, but in this context about how the --

1 what level of weight the plan is going to be
2 given before the PSB, electric is what's
3 relevant, although if we're going with
4 dispositive in my approval, my Department's
5 approval, it would be -- it would cover the
6 whole plan and it will look at all the
7 sections that relate to energy whether or not
8 they are in a section called energy.

9 MS. MCGINNIS: So my question here is I
10 think that this is directly related to the
11 dispositive discussion, but it's also related
12 to just planning in general, right? That it
13 makes sense that whatever the regions do come
14 back to the Department --

15 COMMISSIONER RECCHIA: Right.

16 MS. MCGINNIS: Whether you have
17 dispositive or not, right?

18 COMMISSIONER RECCHIA: Yup. Yup.

19 MS. MCGINNIS: And you decide in some
20 way, whether it's meeting the state targets,
21 the legislative targets.

22 MR. JOHNSTONE: That's part of scenario
23 planning in number one, which is just your
24 good and thoughtful planning process and the
25 iterations that you do, the Department does

1 with the region. That's where I think --

2 COMMISSIONER RECCHIA: This is the last
3 thing I'll say on this and then I'll be quiet
4 and listen to other people, but the last point
5 is right now it's suggesting this be instead
6 of the other language and I think it needs to
7 be in addition to the other language.

8 It could be interpreted, if this were
9 the only language here, I approve the plans in
10 aggregate. I don't approve them individually
11 and ultimately I have to consider them in
12 aggregate. They need to be proved
13 individually in order to have weight one way
14 or another.

15 MS. EASTMAN: I agree.

16 MS. MCGINNIS: So my question here is
17 just in terms of how to write it, we had taken
18 out everything after the first three lines of
19 page 47. The first three lines. So that
20 first sentence, using many tools described
21 above, right, we kept that in, but everything
22 below that --

23 MR. JOHNSTONE: This is a whole new
24 section.

25 MS. MCGINNIS: Right. So I'm just

1 wondering if any of this language in here
2 needs to be kept in number one or you're
3 comfortable with all of it going out because
4 number one was all about the Department
5 planning effort, right?

6 COMMISSIONER RECCHIA: I feel like that
7 second paragraph on page 47 needs to stay in.

8 MS. McCARREN: Once completed, that
9 paragraph?

10 COMMISSIONER RECCHIA: Yes.

11 MR. JOHNSTONE: That goes with
12 dispositive as well. That's another section.

13 MS. SYMINGTON: Now we're talking about
14 a new recommendation three, right. So when
15 you say stay in, stay in that new section
16 three.

17 COMMISSIONER RECCHIA: Yes. I don't
18 care where it goes.

19 MS. SYMINGTON: Not stay in
20 recommendation two.

21 MR. JOHNSTONE: Think about it this way,
22 Linda. Just as building block one is the
23 broad macro planning process, two is the first
24 step above due to substantial, and if you want
25 to build beyond that, then we're creating a

1 new section for dispositive for the region.
2 So you will have had to do everything in
3 number two to get to number three.

4 So having the tools and the assistance
5 and all that you never get to dispositive if
6 you didn't get through two which is
7 substantial. So you've already been through
8 that process. So, therefore, I don't think we
9 need to repeat it necessarily, but push back
10 because I hear what you're saying.

11 MS. MCGINNIS: I'm trying to think of
12 the logic of how this moves, right. So if you
13 do this first part that we discussed in
14 recommendation number 2, then you get
15 substantial.

16 So recommendation number 3 would
17 probably be substantial. What recommendation
18 number 4 currently says, so the RPCs shall
19 have formal party status and their plans shall
20 be given substantial consideration once this
21 planning effort is completed.

22 MS. MCCARREN: You are on four, my dear.

23 MS. MCGINNIS: That's where I am, but
24 I'm suggesting that that follow. It's
25 confusing this first half of number two that

1 we said is just substantial substantial,
2 right?

3 COMMISSIONER MARKOWITZ: Right.

4 MR. JOHNSTONE: So I think maybe --

5 MS. MCGINNIS: I'm saying if you do this
6 minimal amount of planning, then you get
7 substantial at regional, which would then mean
8 the next recommendation would be at municipal
9 you also get substantial, and then the next
10 round is if you go further and the Department
11 approves, then you get dispositive.

12 COMMISSIONER MARKOWITZ: New
13 recommendation like six or five.

14 MS. MCGINNIS: Right. That's what I'm
15 trying to figure out.

16 MR. JOHNSTONE: Think about organizing
17 2A -- 2A and 2B. 2A is the level of effort to
18 get a region to substantial, and 2B is the
19 additional level planning to get to
20 dispositive.

21 COMMISSIONER RECCHIA: It will be easier
22 for you to keep all the regional planning
23 discussion together than to split them up.

24 MR. JOHNSTONE: Four is substantial and
25 five is dispositive and make municipal six

1 because it's different. Everything until you
2 get to municipal is about the regions, right.
3 So I would have that be last still.

4 MS. MCGINNIS: Except the municipal is
5 integrally linked to the regions.

6 MR. JOHNSTONE: I hear you.

7 MR. BODETT: After the fact. Yeah, I
8 think that works, doesn't it? Still keeping
9 municipality because it just refers back to
10 the dispositive.

11 MS. MCCARREN: I thought I heard you all
12 say earlier that you -- that a municipal plan
13 could not ever get dispositive.

14 COMMISSIONER MARKOWITZ: That's right.
15 We're --

16 MS. MCCARREN: You're still there.

17 COMMISSIONER MARKOWITZ: We're still
18 there.

19 MS. MCCARREN: When you're talking about
20 dispositive --

21 MS. MCGINNIS: Regional plans.

22 MS. MCCARREN: My response to that was
23 it's all going to feed downhill -- excuse the
24 analogy -- downhill anyway because even when
25 the regional plans change to do what you want

1 to do, even for a town to get substantial
2 compliance they are going to have to be
3 determined compatible, true?

4 COMMISSIONER RECCHIA: Yup.

5 COMMISSIONER MARKOWITZ: True.

6 MR. JOHNSTONE: So the one point I have
7 some disagreement with you on, Chris, is I
8 think there's a -- I hear the desire to go RPC
9 by RPC, and I think there's an appropriate
10 level which you need to be able to make a
11 determination in aggregate.

12 COMMISSIONER RECCHIA: I agree with both
13 of those things too. I just don't think this
14 says that.

15 MR. JOHNSTONE: I want to make sure we
16 capture both. I think you need to -- for me,
17 whoever is in your position needs to be able
18 to say the combination of RPC plans that we've
19 got allow us to make progress towards the
20 state's goals, and once you get to that then
21 you can determine RPC by RPC whether they meet
22 the test. I think there's a but for there.

23 COMMISSIONER RECCHIA: I agree with
24 that. I just didn't think that said that.

25 MR. JOHNSTONE: I thought I heard you

1 say something else, but I wanted to make sure.

2 COMMISSIONER RECCHIA: No. I'm good.

3 MR. JOHNSTONE: Did you get that?

4 MS. MCGINNIS: This is where I get
5 worried because every time we have gone around
6 and around on number two and number three and
7 number five every single time and every time
8 we rewrite it, and anyway I will give it a
9 fair shot.

10 MS. MCCARREN: There is a message for
11 that in all of you.

12 MR. JOHNSTONE: I actually think Gaye's
13 language says exactly what I just said. It
14 says it in the negative. It says what happens
15 if you don't comply as opposed to if for those
16 regions that once that determination is made.
17 The positive way to say it is once the
18 aggregate decision is made, then those regions
19 that are found to be in compliance may rise to
20 the level of dispositive.

21 MS. MCGINNIS: Well the positive
22 language is in recommendation number four, the
23 second half, right?

24 MR. JOHNSTONE: Yes. I think Gaye's
25 language actually says that but for that I

1 just said. I'm trying to say it differently
2 to see if we're all saying the same thing.

3 COMMISSIONER RECCHIA: I think we are,
4 but at the risk of saying it a different way
5 and have you guys say no that's not what I
6 meant, so these -- all these plans need to be
7 considered in the aggregate. They need to
8 assess -- the Department needs to assess
9 whether these meet the goals, statutory
10 guidelines or not, but each regional plan is
11 approved separately after that analysis is
12 done.

13 MR. JOHNSTONE: Of course.

14 COMMISSIONER RECCHIA: Each regional
15 plan can be approved separately and then
16 becomes dispositive. I don't need them all to
17 be to that level of dispositive before I
18 approve them.

19 MR. JOHNSTONE: You may have four that
20 don't want to get to dispositive, and as long
21 as in aggregate you can say that the sum of
22 the 11 is getting us within the scenario
23 planning down the path, the other seven can
24 get dispositive at that point in my way of
25 thinking. I don't know if that works for you.

1 COMMISSIONER MARKOWITZ: So then the
2 question is do we want to suggest legislation,
3 that there's legislation that requires RPCs to
4 submit their plans, because otherwise you'll
5 have some really -- some regions that are
6 really interested and motivated and there are
7 others that aren't and they could spoil the
8 works. What if you end up with only four or
9 five?

10 MS. EASTMAN: I think we should require
11 legislation that they shall, you know, if we
12 want to get --

13 COMMISSIONER MARKOWITZ: They are
14 already becoming more specific. So we are
15 already requiring language with respect to the
16 criteria. So maybe as part of that
17 suggestion, you know, that in addition they
18 should be submitted -- they must be submitted
19 to the --

20 COMMISSIONER RECCHIA: Yes because I'll
21 need a time frame for that as well.

22 MR. JOHNSTONE: And potentially step on
23 a sacred cow. I don't know how you're ever
24 going to get there if we don't recommend
25 legislation that suggests that the timing of

1 the CEP and the updates to regional plans get
2 somewhat in sync. They don't have to be on
3 the same day, but I think, you know, if we
4 have six years and eight years and they are
5 all in different times within that eight-year
6 period, there's no way you ever get to this
7 determination.

8 COMMISSIONER RECCHIA: Except for that
9 -- okay. So, first of all, let me preface
10 that by saying I would agree with changing the
11 regional planning commissions to a six-year
12 cycle. Chris is not here. And, number two, I
13 again want to reiterate I think this is an
14 update and updates can occur anywhere along
15 the time, but I want to respect your point.

16 MS. MCCARREN: And the criteria upon
17 which the Department will make a determination
18 on these plans is what?

19 COMMISSIONER RECCHIA: That's step one.
20 It's part of the road map stuff and it's part
21 of us working with the regional plans. It is
22 -- it's statutory guidelines and we'll
23 establish guidance to the regional planning
24 commissions on pieces that we think they need
25 to include and how they need to address it,

1 but not what they need to say.

2 MS. McCARREN: Yes, but the criteria
3 then you're doing this for a reason. You're
4 doing -- right? You're reviewing them and
5 approving them for a reason and it is to -- so
6 that's going to tell you what you're going to
7 look at to make your decision and that's --
8 I'm just saying -- I'm not trying to pick on
9 this. I'm just trying to say for clarity
10 you're going to need to say what are you going
11 to -- what are you going to apply here.

12 COMMISSIONER RECCHIA: What review
13 criteria?

14 MS. McCARREN: Yes. Yes.

15 COMMISSIONER RECCHIA: You're right. We
16 do need to say that. I can't say that now. I
17 mean you should be recommending that we do
18 that in number one.

19 MS. MCGINNIS: Recommend that the
20 Department develop criteria by which regional
21 plans will be determined to be consistent with
22 state legislated targets.

23 MS. EASTMAN: Well if you're asking for
24 consistency with the CEP so far and actually
25 --

1 COMMISSIONER RECCHIA: And statutory
2 requirements.

3 MS. EASTMAN: And I actually think that
4 will require a legislative change. So then
5 you get the Legislature saying the CEP has
6 some value. While we're at it you really may
7 want to clarify the language in (B)(7) that
8 you don't mean a state energy plan. You know
9 202 refers to a whole lot of different things,
10 and if you want it to be the Comprehensive
11 Energy Plan, then you might want to just ask
12 the Legislature to say that.

13 COMMISSIONER RECCHIA: Right.

14 MS. EASTMAN: And then we get the kind
15 of -- the Legislature has established these
16 goals and now they do this. So you've got
17 legislative authority to make this work.

18 MS. MCGINNIS: Is that language that I'm
19 supposed to include?

20 COMMISSIONER RECCHIA: I think it's
21 covered in the legislative changes are needed
22 to effectuate this. I really do think you
23 guys are going to have -- I know you don't
24 think this is going to happen, but you're
25 going to be invited back over the summer to

1 work with the Legislature to actually work on
2 the language.

3 MS. EASTMAN: And I don't think -- yeah.
4 I think we've got to at some point just say we
5 don't -- the devil is in the details.

6 MS. MCCARREN: What I want to ask you,
7 each of you, is where do you -- and you don't
8 have to answer this, but where do you think
9 the balance of power about siting of
10 renewables will now be when this is over?
11 Where is the decisional power?

12 COMMISSIONER MARKOWITZ: Well it stays
13 with the Public Service Board.

14 MS. MCCARREN: Well yes and no. I
15 understand that and, Deb, you're right.
16 You're right at the end of the day. But what
17 we're doing here is we are moving the locus of
18 decision making and power, and I have wanted
19 that and you guys disagree with me which is
20 absolutely fine, I have wanted to move that to
21 the towns and I understand you don't agree
22 with me, but I'm just saying you need to think
23 about that, where have we put it. Have we put
24 it in the regions or have we put it down the
25 hall here.

1 MS. EASTMAN: Here's where I think we
2 put it and I really want to say this because
3 this is why we have, right, under the -- you
4 know, as we were just saying at the break we
5 somehow have to implement the statutory goal.
6 What the Legislature wants has to be
7 implemented.

8 I think what we have done is we're
9 recommending that the Department get more
10 specific and get more determinative and more
11 deliberative around energy related issues, and
12 I mean energy. Not just electric. I mean
13 energy issues, but I think we're saying but we
14 understand there are these other factors.
15 There are cultural factors. There are land
16 use factors. There are all these balancing
17 factors, and we're not asking the Department
18 to do the planning on that. We're asking that
19 that planning stay where it is at the regions
20 and the towns, and if things can happen in a
21 concerted way relative to the energy piece,
22 then these things can either be substantially
23 considered or on a regional basis
24 dispositively considered.

25 So I think that's a combination. I

1 don't think it's all in one, but to move up
2 the things outside energy related I think what
3 we're trying to do is keep that stuff, you
4 know, give towns more, you know,chutzpah and
5 really move regions up. That's what I think
6 we're trying to do.

7 I really believe that, you know, and
8 what the Legislature has to do, the
9 Legislature can't do this kind of work. So it
10 either has to be done by an agency or a
11 department or a board in state government or
12 be done by a different level of governance.

13 MS. SYMINGTON: I think we're also
14 trying to be -- to balance and provide
15 incentives for collaboration between the towns
16 and the municipality and the state, and that
17 it's -- there's going to be a balance there
18 and we're not telling -- we're not saying how
19 things have to be done. They can be done the
20 way they are today and they don't lose any
21 ground if that's the case, but if they want to
22 have more say, more weight during the docket,
23 then they need to be part of a discussion that
24 goes beyond the individual border of the town.

25 MS. EASTMAN: And I want to say that to

1 me this planning issue, why I still want --
2 relates to public participation on these
3 issues, and for me right now we've got
4 enhanced public participation around, you
5 know, tier three a little bit and around tier
6 four larger projects, but this is where not
7 just towns but individuals get to participate
8 in a process. Okay. Both when the CEP is put
9 together it requires public engagement. The
10 same thing happens at a town level. You know
11 it's people who can participate, and the same
12 thing happens at the regional planning
13 commission.

14 So just trying to get people's concerns
15 earlier than when it gets to a project.

16 MR. BODETT: That's why I really like
17 what we're doing here because I think it gives
18 the towns a lot more influence over this
19 siting process than they have ever had, and
20 just the way you're describing it's going to
21 start at the local planning commission level,
22 and all of the passion that we have heard at
23 various public hearings on both sides they
24 should be talking to each other in their
25 communities and making those decisions and

1 with the communities next door. So you don't
2 have the thing where one town does it, gets
3 all the benefits, and the next town just has
4 to look at it. Because we put that
5 requirement of the regional collaboration on
6 it I think we can avoid that happening.

7 So I think it's a very elegant solution
8 to many of the problems that we've heard
9 about, and the devil is going to be not in the
10 details so much as who is going to do the
11 work. We're going to ask volunteer planning
12 commissions, selectboards, and citizens to do
13 an awful lot of thinking and talking and
14 meeting here, but once again that's sort of
15 the price of democracy and that's how
16 everything gets done in this state as near as
17 I can tell.

18 MS. EASTMAN: And I'm not sure we'll get
19 to dispositive either without resources to
20 really make this happen, or if we get to
21 dispositive it's going to take years, and I
22 acknowledge that. I think, though, that I
23 welcome somebody putting out this thinking
24 about it in two steps because at least it
25 doesn't say we back off entirely and we

1 acknowledge that if this doesn't get resourced
2 things don't happen.

3 MR. JOHNSTONE: So can I try to suggest
4 where I think we might be?

5 MS. MCGINNIS: Please.

6 MR. JOHNSTONE: So I'm going to go two
7 and then four and just by paragraph.

8 MS. MCCARREN: Page 46.

9 MR. JOHNSTONE: I'm at 46. So I think
10 we've said two is going to be broken into two
11 parts 2A and 2B. 2A is around how you get to
12 substantial and 2B is how you -- the planning
13 work you need to do to get to dispositive.

14 MS. MCCARREN: This is for municipal
15 plans.

16 MR. JOHNSTONE: This is for regional
17 plans.

18 COMMISSIONER MARKOWITZ: No. Municipal
19 plans are dispositive.

20 MR. JOHNSTONE: So the first paragraph,
21 and we have made some changes to the
22 paragraphs, I'm not going through all that.
23 The first paragraph we think is 2A. We
24 haven't done anything with the second
25 paragraph because I think it related to 2B,

1 but we had a different paragraph that says the
2 same thing about 2B and I'll look to Gaye to
3 see if she agrees with that.

4 On page 47 the first paragraph is 2A.
5 The second paragraph --

6 MS. MCGINNIS: The first half of the
7 first paragraph is 2A.

8 COMMISSIONER RECCHIA: Okay.

9 MS. MCGINNIS: The part that's in red is
10 not.

11 MR. JOHNSTONE: Where it says delete.

12 MS. MCGINNIS: Where it says delete that
13 we said that we would push to a different
14 discussion on dispositive. So what's in black
15 we keep as 2A. What was in red we said we
16 push until a later discussion.

17 MR. JOHNSTONE: I agree.

18 COMMISSIONER MARKOWITZ: That's fine.

19 MR. JOHNSTONE: Then the second
20 paragraph is 2B, and the third paragraph is
21 2B, and this, Gaye, is where I think we picked
22 up the paragraph on the previous page. Tell
23 me if you see it differently. We're not
24 dealing with that following paragraph. We
25 haven't talked about it. It was PSD

1 suggestions for changes to Gaye's language I
2 think, but we can get to that. Right now I
3 don't have that anywhere.

4 Then the next paragraph, examples of
5 high potential areas, is 2A.

6 MS. MCGINNIS: Yes.

7 MR. JOHNSTONE: The next one is 2A and
8 that is that section. We haven't dealt with
9 three. And four what I'm going to suggest is
10 instead of trying to do a four and six we do
11 the same thing 4A and 4B, and then you change
12 -- in the title you change substantial
13 consideration to enhanced because 2A is going
14 to be -- to get you to substantial -- I mean
15 4A and 4B will get you to dispositive. Right?
16 Do you see what I'm doing there, Linda?

17 MS. MCGINNIS: What do you call the
18 overall recommendation?

19 MR. JOHNSTONE: Enhanced consideration.

20 COMMISSIONER MARKOWITZ: The RPC shall
21 have formal party status upon notice to the
22 Board and --

23 MR. JOHNSTONE: And then we'll define
24 what that's below.

25 MS. MCCARREN: We have added a new term.

1 MR. BODETT: And it doesn't begin with

2 --

3 COMMISSIONER RECCHIA: C.

4 MR. JOHNSTONE: 4A as we have changed
5 it, and we have changed it, is around 4A --
6 the first paragraph is 4A and except we have
7 said consistent with 2A is the planning test,
8 right?

9 MS. MCGINNIS: Yup.

10 MR. JOHNSTONE: Is where you put that.
11 The next paragraph I go through the red
12 language around reliability constraint because
13 we haven't talked about it.

14 MS. MCGINNIS: PSD says not to worry
15 about it any more.

16 MR. JOHNSTONE: So then go up to
17 regional plan. So that first sentence is 4B.

18 MS. MCGINNIS: First sentence is 4B,
19 yup.

20 MR. JOHNSTONE: Right, and so that's --

21 MS. MCGINNIS: And then we get to the
22 disagreement part which is where we haven't
23 gotten yet.

24 MR. JOHNSTONE: I think what we've said
25 there it's not consistent any more. It's

1 conform with the CEP and legislative energy
2 targets and the planning of 2B.

3 MS. MCGINNIS: You got to back up there.

4 MR. JOHNSTONE: So what we said -- I
5 think what we said the planning levels the
6 word consistent is used there and we said used
7 conform actually I think.

8 MS. EASTMAN: A higher level, I think.

9 MS. MCGINNIS: You mean the first
10 sentence conform?

11 MR. JOHNSTONE: Regional plans conforms
12 to CEP legislative energy.

13 MS. MCGINNIS: I did not get that
14 because we used consistent all over the place.

15 MR. JOHNSTONE: That's why I'm trying
16 something out. People will then push back.
17 You don't think consistent is high enough. I
18 thought that's what we said. I might have
19 misheard and that's fine.

20 MS. MCGINNIS: I don't care. That means
21 I change the word in a dozen other places
22 because I've been using consistent.

23 MS. SYMINGTON: There he has consistent.

24 MR. JOHNSTONE: Maybe consistent is the
25 right word. Consistent is fine. With the CEP

1 legislative energy electric targets and the
2 planning -- through the planning effort in 2B,
3 right? And then I -- so then I get rid of all
4 the stuff in the middle, and I kept the end of
5 that last sentence, the intent to encourage
6 municipalities there. So I kept that.

7 MS. EASTMAN: Encourage.

8 COMMISSIONER MARKOWITZ: Regions. We
9 took out municipalities.

10 COMMISSIONER RECCHIA: The part you're
11 taking out between the two goes somewhere else
12 though.

13 MR. JOHNSTONE: I don't know where it
14 goes or it's relevant any more.

15 MS. MCGINNIS: That's related to -- if
16 we go back to page 47, it's the last part
17 which Chris was presenting up here which is if
18 there is disagreement within the context of
19 dispositive what then happens. It's under 4B
20 because it has only to do with dispositive.

21 MR. JOHNSTONE: Maybe it stays in there.

22 MS. EASTMAN: And the word we're still
23 using consistent, and can I say here's where
24 Louise is right.

25 MR. JOHNSTONE: Among many.

1 MS. EASTMAN: Among many, but it's the
2 state energy plan or it's consistent with the
3 comprehensive energy plan.

4 COMMISSIONER RECCHIA: I'm going to
5 Comprehensive Energy Plan.

6 MS. EASTMAN: That has to change.

7 MR. JOHNSTONE: Okay. That can all stay
8 in.

9 MS. MCGINNIS: I'll move that down
10 below. We got to get first what happens for
11 dispositive and then only if there's a
12 disagreement. So I'll move that around.

13 MR. JOHNSTONE: I don't know if that's
14 perfect but --

15 MS. MCGINNIS: That's a nice way to do
16 it.

17 COMMISSIONER MARKOWITZ: Thank you for
18 getting us there.

19 MR. JOHNSTONE: Maybe we are. I don't
20 know.

21 MS. EASTMAN: Here's where I am and I
22 don't know if this helps. I believe that --
23 let's go back to what we have left to do.

24 I believe that the public involvement
25 plan we have left to do, and as I say I think

1 via e-mail I would like to work out at least
2 the Executive Summary of that and that may
3 take us some time.

4 We want to get this, you know, out and
5 delivered by Tuesday morning. I'm supposed to
6 talk about it on Tuesday at noon on Vermont
7 Edition, but Chris is going to be there too,
8 and so for me I feel pretty comfortable with
9 all the changes that we made today except --
10 and I'm comfortable with conceptually and most
11 of this language and where we are with all
12 this stuff relative to the first section here
13 emphasis on planning, but I would like to see
14 if we couldn't -- if you couldn't first
15 redraft that section and the Executive Summary
16 section and e-mail it to us so we can review
17 it just via e-mail.

18 MS. MCCARREN: Did you just suggest the
19 planning any chance because I don't want to
20 say something that is unnecessary.

21 MS. EASTMAN: So what I'm asking is that
22 the planning stuff be -- the sections both in
23 the Executive Summary and in the broader
24 document that we just spent the afternoon on
25 be revised first and e-mailed to us so we can

1 all do a tree about yup, no.

2 MS. MCGINNIS: You leave when?

3 MS. EASTMAN: I can do it while I'm
4 away. So I'm leaving Saturday, but I can do
5 it while I'm away. I'm just going -- I can
6 look and take stuff and I can do it.

7 COMMISSIONER RECCHIA: So I have two
8 favors to ask. One is there are some
9 editorial -- or changes that I would suggest
10 that are so minor they are not substantive,
11 but I would like to be able to send those to
12 Linda and incorporate it, like thanking Joan
13 in the beginning.

14 MS. MCGINNIS: We already did that.

15 COMMISSIONER RECCHIA: Good. The other
16 request, though, is I know you want to write
17 something. I would like not to see that for
18 the first time as I get the final copy.

19 MS. MCCARREN: Absolutely not. I had
20 intended to get a draft to you last night, but
21 I will tell you as I sat down to write it,
22 right, that's when I realized I didn't
23 understand what you were all saying. So as
24 soon as I get that list from you, Linda, I
25 will try and turn it in 24 hours.

1 MS. MCGINNIS: Okay.

2 MS. MCCARREN: Absolutely I want to get
3 it to you before if you want to look at it.

4 MS. EASTMAN: I do want to look at it
5 because I'm going to be asked about it
6 probably. We had some disagreements. Yup, we
7 had some disagreements.

8 MS. MCCARREN: I think we do, but --

9 MS. EASTMAN: They are minor.

10 MS. MCCARREN: Well I think it's a major
11 substantive issue, but I can look at this and
12 say look at all the stuff we do agree on which
13 is really all of this incredible process
14 improvement so that people can have greater
15 access.

16 MS. MCGINNIS: And I think this
17 discussion this afternoon will allow you to
18 focus on the one or two things. It's much
19 clearer I think. All right. I'm hoping in
20 whatever language I can have to you it will be
21 clear. We'll see, but that it will allow you
22 to focus on that.

23 MS. MCCARREN: My comments are only
24 going to relate to the planning and they are
25 going to relate to the control of CEP. I have

1 already told you guys that.

2 MS. EASTMAN: As we're now suggesting --
3 however I'm even suggesting that, you know, we
4 really may want to go legislatively to see and
5 have the Legislature say here's the role of
6 the CEP.

7 COMMISSIONER RECCHIA: But I'm not sure
8 that would solve all of Louise's problems. It
9 solves the legislative authority one.

10 MS. EASTMAN: Okay.

11 MS. MCGINNIS: If you don't mind, this
12 doesn't have to be on the record.

13 MS. EASTMAN: Are we done with things?

14 MR. JOHNSTONE: I have one other thing
15 that might be useful based on our
16 conversation. We haven't looked at
17 recommendation three and what we've said is --
18 not that it's the end of the world
19 necessarily, but I think we've said that
20 funding is particularly -- we view the ability
21 of a RPC to meet the test to attaining this
22 status of this dispositive as being integrally
23 linked with funding flowing and really try to
24 make that -- now you can say that how you
25 like.

1 MS. MCGINNIS: Say that again.

2 MR. JOHNSTONE: The Commission believes
3 that the ability of a RPC to successfully
4 attain the status of dispositive is integrally
5 linked to the availability of this new funding
6 being available.

7 MS. MCGINNIS: Now my question --

8 MR. JOHNSTONE: I'm sorry. You can fix
9 it.

10 COMMISSIONER RECCHIA: I think you
11 should go further and say we are recommending
12 to the Legislature if you're going to focus on
13 this at all, focus on that. That is priority.

14 MR. JOHNSTONE: Frankly they are not
15 going to get to dispositive if they don't
16 spend their own money because it's that
17 important to them or we come up with it.

18 MS. MCGINNIS: My question is, however,
19 do you only want funding to be linked to
20 anything that has to do with dispositive or do
21 you want funding to be linked to the planning
22 process?

23 MR. JOHNSTONE: It's all important, but
24 I just think of everything, you know, the test
25 to get the dispositive we've set a pretty

1 rigorous test here and I don't know. If
2 anybody hopes to get there, then the funding
3 has got to flow.

4 COMMISSIONER RECCHIA: I think we say
5 that, you know, the Commission doesn't believe
6 that it's possible for the regional planning
7 commissions to do this without funding to get
8 there in a timely manner.

9 MR. JOHNSTONE: Frankly as one person if
10 they didn't get the funding and we end up with
11 halfway plans, then I'll want to argue against
12 them ever getting a dispositive. Even if the
13 Commission at the time wants to approve them,
14 I'll be like why do you do it.

15 MS. MCGINNIS: The Commission doesn't
16 believe that it's possible to get to planning
17 or to get to dispositive.

18 COMMISSIONER RECCHIA: Not possible to.
19 I would focus on the planning work. It's not
20 possible to make this -- these plans what they
21 need to be without.

22 COMMISSIONER MARKOWITZ: Additional
23 funding.

24 MS. MCGINNIS: I want to disassociate
25 dispositive from it. Okay.

1 COMMISSIONER RECCHIA: I would
2 disassociate the dispositive.

3 MR. JOHNSTONE: I'll support that. I'll
4 just say the Legislature has heard for decades
5 that planning is important and the most vital
6 recommendation, and taken at that level it
7 will be a great big yawn, and when you link it
8 to something of a different status and ability
9 for the more regional and local voice to
10 matter more they may actually pay attention.

11 COMMISSIONER RECCHIA: So you're
12 suggesting --

13 MR. JOHNSTONE: That's why I went there.
14 It's not that I don't care about the general
15 planning, I do, but there's a long history of
16 where the planning is no matter who is in
17 power.

18 COMMISSIONER RECCHIA: Okay. That's
19 actually persuasive.

20 MS. EASTMAN: But we're even saying it's
21 enhanced so you got to plan for to get
22 substantial.

23 MR. JOHNSTONE: That's fine too. I
24 agree with all of it.

25 COMMISSIONER MARKOWITZ: What do we want

1 Linda to do?

2 MR. JOHNSTONE: I don't know. I can
3 live with anything.

4 MS. EASTMAN: I think planning is not
5 going to work without funding.

6 MR. SULLIVAN: Can I add a little bit on
7 that? My livelihood there. I think that in
8 the past we've had a bit more flexibility than
9 we have now in how we spend some of our money,
10 especially money that we get from the Agency
11 of Commerce and Community Development, and
12 really the money that we get from
13 municipalities too.

14 Now with an understandable move toward
15 performance based contracting we have an awful
16 lot of things we have to check off, and so
17 that really limits our ability to flexibly
18 apply our funding from ACCD, and more and more
19 of the grant funds that we get from other
20 sources have pretty significant matching
21 requirements that take up most of our
22 municipal funding that we could in the past
23 have been a little bit more flexible with. So
24 we don't really have the kind of flexibility
25 to spend that we used to.

1 MS. MCGINNIS: So --

2 MR. BODETT: You're saying basically the
3 same thing. If you want to get this done, you
4 better pay for it.

5 MR. SULLIVAN: We'll do it, but to do it
6 well I would have to agree with you.

7 MS. MCGINNIS: So I stick with generic
8 as opposed to specific and dispositive?

9 COMMISSIONER RECCHIA: I can go either
10 way.

11 MS. EASTMAN: No.

12 COMMISSIONER MARKOWITZ: I think
13 generic.

14 MS. EASTMAN: Say we need more funding.
15 They need more funding. Make it generic.

16 COMMISSIONER MARKOWITZ: They do --
17 whether or not they are going for dispositive
18 they need more funding.

19 MS. EASTMAN: What's going to end up is
20 you needing different levels of funding.

21 MR. JOHNSTONE: Then the different
22 language is then this is a priority
23 recommendation. In other words, we got to
24 enhance this stands out. If you start
25 representing the other stuff without the

1 dollars, everything is going to fall apart.

2 MS. MCGINNIS: So does it stay where it
3 is? It says RPC planning costs must be
4 funded.

5 COMMISSIONER RECCHIA: I feel like that
6 is the message we all, I hope, want to give as
7 a Commission say, and you can go in as much
8 detail as you need to about how this hasn't
9 worked in the past. This is the Legislature's
10 prerogative. This is what they can do. They
11 should do this.

12 COMMISSIONER MARKOWITZ: It could be the
13 Commission recommends as a top priority for
14 legislative attention is the proper funding of
15 the planning effort.

16 MR. JOHNSTONE: That's a good way to say
17 it.

18 MS. SYMINGTON: There may be some way to
19 wordsmith it that conveys it's a major focus
20 of the Commission was how to enhance the voice
21 of a regional and municipal plan. We felt
22 that in order to do that there needed to be
23 more planning and more collaboration and so --
24 and without funding we don't believe that that
25 planning will happen in a way that's adequate,

1 and so something to that effect. You can
2 somehow lead up to saying -- not just say this
3 is a priority, but say this is a linchpin of
4 the work we've been doing.

5 MS. EASTMAN: We have spent days on this
6 issue.

7 MR. JOHNSTONE: Literally.

8 MS. MCGINNIS: So before everybody
9 leaves --

10 MS. EASTMAN: Are we done on the record?

11 MS. McCARREN: Yes.

12 MS. EASTMAN: I want to officially thank
13 the court reporters.

14 (Whereupon, the proceeding was
15 adjourned at 4:05 p.m.)

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C E R T I F I C A T E

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3
4 I, JoAnn Q. Carson, do hereby certify that
5 I recorded by stenographic means the Deliberative Session
6 re: Energy Generation Siting Commission, held at the Giga
7 Conference Room of the Public Service Department, 112
8 State Street, Montpelier, Vermont, on April 25, 2013,
9 beginning at 9 a.m.

10 I further certify that the foregoing
11 testimony was taken by me stenographically and thereafter
12 reduced to typewriting, and the foregoing 319 pages are a
13 transcript of the stenograph notes taken by me of the
14 evidence and the proceedings, to the best of my ability.

15 I further certify that I am not related to
16 any of the parties thereto or their Counsel, and I am in
17 no way interested in the outcome of said cause.

18 Dated at Burlington, Vermont, this 27th day
19 of April, 2013.

20 _____

21
22 JoAnn Q. Carson

23 Registered Merit Reporter

24 Certified Real Time Reporter
25