

STATE OF VERMONT
ENERGY GENERATION SITING POLICY COMMISSION

January 11, 2013 - 9 a.m.
Pavilion Auditorium & Giga Conference Room
Montpelier, Vermont

Commission Members

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

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

I N D E X

<u>Presenters</u>	<u>Page</u>
GABRIELLE STEBBINS	18
JAMESON FRENCH	21
ANDY TETRAULT	28
CLAIRE STANLEY	32
HERB DURFEE	36
SAM SWANSON	43
ANNETTE SMITH	52
SENATOR JOE BENNING	89
REP. MARGARET CHENEY	119

Public Comment

<u>Speaker</u>	<u>Page</u>
JENNIFER ELY	81
DENNIS LIDDY	85

Deliberative Session

JAMES VOLZ	142
KERRICK JOHNSON and DEENA FRANKEL	205
MICHAEL DWORKIN	251

1 MS. EASTMAN: Good morning everybody.
2 My name is Jan Eastman. I'm Chair of the
3 Energy Generation Siting Policy Commission and
4 we're now on information session six. That's
5 what we're here today for.

6 A couple of things I wanted to say
7 before we get started. I understand public
8 comments have not been up on the web site so
9 you all haven't seen everything that we've
10 seen, but that will happen by early next week.
11 So by Monday or Tuesday you can go to the web
12 site and check and everything should be there.
13 Joan had to put some things together and Ann
14 is here with us today, so can't get it up
15 while she's helping us here. So look on
16 Monday or Tuesday.

17 The other thing is I know we had a press
18 release regarding the site visits, and I just
19 want to clarify for people that we decided to
20 do our public hearings the same day as our
21 site visits because our site visits we were
22 going to be out and about anyway. All right.
23 So, hence, it doesn't mean that the site visit
24 and the public hearing is in lock step as it
25 would be relative if there were an application

1 before someone. It just means that we're
2 doing the site visit in the general area where
3 we already have been. Excuse me. We're doing
4 public hearings in the general area where we
5 already will be for a site visit. So please
6 tell people that we want the public to come
7 and comment on our -- on the entire agenda
8 before us, not just the particular source that
9 we might be viewing that day.

10 So here's how this is -- here's how this
11 is going to go. We have scheduled a site
12 visit on Jan 23rd to a gas plant in
13 Londonderry, New Hampshire. Yes, we're going
14 to New Hampshire to see an electric generation
15 source because we don't have one in Vermont,
16 and then we'll have a public hearing at
17 Brattleboro Union High School that night from
18 5 to 7.

19 On Jan 30th we're going to do site
20 visits in South Burlington at a solar site and
21 we're doing the McNeil biomass facility that
22 day, and there will then be a public hearing
23 at UVM from 5 to 7. And on February 12th
24 we're doing site visits at Sheffield and
25 Lowell, and then there will be a public

1 hearing at the Lowell Graded School from 5 to
2 7.

3 In addition, we're going to do two more
4 public hearings after we get some draft
5 recommendations in late March/early April.
6 All right. So as you will expect we do not
7 have these dates cast in stone yet because we
8 don't -- we're not that far along, but we will
9 do a public hearing after we get some
10 recommendations in Montpelier via Vermont
11 Interactive Television, and we'll do a public
12 hearing in the Rutland area because you can
13 see we haven't gotten there, and for those of
14 you who don't know, I've lived in -- let's
15 see, I grew up in the Northeast Kingdom, but I
16 lived in Springfield, Rutland, and my parents
17 lived in Swanton. So I'm very careful to get
18 back to all my old roots where I'll hear from
19 people for sure.

20 So those are the site visit/public
21 hearing days that we have scheduled. Also so
22 that you know, you know, this afternoon we're
23 going to begin deliberations at 1 o'clock on
24 the next phase. We're sort of calling it
25 deliberations. It means to us the format

1 changes and we're moving into a conference
2 room at the Public Service Department, and
3 we'll sit around the table and talk with
4 people. We'll do that again on the morning of
5 Jan 15th, next Tuesday morning, and then we're
6 in Waterbury at St. Leo's Hall. We know it's
7 hard to be -- to park in Montpelier in the
8 legislative season. The problem for us is
9 that most of this work when we're doing
10 deliberation we're probably going to want some
11 sort of state agency staff people around to
12 ask questions of. So we probably will keep
13 these sessions close to Montpelier, if not
14 here.

15 We also then have a scheduled day
16 February 5th that we know we've scheduled for
17 sure. So that takes us between now and as I
18 say February 12th, and then we'll see where we
19 are and how much time we need and when we can
20 coordinate our schedules some more, but we
21 still are on track to have a report for the
22 Legislature and the Governor that last week in
23 April because again I'm leaving on the 27th.

24 MR. OTIS: Madam Chair, Anthony Otis. I
25 haven't been able to find anybody to tell me

1 where St. Leo's Hall is.

2 SECRETARY MARKOWITZ: It's right on Main
3 Street in Waterbury and it's behind the church
4 that's next to the state complex. So as
5 you're driving up from Middlesex it's on the
6 left and it's right before the state complex.

7 MR. OTIS: If that can be put up on the
8 web with the street address --

9 MS. MCGINNIS: We'll put it up for you.

10 MS. EASTMAN: So that's where we're
11 going. Okay. So how we're doing in site
12 visits, I know a lot of people probably want
13 to come and that's simply not possible. So we
14 also announced a lottery process. Here's the
15 hat and we're going to put names --

16 MS. MCCARREN: Where did you get that
17 hat?

18 MS. EASTMAN: I don't know.

19 MS. MCGINNIS: That's my son's.

20 MS. EASTMAN: I hope he's at home today
21 because he probably needs his hat. So what
22 we're going to do is put names in the hat and
23 I'm going to ask somebody to draw names. It
24 isn't going to be one of us, and then as the
25 name comes out that person gets to pick where

1 they want to go. The limits are Londonderry
2 we can take -- let me explain that we're going
3 to all try and be at these site visits. We're
4 also taking a videographer. At every site
5 visit there will be a videographer so they
6 will be videoing everything we see and you
7 hear. So, again, we're trying to keep it as
8 transparent as possible.

9 So at Londonderry for the gas plant we
10 can take two. At Sheffield we can only take
11 two, and at Lowell we can only take two, and I
12 do know the Northeast Kingdom it's winter and
13 I know snow covers many things. We all do,
14 but our timing isn't great. The Burlington
15 solar site we can take 15 and at McNeil
16 biomass we can take 15. So we've got names to
17 go in the hat.

18 MS. MCGINNIS: One correction. At the
19 natural gas plant we can take three.

20 MS. EASTMAN: Three at Londonderry.
21 Okay. Sorry. 3, 2, 2, 15, and 15. So does
22 anyone else want to put their name in the hat
23 that's sitting here? Okay. Just then you got
24 to give us --

25 MS. WHITE: I have ballots so actually

1 if folks can come up to this table and sign
2 up.

3 MS. EASTMAN: We have to get this done
4 quickly because we want to get on with our
5 morning.

6 MS. SMITH: You already have people who
7 have sent in by e-mail.

8 MS. EASTMAN: They are all in that box
9 and they are going to go in the hat.

10 AUDIENCE: I was just wondering why is
11 the Sheffield site -- I mean the Lowell site.

12 MS. EASTMAN: Limited to two people?
13 Because we have to go up on snow cats and
14 that's the limit we have. We don't have
15 enough space for people. Sorry.

16 MR. WRIGHT: Those of us who went the
17 computer route through the web site --

18 MS. EASTMAN: You're going to be in the
19 hat. You're there.

20 MR. WRIGHT: Great place to be.

21 MS. EASTMAN: Do you want to be part of
22 the lottery for site visits? Thank you. And
23 so it is when we -- you know, the first name
24 drawn gets to choose and you only get one
25 slot. So that means we get people spread out,

1 and if -- I want somebody to draw that I don't
2 know. Who is here for the very first time?

3 MS. STANLEY: And I'm also not in the
4 hat so --

5 MS. EASTMAN: Fair enough. Thank you.
6 Annette. Annette Smith.

7 MS. MCGINNIS: Who insisted she never
8 wins a lottery.

9 MS. EASTMAN: Londonderry. Okay.
10 Annette wants Londonderry so one Londonderry
11 is gone. Joe Arborio from Island Pond. Looks
12 like he wants Lowell.

13 Okay. And Anthony Otis wants Lowell.
14 So Lowell is gone.

15 Pam Arborio, I guess she will go to
16 Sheffield because I don't have any more
17 Lowell's.

18 MS. SMITH: I'm not sure it was clear on
19 the site that Sheffield was an option.

20 MS. EASTMAN: It's separated, listed as
21 an option here, and that was her second choice
22 so we'll get Sheffield.

23 And is it Elwood Thompson? Lyndonville.
24 I can't read this name.

25 MS. WHITE: Edward Thomsen.

1 MS. EASTMAN: Edward Thomsen and he's
2 going to take the second shot in Sheffield so
3 the wind sites are gone.

4 Leslie Morey from -- she didn't select a
5 site. Can you go and see what she wants and
6 we'll draw another name because we've now got
7 room at the others.

8 Ellen Valley just has wind sites down
9 and we don't have any more wind sites left.
10 That's all I can say, and that's just for
11 wind. I mean is that what I should do?

12 MS. MCGINNIS: We were thinking that we
13 would ask -- because their names are drawn ask
14 them if they want to go to any other sites.

15 MS. EASTMAN: So is Ellen here, Ellen
16 Valley? No. Is Nancy Fried here from East
17 Burke? Do you want a different site? We
18 don't have any wind sites left. We have the
19 biomass in Burlington, we have the solar in
20 Burlington, and we have two more spots in
21 Londonderry, New Hampshire at natural gas.

22 MS. FRIED: Biomass.

23 MS. EASTMAN: Thank you, Nancy. So
24 Nancy is biomass. I don't know what to do
25 about Ellen. She's not here.

1 MS. MARGOLIS: Jan, Leslie Morey had
2 only the wind sites.

3 MS. EASTMAN: This is Lauren Caspari
4 from Chicago. Well isn't that interesting.
5 She wanted Lowell, Sheffield, South Burlington
6 solar. So solar is her third choice.

7 MS. MCGINNIS: Why don't I hand you
8 this.

9 MS. EASTMAN: Cynthia Barber. Is
10 Cynthia here? She only had wind sites on.
11 Sorry. Liam Masters, South Burlington solar.
12 Third choice. Sorry. Have you got that name?

13 MS. MCGINNIS: Yes.

14 MS. EASTMAN: Okay. Another one Noreen
15 Hession, is she here?

16 AUDIENCE: No, but she will go to the
17 solar.

18 MS. EASTMAN: Thank you. Mark Witworth.

19 AUDIENCE: He'll go to the solar.

20 MS. EASTMAN: You're like Jack Lew who
21 has to change his handwriting if he wants to
22 be Treasurer.

23 Travis Bullard, he only had wind down.

24 MS. STEBBINS: Travis might be
25 interested in the solar.

1 MS. MCGINNIS: I'll put him down
2 tentatively there.

3 MS. EASTMAN: James Jennings. Is James
4 here?

5 MS. STEBBINS: He's not.

6 MS. EASTMAN: He only had wind.

7 MS. STEBBINS: But he could be
8 interested in a solar as well.

9 MS. EASTMAN: So we're putting him down
10 as solar. James Jennings we'll put him down
11 as solar, and I think what we'll do, we'll add
12 a couple of extra people at the end to solar
13 if these people once we contact them don't
14 want to do it. Luke, you can have your third
15 choice of biomass. Luke Snelling has biomass.
16 Amy Nixon only had Sheffield.

17 MS. SMITH: She's a reporter.

18 MS. EASTMAN: She probably only wanted
19 Sheffield.

20 MS. MCGINNIS: That's all she wanted.
21 She will be there anyway.

22 MS. EASTMAN: Thank you. Andrea Colnes,
23 she's going to be solar. Jennifer Ely,
24 biomass. Okay. Jody Prescott only had
25 Lowell.

1 MR. PRESCOTT: Madam Chair, I'll do
2 biomass if there's a slot open.

3 MS. EASTMAN: Jody Prescott.

4 MS. MCGINNIS: At biomass.

5 MS. EASTMAN: Nothing listed by -- is
6 this someone who just signed up, Keith Boyer?

7 MR. BOYER: Yes. I'll take the biomass.

8 MS. EASTMAN: Thank you. Steve.

9 MR. WRIGHT: Biomass.

10 MS. EASTMAN: Steve Wright. Sorry.
11 Okay. Georgia Zaveson only wanted Lowell.
12 She's from Jay. Anybody know her? Okay.
13 John Soininen. Londonderry. We've got a spot
14 for the gas plant. That was his third choice.
15 Right. Don't we have one more gas left?

16 MS. MCGINNIS: Yes.

17 MS. EASTMAN: Robin Smith only wanted
18 Lowell.

19 MS. SMITH: She's a reporter.

20 MS. MCGINNIS: She's going to be there
21 at the base.

22 MS. EASTMAN: Bryan Mornaghi. Bryan
23 Mornaghi.

24 MS. STEBBINS: Mornaghi.

25 MS. EASTMAN: And he only had wind down.

1 MS. STEBBINS: He might be interested in
2 solar.

3 MS. EASTMAN: Will you put him down for
4 solar? Well put an asterisk on there in case
5 people don't show so people can -- John
6 Zimmerman only put Lowell wind. Anybody know
7 John? John is here. Does he want something
8 other than Lowell wind?

9 MR. ZIMMERMAN: No, he doesn't.

10 MS. EASTMAN: Sorry. Melvin Lyon only
11 wanted wind. Is Melvin here? Okay. He only
12 wanted -- he's from up there.

13 Trip Wileman. Trip Wileman I think.
14 McNeil. We'll still have biomass left, right?
15 His first choice was biomass.

16 Rob -- this person is from Sutton, Rob
17 Pforzheimer. Are you calling him?

18 AUDIENCE: No, but I haven't seen him
19 here either.

20 MS. EASTMAN: It said only wind. John
21 Lewendowski.

22 MR. LEWENDOWSKI: That would be me.

23 MS. EASTMAN: So you can have your third
24 choice, biomass.

25 MR. LEWENDOWSKI: That's fine. Yes.

1 MS. EASTMAN: Will Wiquist, your third
2 choice was solar. You can have that. Okay.

3 Eric Phaneuf from Stowe. He only wanted
4 wind. Eric Phaneuf he only wanted wind and we
5 don't have it. So that's good if everybody
6 gets something who wanted something.

7 Alice Soininen solar. Her third choice
8 was solar and we have a spot. Jim Morey only
9 wanted wind. Is he here?

10 AUDIENCE: No.

11 MS. EASTMAN: Okay. Brian Dunkiel, do
12 we have another spot at the gas plant left?

13 MS. MCGINNIS: Yes.

14 MS. EASTMAN: That's the last one.
15 Okay. So he gets the gas plant. And then Tom
16 Soininen. Tom, solar. Okay. How are we
17 doing?

18 MS. MARGOLIS: We have one at solar now
19 so if you want to leave any for the question
20 marks.

21 MS. EASTMAN: Here's another. Is it
22 Noreen Hession who only wanted wind? Noreen,
23 are you here.

24 AUDIENCE: You already called her name.

25 MS. EASTMAN: So she's in here twice?

1 She wasn't supposed to be. Geoff Hand, solar.
2 Third choice was solar. I think it's Geoff
3 Hand solar. Kim Fried.

4 MR. FRIED: Biomass please.

5 MS. EASTMAN: We have room in biomass
6 for Kim.

7 MS. MCGINNIS: The whole name please.

8 MS. EASTMAN: Fried. Martha Staskus
9 only wanted wind. Will you take --

10 MS. STASKUS: I would like to go to
11 biomass.

12 MS. EASTMAN: These two are biomass and
13 that's it. The hat is empty. Thank you.
14 Thank you very much and thank you. We are
15 most efficient.

16 So moving on to the morning we have --
17 okay. Between now and noon what we have to
18 get accomplished is we have some additional
19 perspectives from citizens, and then we have
20 some perspectives from other citizens,
21 Vermonters For A Clean Environment. Then
22 we'll take a brief break, and then we've got
23 perspectives from two legislators, Senator Joe
24 Benning is going to be here and Representative
25 Margaret Cheney, and that will be our morning.

1 Then we're going to take a break and
2 have lunch, and we'll begin this afternoon at
3 1 o'clock, as I said earlier, at the Giga
4 Conference Room. That's on the third floor of
5 the Vermont Public Service Department. Okay.
6 We're going to sit around a table. I don't
7 know how much room there is. I know there's
8 room for some people to sit around. We're
9 going to pretend we're legislators and be
10 locked in a small room I guess.

11 So first up, Gabrielle, you're going to
12 introduce some citizens for us and we're
13 hearing these citizens are coming -- are
14 talking not just about wind, but other things
15 as well, right?

16 MS. STEBBINS: Yes.

17 MS. EASTMAN: We're anxious to hear
18 about all generation.

19 MS. STEBBINS: So I just wanted to give
20 a first one-minute overview as to how this
21 developed. I'm the Executive Director of
22 Renewable Energy Vermont, and again I thank
23 you all for your time and your dedication to
24 this pro bono effort on behalf of the State of
25 Vermont.

1 Upon hearing from both the previous 45-
2 minute citizen intervenor session as well as
3 the previous 45-minute town intervenor session
4 the only comments that were made were comments
5 that were, you know, really concerned and had
6 a lot of concern about advancing renewables
7 forward.

8 I heard from other entities, other
9 parties, that there was a desire to have other
10 people also be able to speak, and so for the
11 record it is an odd role that REV as the trade
12 association helps to coordinate this. It was
13 not just REV for the record. It was also
14 VPIRG and a couple of other state
15 representatives who helped identify the
16 citizens to speak, but I do want to, for the
17 record, say with all due notice that I'm aware
18 of the oddness of us helping to coordinate
19 this.

20 That being said, who better to contact
21 than a developer to say do you know any of the
22 citizens who might have been unhappy with your
23 project but you worked with them and they
24 became more satisfied with the project, et
25 cetera. So very quickly you will hear from

1 Jameson French who is a landowner in Grafton
2 and Windham. He will be calling in and he's
3 on the line right now.

4 You will also be hearing from Andy
5 Tetrault from Lowell. You'll hear from Claire
6 Stanley and also Herb Durfee. These are folks
7 from Fair Haven regarding a proposed biomass
8 project there.

9 You will also be hearing from Sam
10 Swanson from South Burlington, and, if
11 possible, a person by the name of Bonnie
12 Finnegan who lives very close to the South
13 Burlington project.

14 Lastly, I just wanted to say for the
15 record I did -- I was asked repeatedly by --
16 both by, you know, the various entities that
17 were contacted what does the Energy Siting
18 Commission want to hear. So that's a
19 challenging line because clearly REV has a
20 different perspective and we wanted the
21 citizens to speak from their place of truth,
22 and so you will hear different perspectives.
23 These are not REV perspectives, and I will say
24 for the record that what is helpful for the
25 Energy Siting Commission is if the citizens

1 are able to speak (A) on their experience of
2 the permitting process, their experience of
3 their relations with the State, their
4 experience of either Act 250 or Section 248,
5 their experience with the developer, and you
6 know, how they could provide you all with
7 helpful guidance moving forward as opposed to
8 sort of going off on a tangent.

9 That being said, these are not REV
10 developers and so I did not tell them what to
11 say and what not to say. So for the record
12 they will speak, you know, from their heart
13 and from their perspectives, and it is not
14 REV's perspectives.

15 MS. EASTMAN: Thank you.

16 MS. STEBBINS: First on the phone is
17 Jameson French, and thank you VPIRG for
18 coordinating this.

19 MR. FRENCH: Okay. Jamie French on the
20 phone. I hope you can hear me okay.

21 MS. EASTMAN: Hang on just a second.
22 We're trying to make you louder.

23 MR. FRENCH: Okay. Okay. How's that?

24 MS. EASTMAN: Very good. Thank you.

25 MR. FRENCH: Thank you very much. I am

1 representing one of the partners of Meadowsend
2 Timberland, and we are three generations of
3 the French family involved in landownership in
4 Northern New England, and at the moment we
5 have about 22,000 acres of working forest land
6 in Vermont, which makes us I think probably
7 the third largest private landowner in the
8 state which says a lot about the forest
9 fragmentation of Vermont.

10 We have land in seven of the 12 counties
11 in Vermont and 19 holdings in 23 towns. Over
12 70 percent of our land in Vermont, over 15,500
13 acres, have conservation easements on it, and
14 our family has been in the private industry
15 since the 1880's, and I think probably our
16 name is known by many here in the room as
17 being actively involved with many conservation
18 efforts in the state as well as New Hampshire,
19 and I'm actively involved with the National
20 Wildlife Federation regional office in
21 Montpelier.

22 We've owned most of our land in Vermont
23 for several decades and we're very proud of
24 our responsible stewardship and environmental
25 management. You all would probably be very

1 interested to know one of our larger holdings
2 is 80 percent of the land used for the
3 Sheffield Wind project and our largest holding
4 is the Windham and Grafton land. It's about
5 5,000 acres that's being looked at as a
6 potential site for a wind project.

7 So the work of your Commission is very
8 interesting to us not only as a substantial
9 landowner, but also because of our interest in
10 protecting and conserving privately owned
11 working forest land, and I just think it is
12 always important to remember private working
13 forest lands are very important for both
14 recreation and wildlife, but also the economic
15 benefits is a three-legged stool; tourism,
16 working forest, scenic views, et cetera, and
17 the direct jobs that are part of those working
18 forest lands in the forest industry specter
19 are really important and struggling sector in
20 Vermont and all of Northern New England.

21 I know that you're mainly here to look
22 at the 248 process, and we were not directly
23 involved with the process at Sheffield because
24 there were multiple landowners and it was
25 really handled by First Wind. However, the

1 family was kept informed and our observation
2 would be that it was a pretty stringent and
3 thorough process.

4 I think one of the things I know I've
5 been asked did the public input in the process
6 have a direct impact on the project itself and
7 our decisions as land owner as we worked out
8 agreements with First Wind, and I think you
9 should all know that that really was the case.
10 We were made aware of the significant bear
11 habitat on the Sheffield site. We worked very
12 closely with Nancy Bell from the Conservation
13 Fund over many years, and there were major
14 adjustments made to the project to protect
15 that bear habitat resource. In fact, when we
16 first were approached by First Wind about the
17 project in Sheffield we had not intended to
18 put that land under conservation easement, and
19 I think it's pretty fair to say that a direct
20 result of the 248 process and the discussions
21 that happened during that resulted in the
22 conservation easement that's on that 2,700
23 acres for the life of the wind project.

24 So very quickly here, we understand, I
25 think, our perspective is the Public Service

1 Board is looking out for the broader public
2 good, and I just think it's a really important
3 perspective to make and it is a public good
4 that doesn't relate directly to clean energy
5 is this working forest -- enabling working
6 forest that continues into the future.

7 For a family like ours, as my father
8 said for years, he grows trees for his
9 grandchildren. We need to have a certain
10 amount of revenue from those lands and the
11 conservation easement of a working forest has
12 a very limited return. As you can all imagine
13 and all know the last five years have been
14 difficult for the wood products industry and
15 for landowners that are trying to make a
16 living on sustainable forest management of a
17 working forest.

18 So oddly without the Sheffield income,
19 the Sheffield income has been extremely
20 important to us and has enabled us to continue
21 the concept of working forest land purchases
22 in the future and the use of conservation
23 easements, you know, to prevent its long term
24 development, and the big concern we all have
25 is forest fragmentation.

1 Just one other quick comment before I
2 finish. We recently have gone through the
3 process to have met towers on our land in
4 Windham and Grafton. These have been
5 approved. This is a challenging process, and
6 I just want to mention that I think it's
7 important to have a potentially more
8 streamlined process for met towers so we can
9 get the data on these sites with stringent
10 requirements. We need to have research
11 available for future decisions that are made.
12 Without the proper data it's very difficult to
13 effectively and thoughtfully plan a project
14 and what made certain locations viable and
15 others not.

16 I certainly am a believer there are some
17 sites that are not appropriate for both
18 environmental and aesthetic reasons, but I'm
19 also a huge believer that Vermont and the
20 whole country has real responsibilities to
21 support alternative energy, and as somebody
22 who has worked on climate issues and land
23 protection issues most of my life in New
24 England, I'm really a strong advocate in
25 believing that New England -- Northern New

1 England can wean itself off both fossil fuel
2 and nuclear energy, and it seems Vermont
3 should be and can be the leader in supporting
4 responsible development of all the
5 alternatives.

6 So with that I appreciate your time, and
7 there's some written comments that are fairly
8 similar to what I said that will be handed out
9 for the record in case you couldn't hear me.

10 MS. EASTMAN: Thank you, Mr. French.

11 MR. FRENCH: Thank you, and there's my
12 e-mail on the printed comments that are in the
13 handout if somebody has any followups or
14 questions they are interested in our
15 perspective.

16 MS. EASTMAN: Thank you. Before you go
17 do Commissioners have any questions for him
18 right now?

19 MR. BODETT: I had one quick one. Does
20 the conservation easement that you have on the
21 Sheffield lands that expires when the project
22 is done, does it prohibit your timbering that
23 in that -- during that period?

24 MR. FRENCH: No. No. We've recently
25 had a fairly good harvest up there and this

1 last year we did, and, no, we're continuing to
2 operate it as a working forest, and I should
3 also point out that the land is completely
4 open to community recreation. There's
5 recreation regularly used by hunters, snow
6 mobilers, cross country skiers, and hikers,
7 and with the exception of some very small
8 areas around where the First Wind has
9 buildings, the entire property has been opened
10 for public utility.

11 MS. EASTMAN: Thank you. Thank you, Mr.
12 French. So next up on my list is Andy
13 Tetrault.

14 MS. STEBBINS: This is a thank you to
15 VPIRG for coordinating this one.

16 MR. TETRAULT: Excuse me for having to
17 have my thoughts on the notes. I'm not a
18 great public speaker.

19 MS. EASTMAN: Thank you for coming.

20 MR. TETRAULT: I want to say hello and I
21 want to thank the Commissioners for all your
22 work and the opportunity to be here today.

23 My name is Andy Tetrault and I live in
24 the center of Lowell, Vermont with my wife
25 Gert who was unable to be here today. I was

1 in fact born and raised on a farm where we
2 still live. I'm fortunate to have raised our
3 three children there. Our children have also
4 chosen to make their homes and raise their
5 families in Lowell.

6 We have a view of Kingdom Community Wind
7 Farm from our front window. We have been
8 advocates for the wind farm for years and have
9 actively participated in the siting process.
10 We assisted in organizing public meetings and
11 helped share information with our friends and
12 neighbors. Our experience with siting of
13 Kingdom Community Wind project was extremely
14 positive. The town was given ample
15 opportunity to get involved and it did.

16 While this project is not only a real
17 benefit to the Town of Lowell, it is also a
18 huge benefit to the State of Vermont. We feel
19 that both we and our town were well
20 represented by the process.

21 From my personal experience changing the
22 permitting process now would only serve to
23 paralyze the future opportunities for other
24 renewable projects, and I would like to thank
25 you again, and I guess that's all I have to

1 say for the day. If there are any questions
2 --

3 MS. McCARREN: I have a question, Mr.
4 Tetrault. As Lowell approached this project
5 how did it -- in your opinion did it have
6 satisfactory interactions with the towns
7 around Lowell?

8 MR. TETRAULT: Yes.

9 MS. McCARREN: Can you give us any
10 information about that?

11 MR. TETRAULT: Yes. I personally
12 attended -- we had informational meetings in
13 all five surrounding towns and we -- there was
14 also Public Service Board meetings. I
15 attended those meetings. My wife and I.

16 So I feel -- and this was, you know,
17 upfront. We started -- we started on this
18 kind of -- on this particular project about
19 2008. We voted in Lowell in 2010. By the
20 fall of 2008 we were actually meeting with
21 towns. We were inviting people in our home.
22 We were having home meetings, house meetings
23 in the evenings, and we would have anywhere's
24 as little as two people up to 22 people.

25 We would call people randomly. We tried

1 to give everyone a chance. We called people
2 from out of town. We invited Selectboard
3 members. We tried to be, you know, to be
4 upfront and be ahead of the project so they
5 had ample time to get involved.

6 MS. MCCARREN: And on a more delicate
7 issue was there ever any discussion of revenue
8 sharing with the surrounding towns or because
9 -- with any kind of either sharing of tax
10 revenues or payments in lieu of taxes, and
11 were there discussions about that, and how do
12 you think those went?

13 MR. TETRAULT: Well there was
14 discussions and there was also -- actually we
15 have what they call a good neighborhood fund
16 that the surrounding towns -- it was divided
17 amongst the surrounding towns, and it depended
18 on the percentage of viewshed I guess, and you
19 know it was kind of like a pie and the closer
20 towns got a bigger amount for ten years, and
21 that -- that amount was on generation while
22 Lowell is a fixed payment, but they are on
23 generation.

24 MS. EASTMAN: Thank you.

25 MS. MCCARREN: Thank you.

1 MR. TETRAULT: Thank you.

2 MS. EASTMAN: Next on my list we have
3 Claire Stanley and then Herb Durfee from Fair
4 Haven. My parents lived in Castleton for a
5 while too.

6 MS. STANLEY: Good morning.

7 MS. EASTMAN: Good morning.

8 MS. STANLEY: Gabrielle said she didn't
9 tell us what to say, but one of her
10 suggestions was that we introduce ourselves
11 and I have eliminated that in my notes so I
12 have to do some editing.

13 My name is Claire Stanley. I live in
14 Fair Haven, Vermont where I own my home and
15 property. I thank you, the Commission, for
16 the opportunity to speak before the Energy
17 Siting Commission and hope your work will lead
18 to a better understanding of renewable energy
19 production and its siting.

20 It is my understanding that the purpose
21 of this hearing is to review the permitting
22 process and to determine if people feel they
23 are heard in that process. I'm neither an
24 engineer or an attorney or anything like that.
25 I can only speak as a layperson. I'm

1 somebody's grandma, but I can tell you how it
2 feels to the average person when faced with
3 the frustrations of this process.

4 The following is a three-minute overview
5 of my experience. Beaverwood Energy is three
6 years and as many millions of dollars in the
7 permitting process to build a wood fired
8 biomass electric generating plant/wood pellet
9 production operation/year-round greenhouse
10 operation in Fair Haven. I am a Selectman in
11 Fair Haven. I feel I represent the town and
12 surrounding communities where there's an
13 extraordinary support for this project.

14 The company organized a bus load of
15 community supporters who attended a day at the
16 State House to show their support. This is my
17 sixth trip to Montpelier on my own dime to
18 attend hearings, meet with legislators, and
19 with the Governor. I have attended hearings
20 locally as well. Some on energy production as
21 well as with energy providers. I also visited
22 the McNeil plant in Burlington and became ever
23 more supportive.

24 The frustration is when there's one
25 message at a hearing with a completely

1 different outcome. There are many, but I will
2 cite one example. At one hearing 33 people
3 spoke. At least 25 of those, I didn't count
4 them, but they spoke in opposition to the wind
5 -- to the Lowell wind project. About two
6 weeks later I read in the paper that that very
7 project was in progress while the Beaverwood
8 Energy project proposed for Fair Haven enjoys
9 unprecedented support and continues to be
10 stonewalled.

11 By the way I totally support wind
12 projects. The Beaverwood Energy project would
13 generate up to a thousand jobs during the
14 two-year building process, at least 50
15 permanent well paying jobs on site after its
16 completion, and 150 plus ancillary jobs such
17 as wood chipping, trucking, forestry
18 professionals, and so on.

19 The company will not only provide much
20 needed employment in southwest Vermont, but
21 will be paying millions in local and state
22 taxes. Surely this is in the public good.

23 It appears that, as it feels like, that
24 only the negatives are heard. At one hearing
25 several gentlemen spoke with regards to

1 regulations on use of forest projects. These
2 forest engineers, loggers, and firewood
3 professionals were in agreement that a biomass
4 project like Beaverwood is, and I quote, the
5 best thing for Vermont forests since sliced
6 bread, close quote.

7 Again, in the public good. However,
8 more attention seems to be paid to those
9 naysayers who go on and on about how they are
10 scheming to clear-cut, pollute, and/or cause
11 irreparable harm to our forests and our state.

12 To answer your questions, yes I believe
13 the permitting process is way too cumbersome,
14 extremely expensive, and a futile exercise in
15 duplication. I cite Act 250/248.

16 The message that is heard by people like
17 me is that Vermont is anti-business. Three
18 slate companies gave up the expensive process
19 rather than try to expand their operations --
20 rather than expand their operations in Fair
21 Haven. They simply moved to New York.

22 Do I feel I'm being heard?

23 Unfortunately no. As an aside, I'm wondering
24 why the Beaverwood -- the proposed Beaverwood
25 site in Fair Haven was not scheduled as a site

1 visit. We also in Fair Haven had two local
2 hearings attended by, oh, one of them was
3 about a hundred people, one was maybe two
4 hundred people, and they were from as far away
5 as Proctor, some in New York State because all
6 of these communities will be impacted. All
7 supporting it.

8 In five days we were able to put up a
9 petition or gather a petition with over three
10 hundred signatures that I personally presented
11 to the Energy Commission. I'm just feeling
12 completely stonewalled, and I thank you again
13 for the time to speak.

14 MR. DURFEE: Hi. My name is Herb
15 Durfee. Many of you already know me from that
16 standpoint, member of the Chittenden County
17 Regional Planning days, Town of Essex, that
18 sort of thing.

19 Thanks to folks like Claire I very
20 recently have been hired as the Town Manager
21 for Fair Haven. I think the passion that you
22 can see in Claire is evident in the type of
23 person that I think that I'm going to bring
24 and the experiences that I'm going to bring to
25 the Town of Fair Haven from that standpoint.

1 A lot of my career has been around local
2 and regional type of facilities. I have
3 participated in Act 250's, Section 248's as
4 back as far as the Champlain pipeline if you
5 remember that kind of thing, and clearly this
6 has been in the Chittenden County area, but
7 I'm bringing my expertise down to the Fair
8 Haven area.

9 I do support everything that Claire is
10 talking about, but I think the one thing to
11 add to that is -- which she highlighted to a
12 degree, is the regional influence that the
13 Beaverwood biomass facility can bring to the
14 area.

15 The ISO New England is looking for
16 additional facilities that are at a regional/
17 subregional type of level. This facility
18 clearly brings that to the area. When you
19 bring in the Rutland/West Rutland area we can
20 certainly help to serve that, and it really
21 makes sense to kind of move forward with
22 Beaverwood with all of the information, the
23 hearings, the money, the work, all the sort of
24 consulting work behind the scenes that have
25 been done that it seems like the facility is

1 -- can be ready to go, that it seems somewhat
2 silly to be starting to look at other
3 different facilities in the same general sub
4 region of the Rutland area, and I think I'm
5 going to stop there only because I'm not
6 totally well versed in everything, but it's
7 more here to support Claire and what she's
8 talking about.

9 From what I've seen in Fair Haven and
10 just the few Selectboard meetings that I've
11 made it's a good community. They do their
12 work. They are passionate about their work
13 and no bones about it. Thank you.

14 MS. EASTMAN: Thank you. Any questions?
15 Wait, Louise has some questions.

16 MS. McCARREN: Just very quickly, could
17 you help us with just a few facts around the
18 Beaverwood? How -- I gather a CPG has been
19 applied -- Certificate of Public Good has been
20 applied for. Can you give us an idea of how
21 long ago that was roughly and --

22 MS. STANLEY: Well they have been in the
23 process for three years. It's -- go to
24 Google, type in Beaverwood. Their application
25 is that thick.

1 MS. McCARREN: You may know more than I
2 do. It was filed and then withdrawn? Claire,
3 I can look it up. I just wanted to get a
4 sense from you guys how long this process has
5 been going on from your perspective and --

6 MS. STANLEY: Three years, and they
7 started with a Act 250, and because it's an
8 electric generating facility that will use the
9 excess heat to make pellets, to manufacture
10 wood pellets --

11 MS. McCARREN: Right.

12 MS. STANLEY: And also a greenhouse.
13 When it was -- they went to the Public Service
14 Board with Act 250 and then it was determined
15 that Act 250 didn't cover the pellet
16 manufacturing place. So they had to duplicate
17 everything to go into the 248.

18 MS. McCARREN: I'm getting the picture.
19 I just wanted to see whether -- okay.

20 MS. STANLEY: As far as I know it's
21 still pending. Yes.

22 MS. SYMINGTON: As I understand it there
23 were two plants, one in Pownal and one in Fair
24 Haven.

25 MS. STANLEY: I have nothing to do with

1 the Pownal one.

2 MS. SYMINGTON: Right, but I think it's
3 the Pownal one that was withdrawn.

4 MS. STANLEY: Yes. The Pownal one was
5 withdrawn.

6 MS. MCCARREN: What I'm trying to
7 understand is -- I understand your
8 frustration, but I'm trying to understand
9 where in the process you think it collapsed,
10 and what I just heard you guys say is it was
11 either confusion or duplication created by the
12 250 and the 248 separate processes?

13 MS. STANLEY: All of the above, and then
14 there was some action in the Legislature that
15 -- and I can't cite numbers again -- I'm just
16 grandma, I'm not an engineer -- where the bill
17 was to mandate x amount of electricity to be
18 produced by renewables by a certain date and
19 it cited the renewables being solar, wind, geo
20 and all of that, and it included biomass.
21 Passed the House. Went to the Senate. They
22 took out the language that included biomass is
23 what my understanding is, and so the electric
24 companies are not mandated to do biomass,
25 wood-fired biomass by the way.

1 MR. COSTER: Just as a clarifier for
2 you, Louise, my understanding is the
3 application is essentially stalled or
4 withdrawn with the Board because they weren't
5 able to identify their transmission route
6 initially. So basically the developer still
7 needs to figure out how to get the power to
8 the grid. So it's not going to pursue with
9 the Board until they figure that out.

10 MS. STANLEY: And I'm not sure it's
11 routing as much as they are negotiating with
12 it's Green Mountain Power now. It started out
13 with CVPS.

14 SECRETARY MARKOWITZ: As I understand it
15 their initial route was problematic because of
16 some flood issues that was along an area where
17 it was going.

18 MS. McCARREN: How big was it in terms
19 of generating capacity?

20 MR. COSTER: 29.5 megawatts.

21 SECRETARY MARKOWITZ: Let me ask you if
22 it's okay. My question really is, you know,
23 one of the things that I observed that was
24 challenging and confusing with this project is
25 that the developers came in with a lack of

1 clarity about what needed to be a 248, what
2 needs to be an Act 250, and as what you're
3 saying there should just be one process even
4 with projects like this that has a commercial
5 enterprise that would -- the pellet
6 manufacturing and the greenhouse that would
7 ordinarily go through Act 250 that it makes
8 sense to combine them all because in your view
9 the impacts are combined. Is that what you're
10 trying to say?

11 MS. STANLEY: No. No. I have no
12 problem with both processes. I'm just saying
13 that they did the entire 250. Then it's
14 determined -- then it was determined they had
15 to do 248 because 250 didn't cover the pellet.

16 SECRETARY MARKOWITZ: It was actually
17 the opposite. So what they did is they filed
18 for a CPG and wanted to include the pellets
19 and -- but you've got the general idea is that
20 there was some confusion about whether it was
21 a 248 or not.

22 MS. STANLEY: And then there was a
23 duplication. They had to do the same things
24 over and over and over, and I have no problem
25 with -- no, I think 250 and 248 should

1 certainly exist, but in a case like this, and
2 it happens to be this, it doesn't have to be
3 this one, why can't the Agency accept what's
4 already been done and just require -- and this
5 very conversation to me highlights the
6 problem. We all have a different take because
7 we're all on different agencies. Good lord,
8 talk to each other.

9 MS. EASTMAN: Any other questions?
10 Thank you very much.

11 MS. STANLEY: You're welcome.

12 MS. EASTMAN: Let's see. Shall we go
13 with Sam Swanson? He's here.

14 MS. STEBBINS: I believe he's on phone,
15 and I just want to say thank you to elected
16 officials, as well as Representative Canfield,
17 for assisting with us.

18 MS. EASTMAN: Mr. Swanson, we can hear
19 you.

20 MR. SWANSON: Okay.

21 MS. EASTMAN: Go ahead.

22 MR. SWANSON: I am Sam Swanson. I've
23 lived in South Burlington now for 15 years. I
24 welcome this opportunity to address this
25 Commission. The work you're doing is

1 extremely important. The siting, design,
2 construction, and operation of new renewable
3 electricity supplies in the State of Vermont
4 is extremely important.

5 I've spent -- I wear many hats. I've
6 spent much of my work life addressing the
7 environmental impacts of electric power
8 production. I served as a policy advisor to
9 the Pace University Energy Climate Center. I
10 worked for -- I'm a member of the Clean Energy
11 -- Vermont Clean Energy.

12 Today I speak to you as an active member
13 of several community organizations all in one
14 way or another that are addressing the pace of
15 climate change. I serve on the City of South
16 Burlington's Energy Committee. I'm a member
17 of the Ascension Luthern Church Congregation
18 in South Burlington, and I serve on the
19 Vermont Interfaith Light Board of Directors.

20 MS. EASTMAN: Thank you.

21 MR. SWANSON: I'm on a city energy
22 committee. I'm a part of the Ascension
23 Luthern Church congregation that's very
24 focused to addressing changes to our earth,
25 and I serve on the Board of Directors of

1 Interfaith Light which is a multi-faith
2 organization whose mission is to address the
3 challenge of climate change. Although I've
4 been studying the environmental effects of
5 energy facilities for a very long time, this
6 work in my community brings me in direct
7 contact with practical difficulties of sorting
8 out difficult choices with my neighbors.

9 I believe more than ever that Vermont
10 must have an energy project permitting process
11 to provide a fair and orderly way to reconcile
12 sometimes conflicting community values, the
13 commitment for clean sustainable energy
14 sources, and the commitment to protect other
15 features of Vermont's environment.

16 The Certificate of Public Good process
17 provides just such an orderly process that
18 enables neighbors to identify real problems
19 that offers the project developer the
20 opportunity to address the merits of the
21 problems, and it provides the promise that the
22 difficult conflict will be evaluated and
23 addressed fairly. It is in so doing that it
24 provides a framework for adapting to changing
25 technology and energy and the emerging life

1 experience as well.

2 I believe that we very much need a
3 public permitting process that enables us to
4 address effectively the environmental impacts
5 of siting renewable energy while providing a
6 pathway for timely and balanced site permit
7 decision making. The permitting process must
8 lay the foundation for progress. Progress
9 that requires that we succeed in deploying
10 renewable projects and that we locate and
11 design these projects to meet sometimes
12 competing and hard community objective.

13 The Public Service Board's Certificate
14 of Public Good process has been developed and
15 refined over several years to sort out and
16 address difficult choices, difficult
17 decisions. It provides an orderly process
18 that balances Vermont's need for electricity
19 production with the need to avoid or mitigate
20 real environmental impacts associated with
21 each proposal.

22 I urge that you, this Commission,
23 embrace a siting strategy that builds upon the
24 well tested Certificate of Public Good
25 process. We must find ways to facilitate

1 increased use of solar energy to meet our
2 electricity needs. All electricity production
3 produces environmental impacts, but it is
4 clear that solar panels produce electricity
5 with the lowest environmental impact of all
6 the available options.

7 The impact of climate change on life
8 systems worldwide is sobering. Our global
9 ecosystem is precious but incredibly
10 threatened. We must either drastically reduce
11 energy use or find ways to site new very clean
12 energy supply technology.

13 Solar is the low impact option. All the
14 options involve greater challenges than solar.
15 Properly designed solar electric panels have
16 negligible long term impacts. Sites can be
17 managed to preserve flora and retain host
18 signs for fauna. Nevertheless, if we're going
19 to meet a significant portion of each
20 community needs with solar panels, these solar
21 panels will become a visible part of our
22 community, our landscape.

23 One of best qualities of solar is the
24 short lasting environmental footprint. These
25 facilities can be disassembled at the end of

1 their line leaving green fields, and an
2 effectively designed solar field can be
3 disassembled and converted to other uses,
4 crops or recreation for schools, for homes at
5 very low cost.

6 I find virtually every community scale
7 solar project nevertheless that has been
8 produced that has been proposed in South
9 Burlington has encountered serious objections.
10 It has been my experience that the Certificate
11 of Public Good process gives citizens the
12 opportunity to identify problems, provide the
13 private developer a deliberative process for
14 the developer and process that addresses
15 problems citizens identify and provide for a
16 timely resolution of conflict.

17 Surely the existing Certificate of
18 Public Good process can be improved. It
19 should be modified to address real problems
20 experienced that are emerging and they
21 continue to emerge as we gain experience.

22 The work of this Commission offers the
23 opportunity to learn from our experience
24 siting new technologies and continue to adapt
25 as our experience grows. We need to embrace

1 the siting practice that ensures that we can
2 continue to build and operate new clean energy
3 systems, a practice that encourages efforts to
4 avoid and mitigate real environmental impacts.

5 I believe the support for solar is
6 strong and it is not unanimous. We must
7 ensure the real problems are addressed, but
8 that imaged problems do not create real
9 barriers. I recommend that we take measured
10 steps to build upon the long energy siting
11 experience and current practice steps that the
12 mature problem solving that can provide a
13 means to reconcile our needs for clean energy
14 with our community goals.

15 We must sustain a permitting process in
16 Vermont that encourages innovation and that
17 provides opportunities for experience, and
18 that concludes my comments. Thank you.

19 MS. EASTMAN: Thank you. Questions for
20 Mr. Swanson. I mean we'll be in South
21 Burlington.

22 MS. MCCARREN: I do if no one else does,
23 which is, Mr. Swanson, any concrete
24 suggestions for modifications of the process?
25 I heard what you said about you think it

1 should be -- what I heard you say is that
2 modifications would be appropriate, but do you
3 have any concrete suggestions on what you
4 would -- how you would change the process?

5 MR. SWANSON: I actually think the
6 process is overall fairly well designed. I
7 think that the opportunity that the strength
8 -- the process works best when there are local
9 hearings conducted and that people have an
10 opportunity to address the problems that they
11 have and those then are considered.

12 In response to your question I am not
13 recommending changes, but I'm recommending
14 that you design a process that allows for
15 change. I think you will hear from other of
16 my neighbors who today who have questions that
17 they challenge. They feel that solar imposes
18 problems they are concerned about, and what
19 I'm looking for is a process that allows those
20 concerns to be evaluated and addressed.

21 My experience with the projects that
22 have been built in South Burlington is that
23 each of them has presented concerns by
24 neighbors that don't necessarily initially
25 understand what's being proposed. Once they

1 do understand and learn what the proposals are
2 I think it has provided a process for sorting
3 out and addressing the concerns they have.

4 So I guess I'm taking a lot of words to
5 say that I'm supporting the process as
6 designed today, but recognize that others who
7 have problems may offer you suggestions and
8 that I would be open to modifying the process,
9 but strongly endorsing recommending that you
10 not change it. I'm concerned the 248 process,
11 the diminished or substituted with the 250
12 process doesn't really come to grips with the
13 balance between energy and environmental
14 values as well as the 248 process.

15 MS. EASTMAN: Thank you, Mr. Swanson.
16 Thank you very much. Are we going to be able
17 to hear from Bonnie?

18 MS. STEBBINS: Bonnie, are you on the
19 phone? No. She was not certain whether or
20 not she could get out of work. So that will
21 be it.

22 MS. EASTMAN: That's okay. That's fine.
23 Thank you so much, Mr. Swanson. So that's it
24 for this perspective.

25 So next we have -- it's about 10:15. So

1 we'll go for the next 45 minutes we have
2 Vermonters For A Clean Environment. We have
3 Annette Smith presenting to us. She's got 30
4 minutes and then we'll have questions -- time
5 for questions. May I say I really do
6 appreciate hearing something about biomass and
7 solar. So sorry, but I do.

8 MS. SMITH: Thank you to the Commission
9 for hearing from me today. My name is Annette
10 Smith. I'm Executive Director of Vermonters
11 For A Clean Environment. On a personal note I
12 live off grid with solar and have for 25 years
13 in Vermont. So I live in a cabin and grow my
14 own food.

15 So we're going to take a look today at a
16 different approach to renewable energy
17 development, and we were asked by the
18 Commissioner of Public Service to present the
19 energy siting process that we would like to
20 see. So this will be a two-part presentation.
21 The first part will be really education about
22 what a community based stakeholder process is,
23 and it is about collaborative problem solving,
24 and then the second part is we'll just take a
25 look at one area of Vermont and sort of

1 contrast what I call the plunk-it-down model,
2 which is what we have right now, with a
3 community development model.

4 But first about Vermonters For a Clean
5 Environment. We were formed in 1999 to deal
6 with a very large natural gas pipeline project
7 and we then had to deal with a very large
8 mining project, and over the years we've
9 worked on large farms, quarries, landfills.
10 Much of our work relates to the interface
11 between industrial sites and residential
12 areas, and to put it bluntly we are really
13 tired of fighting, and so what we're really
14 pleased to do is offer an approach about
15 collaboration. We have done several community
16 based stakeholder processes and so that's what
17 we'll take a look at first.

18 Our experience began in 2005 when there
19 was a very contentious proposal involving a
20 company called OMYA, and we had already been
21 in mediation. There had been an Act 250
22 project. Then we went to ANR and there was a
23 deliberative process there, and we went to
24 mediation. 30 hours of mediation got us
25 nowhere. Finally the Legislature passed a law

1 requiring an independent study of the site,
2 and to their credit OMYA hired Conservation
3 Law Foundation Ventures to come in and
4 facilitate, and one reason I'm interested in
5 going to the Londonderry site is because CLF
6 Ventures also is a facilitator in that
7 project.

8 The outcome of that was that it not only
9 brought the citizens to the table with the
10 company where we all agreed on the expert to
11 hire, but it really built community. It
12 changed relationships and really strengthened
13 the whole. It went from being a really
14 hostile environment between the company and
15 the neighbors to one where the neighbors now
16 can call the company. There's not -- the
17 hostility is just not there.

18 Then in 2007 we had an experience with
19 JP Carrara and Sons where we had actually been
20 involved before in a very seriously contested
21 quarry case that went to Environmental Court,
22 and then I got a call from somebody in East
23 Middlebury about Carrara, and I said oh geez
24 we don't want to fight them again and they
25 didn't want to fight either.

1 So in both of these two cases I want to
2 make the point that there was an incentive.
3 In the first case it was legislation. In the
4 second case it was they didn't want to spend
5 the money either to fight, and so in that case
6 the company and the community came together.
7 They took two years to go through a community
8 based stakeholder process that they agreed on
9 the experts to hire, and this was after the
10 community had, you know, it had two
11 contentious DRB hearings. Over a hundred
12 people signed a petition, and so in the
13 outcome of that one the company said no matter
14 what happened with their permit they would --
15 they said it was so valuable for the
16 relationships that it formed they never really
17 would look at the community again the same way
18 and they did get their permit.

19 I have these color coded and the ones in
20 gray are what I consider sort of various
21 shades of failure. In 2008, again with the
22 Legislature's push we engaged in a stakeholder
23 process with state agency officials in a water
24 district. The reason this one didn't work is
25 that EPA and the State came up with money for

1 a facilitator, but they didn't come up with
2 any money for us to actually do anything, and
3 so in these other cases the companies were
4 going to spend the money anyway.

5 Our current real failure, and I won't
6 say we failed, but Vermont Gas Systems
7 pipeline, which was in the news today, the
8 company, again at the suggestion of the
9 Department of Public Service, last year we
10 were advising Vermont Gas Systems on how to do
11 a good public outreach and they colossally
12 botched it I'm sorry to say. They last night
13 had to apologize to the community for how they
14 have done it.

15 So if you want to look at an example how
16 not to do it right, they are doing it right
17 now because I'm dismayed. We tried to help
18 them. We had meetings with them. We advised
19 them on how to do a good process.

20 We have asked five wind developers to do
21 it differently. The first words I ever spoke
22 in public on wind in 2009 were to ask the
23 developer to please work with the community to
24 do it differently.

25 Well so the community based stakeholder

1 process, as I've indicated, needs a carrot and
2 a stick. So we're going to now look a little
3 bit at the difference between if we had
4 intervenor funding as the stick and community
5 based stakeholder process as the carrot.

6 So in the conventional approach you have
7 the -- it's a contested case. It's courtroom.
8 It's the same basic process if you're brought
9 up on charges for murder except you get some
10 legal representation. Here the developer
11 comes in with a lot of money and they are
12 going to make a lot of money. In the Ira wind
13 case they were going to make 30 million
14 dollars a year and leave 3 million behind in
15 Vermont. So there's a lot of money available
16 in these developments.

17 The neighbors they come in with a goose
18 egg, and so we're very much in favor of
19 intervenor funding for this process. If we
20 just don't touch the process the way it is,
21 then we think it's essential we have
22 intervenor funding as the stick, and I got a
23 lot of visuals here.

24 So we think that the stick needs to be
25 more than the New York amount. They set a

1 thousand dollars a megawatt, and for
2 comparison with the Lowell wind project that
3 would be about \$64,000, and honestly what was
4 spent was about three times that, and that was
5 done on a shoestring. So we know what it
6 costs for citizens to participate in these
7 processes on a shoestring, and frankly based
8 on our experience the stick has to be big
9 enough. Now when you're talking about these
10 companies making tens of millions of dollars
11 annually to put up even \$180,000 it's nothing.
12 They can write it off, just absorb it into
13 their costs. This is a reasonable amount to
14 ask for.

15 The carrot is the community based
16 stakeholder process, which is about mutual
17 gains. It is collaboration to reach a
18 mutually advantageous outcome, and in March of
19 2003  we participated in a Department of Energy
20 sponsored workshop, three days, put on by the
21 Consensus Building Institution and Rob
22 Associates. Some of you might remember Rob
23 Associates did the deliberative polling
24 process in Vermont, and this was about
25 facilitating wind energy siting.

1 I admit to being a little suspicious
2 about the title. Didn't have any idea what I
3 was going to. It was at Harvard Law School,
4 and I was very pleased when I realized the
5 first day that this was all about community
6 based stakeholder process, and we were taught
7 by Lawrence Susskind who is the guru of
8 alternative dispute resolution. He is the
9 founder of the Harvard Law School program, and
10 he's the founder of Consensus Building
11 Institute, and what he taught us works. It
12 doesn't matter what the issue is.

13 A couple months later he was doing a
14 process on water. So his approach to this --
15 and I put a link in here. If you click on
16 this link, it will go to the blog site where I
17 posted all the audio and all the materials
18 from the program.

19 His initial approach is to say he thinks
20 that some people think there are four
21 different issues with wind siting. One is
22 it's a problem with policy. You just don't
23 have the right policies in place. One it's a
24 technology problem. You just -- it's not a
25 good technology. I happen to be in that camp.

1 Some people think it's just about the impact,
2 and some people think it's about bad
3 negotiations, and that's why there's so much
4 problem, and that's what the focus of this
5 workshop was on, was on that we're not making
6 good deals. You know, we're not spreading the
7 benefits around.

8 So I've pulled out, and in preparation
9 for doing this I listened to the audio and
10 went through the power points, and this is all
11 about an hour's worth of material, and I
12 highly recommend you do it because this drills
13 down more into Lawrence Susskind's teaching
14 and he's really is -- he's a brilliant man.
15 You should just listen for yourself, and so
16 these are the fundamentals of outlining a
17 community based stakeholder process.

18 Here's a chart that shows the difference
19 between a mutual gains approach and the
20 conventional approach that we're first doing
21 -- that we're doing now. So with the
22 conventional approach that the goal is that
23 the developer has a technically viable plan.
24 He's gearing it towards the decision makers.
25 The tasks are all driven by data. The skills

1 are technical, and the public participation is
2 just to provide some input.

3 In the consensus building approach you
4 have a technically and politically viable
5 plan. Politically I think in this term means
6 like towns and people who live in the area.
7 Your plan is not just the decision maker's,
8 but also the stakeholder representatives. The
9 tasks are interest driven with the attention
10 to data developed jointly. The skills are
11 problem solving not technical, and the role of
12 public participation is to build understanding
13 and generate a proposed agreement.

14 So the first part involves three pieces
15 that have to be managed to have a successful
16 community engagement. You have the process,
17 you have the identifying who the right
18 stakeholders are, and then you have the
19 information and the data. Credible fact
20 finding --

21 MS. MCCARREN: Obviously we can't --
22 even with the best of glasses I couldn't
23 possibly read that.

24 MS. SMITH: You're not supposed to read
25 that. In fact it was a really bad xerox that

1 we got, and so I'm going to read a little bit
2 to you. You're going to get this and you can
3 read it. I'm sorry. It is what I have.

4 MS. MCCARREN: I understand that.

5 MS. SMITH: So this is about joint fact
6 finding. So the way that the process is a
7 process diagram, and don't worry about trying
8 to read it. It starts with a convener, who is
9 generally a third party neutral, convening and
10 doing a conflict assessment, and then it goes
11 to looking at how to identify the
12 stakeholders. Then the parties, once you have
13 your stakeholders, initiate joint fact finding
14 to -- it's a process to handle the complex
15 technical issues, and then the parties create
16 value by generating options or packages for
17 mutual gain. That means let's talk about how
18 we're going to share the benefits. Then the
19 parties distribute value in the form of an
20 agreement, and then the appropriate parties
21 are charged with responsibility for follow
22 through, and the little box at the bottom says
23 return to any steps above as appropriate.
24 It's very important in this process to
25 maintain flexibility.

1 In the third part, sharing benefits.
2 Local benefits are not always discussed or
3 integrated into the dialogue about wind
4 siting, and stakeholders feel that the benefit
5 is not shared equally, and so when you apply
6 the collaborative process you jointly create
7 understanding and evaluate the community
8 benefits option.

9 So what does this look like in practice
10 in Vermont. Well implementation in Vermont
11 there are four phases, and in the first phase
12 while third party neutral, we already had Act
13 250 district coordinators who are skilled at
14 coordinating. We also have Act 250's very
15 good at identifying stakeholders. We already
16 have that process in place, and in this
17 consensus building teaching they said that
18 this is really important that this person does
19 outreach, makes phone calls, really tries to
20 find who those stakeholders are, and then it's
21 always open to adding additional parties. You
22 don't cast things in concrete.

23 Value creation. You convene the
24 community based meeting. This, depending on
25 the region and the abilities and the capacity,

1 could be through -- could be a Act 250
2 district coordinator who is the convener, it
3 could be the Regional Planning Commission, and
4 then you develop credible facts through joint
5 fact finding. You do not use the materials
6 that are already generated by the developers.
7 This is critically important to get to build
8 trust, and when you're sitting around the
9 table with people you're actually building
10 relationship too. You have a company that
11 wants to operate in your community. This
12 really does enhance the community relations.

13 Value distribution where you negotiate
14 the shared benefits, and then there's the
15 participation in the community based hearings,
16 and as a part of this we would hope that there
17 would be much less conflict by the time you
18 got to hearings.

19 We support a revised Act 250 District
20 Commission process. We'd like to see some
21 better standards put in place so that Act 250
22 is not as political in its appointment process
23 and requires some expertise, which was
24 actually looked at initially when Act 250 was
25 formed, and then we do think that the PSB has

1 a role to play for the more technical
2 electrical issues, and then the follow through
3 is to implement the final decisions.

4 After the first day of the workshop at
5 Harvard Law School I went up to Dr. Susskind
6 and I said is this about getting to yes and he
7 said no. He said no always has to be on the
8 table. It's very important to remain flexible
9 in changing circumstances and you got to get
10 the lawyers out of the room, with all due
11 respect to the lawyers.

12 So what triggers the intervenor funding
13 or the community based stakeholder process --
14 for those of you who are too young there's Roy
15 Rogers and his horse Trigger -- with the
16 merchant or utility developer driven process
17 it is any interactions. We've heard that
18 people are upset that ANR has been working
19 with developers for two years behind the
20 scenes. Any of that interaction should
21 trigger the developer having to decide which
22 process to use.

23 We saw in the New York presentation that
24 they have money for intervenor funding
25 pre-application. I think that's really

1 important. So one way or another whenever the
2 developer is out and about talking to
3 landowners, whatever, if anybody gets wind of
4 it, that's the time before he goes out and
5 hires his own experts. Before he's walked
6 into the things that are going to make it
7 difficult to do the process, that's when you
8 want to empower everybody to have a level
9 playing field.

10 Now if it's a community driven process,
11 then it could start anywhere. It could start
12 with a landowner who says hey I would like to
13 do a project. It could start with a town
14 government who says let's see what we can do
15 and so it's much more of a collaborative
16 process.

17 So now we're going to take look at what
18 that might look like, and we're going to just
19 sort of contrast a little bit with what we're
20 doing now and what issues that raises and what
21 a community development process might look
22 like, and we're going to take a look at
23 specifically an area of Windham County, and
24 this area came about because somebody called
25 me a couple months ago and said do you have

1 any place in Vermont that's safe to move where
2 there are no wind turbines, and I just started
3 scrolling around Google Earth and I noticed
4 this incredibly long ridgeline in Windham
5 County, and I knew nothing about it. I just
6 thought wow that's a really -- that's pretty
7 interesting. You don't see that sort of thing
8 in southern Vermont very much, and in fact
9 there's already been a proposal by Catamount
10 Energy that was withdrawn for Glebe Mountain
11 Wind, and then Iberdrola currently has a
12 proposal for Windham and Grafton, and then
13 what would it look like to contrast it with
14 sort of a community driven plan or even the
15 developer plan in this other area.

16 So in these two options we're going to
17 look at the plunk-it-down model and the
18 stakeholder process model in about a quarter
19 of Windham County. I think that the -- trying
20 to do this process with the whole county is
21 too big. So we're just going to take this
22 one-quarter that happens to include the
23 Grafton-Windham area, but it's also got this
24 really about a 12-mile long ridgeline.

25 Now what options do we have for our

1 communities to look at or for the developers
2 to look at. Well we have the Vermont
3 Renewable Energy Atlas, and so if I was a wind
4 developer I might say oh wow look at all that
5 wind and in that area in yellow, yeah, there's
6 wind there, but gee that ridgeline, it turns
7 out when we look more at some resources, it's
8 conserved. Windmill ridge is what it's
9 called, and it has -- the ridgeline itself is
10 conserved.

11 So we have windmill ridge in both -- it
12 turns out this is in Athens and Brookline on
13 the west, and Westminister, and then down
14 below is Putney. So there are two different
15 conservation efforts that conserve just the
16 ridgeline, but we also know that the way that
17 things are going now it really doesn't matter.
18 You can put wind turbines right next to
19 anything, and so we could have the windmill
20 ridge park that a developer might go out and
21 get leases to do, and yeah he could put
22 turbines right up next to this conserved area.

23 There's a web site
24 windmillridgewindpark.com. Yes, you can click
25 on that link, type it in there and you'll get

1 to a real web site, and so the windmill ridge
2 site that's how some people have actually
3 discovered wind projects in their community.
4 So this is sort of the developer way that
5 we've been seeing that this has happened is
6 that the developers just go out and do these
7 things and the community finds out about it
8 later.

9 Another tool we have this is a map that
10 was created by the Regional Planning
11 Commission. This shows all the structures in
12 the area. So, again, this is a good way to
13 identify who are the stakeholders, and we have
14 tremendous mapping tools through the Regional
15 Planning Commission. So, you know, for this
16 particular area the people in that area are
17 the ones that would be most affected by any
18 development on the ridgeline, and the ones in
19 the outer areas would be in the viewshed, but
20 not be as affected as the ones who live right
21 around it, but in the current community based
22 stakeholder -- or the current process that we
23 have all those people are pretty much ignored.
24 They get to pay to play, but they don't have
25 any role to play in our current process. So

1 we could end up with things like this where
2 people who live in these houses really haven't
3 had any ability to participate, or if they
4 had, they have had to go into their own
5 pockets to participate to get something like
6 this as opposed to doing it in a way that is
7 community based.

8 Turns out this region has a lot of solar
9 and there's a lot of beautiful farm fields.
10 Well okay. So hey a developer might say oh
11 let's do solar too. There are some existing
12 photovoltaic sites in the area and so this is
13 already started in this region. There are
14 also a lot of flat roofs, but they are not
15 utilized right now, and there are a lot of
16 fields, the two on the upper or on the west
17 side and the two on the lower on the east
18 side. So, for instance, is this okay or is
19 this okay.

20 And there's biomass, and if you'll note,
21 the biomass resources, and this is just one of
22 the several maps that are on the web site,
23 they are more around the edges of this area.
24 Same with hydro. There is some opportunity
25 for some new hydro development, again around

1 the edges, not so much around the ridgeline,
2 and then the Renewable Energy Atlas enables
3 you to drill right down into everybody's well
4 and see exactly what the potential is there.

5 So what we find is that renewable energy
6 generates a lot of questions, and this is just
7 a relatively short list of some of the
8 questions that are raised by these
9 developments. For instance, what standards
10 should there be for lands next to conserved
11 lands? How much is too much solar? What sort
12 of aesthetics standards should apply? And so
13 with what we end up with the outcome in the
14 contested case scenario, is we end up with
15 you're guaranteed to get a big pile of paper
16 and you're guaranteed to have spent a lot of
17 money, but what you won't get is you won't get
18 any of those questions answered. It's being
19 done piecemeal case-by-case-by-case without
20 any planning.

21 So if you're doing it from a community
22 based process, if you're using a community
23 development with a community stakeholder
24 process, then the community can come together
25 and look at where is there a need for the

1 power. There is a power line right by this
2 ridgeline so there is access to the grid. Is
3 there three phase solar? That's what you need
4 for the solar orchards. Maybe the community
5 wants to focus on a lot more, you know,
6 conservation and transportation and
7 efficiency, hot water, not just electricity,
8 and where are the available resources.

9 So the community decides to initiate a
10 process to meet the renewable goals rather
11 than have it be this developer driven process.

12 We also for our communities now have
13 natural resource tools. Well these two maps
14 on the left are sort of an indication of sort
15 of where we are now, kind of fuzzy and well
16 who knows, but we're about to get on next
17 Tuesday the bio finder and it will have layers
18 for all of these different resources, and
19 these will be tools available to the community
20 not just the Agency of Natural Resources which
21 is right now making all these decisions and
22 the community is not involved.

23 So a community based stakeholder process
24 on the community level would start with
25 somebody saying let's pull together and let's

1 do this. It would be initiated by a district
2 coordinator who would do the assessment and
3 then you would have a convener to convene the
4 stakeholders. Stakeholders would get together
5 and write a RFP for the expert to evaluate
6 different technologies. The companies would
7 respond to the RFP and the stakeholders would
8 agree on him to choose. The stakeholders
9 would identify the technologies and locations
10 to meet the goals, and implement the decisions
11 through a refined Act 250-Public Service Board
12 process.

13 So the goal is to develop energy in a
14 mutually beneficial way, reduce conflict and
15 the expensive contested cases while building
16 community. So what you might get with a
17 community based stakeholder process outcome
18 is, for instance, a community picnic area near
19 a solar orchard where people carpool to it and
20 everybody can make investments in their own
21 homes to button it up and have a much more
22 collaborative and happy community than what
23 we're seeing now, and that is my presentation.

24 MS. EASTMAN: Thank you. Questions for
25 Annette today? So, Annette, so would you

1 propose that we do the -- like you mentioned
2 the carrot and the stick? That we say you can
3 do intervenor funding or you do this?

4 MS. SMITH: We know how to write funding
5 into legislation. We don't know how to write
6 community based stakeholder process into
7 legislation. When the groundwater bill was
8 going through we were advising that because
9 hey if Nestle wants to come and stick a straw
10 in your aquifer, okay, let's say it's going to
11 happen. Isn't it better to start upfront with
12 this community process so that if then -- the
13 other thing that you get out of this is if
14 there are problems, then you already have the
15 relationships and the structures built to
16 address them.

17 We don't have that right now in any of
18 the things that we're doing and so -- but we
19 struggled with trying. Jon Groveman was at
20 VNRC at the time and he said I don't know how
21 to write that into law, but we've seen that,
22 you know, the wind developers don't want to do
23 it. We asked the last five wind developers to
24 do it and they are going to need a push to do
25 it. All the developers will. That's been our

1 experience. In the instance with OMYA, in the
2 instance with Carrara there was always
3 something that caused -- and it's usually the
4 companies that don't want to do it. We can
5 get the citizens to the table.

6 MS. MCCARREN: Just a follow up on that,
7 my question was essentially saying how do you
8 -- any suggestions on how you would
9 institutionalize this process and make it a
10 required alternative? And the answer probably
11 is because it requires the cooperation and
12 willingness on both sides it might be tough to
13 institutionalize it.

14 MS. SMITH: Well I think pieces are kind
15 of coming together with the legislation that
16 Representative Klein is talking about that
17 he's introduced. I haven't read it yet, but
18 it is available and he wants to bring back the
19 state land use plan, and so I think that
20 that's the vehicle in the Legislature right
21 now to have that conversation about how do we
22 institutionalize this sort of a collaborative
23 and community based development process.

24 I mean you can look at the polls that
25 say 70 percent of Vermonters support renewable

1 energy. Well okay. 70 percent of Vermonters,
2 if that's true, should want to participate in
3 this sort of process.

4 MS. EASTMAN: And I'm not shaking my
5 head because I actually think there's some
6 real possibilities. I really do, and I think
7 that, you know, this afternoon when we start
8 talking Jim Volz is going to be here, and
9 things, you know, the world has changed from
10 like 20 years ago when -- how we site electric
11 generation. The world has changed and I think
12 we just all need to understand that, that
13 there are now other sources -- other people
14 can come in and say here's what they want to
15 do for a private purpose. So how do we
16 protect community interests and environmental
17 interests. You know fairly -- I'm still one
18 who says we need to have electric generation
19 be a possibility in Vermont.

20 I was Secretary of the Agency of Natural
21 Resources a long time ago and we shipped a lot
22 of our problems out to other people, and I
23 guess I think that that's not an ethical way
24 for us to behave. So we've got to take a
25 handle of our own.

1 MS. SMITH: We do have some resources in
2 Vermont. Sean Nolan is a Professor at the
3 Vermont Law School. He is a student of
4 Lawrence Susskind. Solom Malini (phonetic) at
5 UVM is a student of Lawrence Susskind, and he
6 has his approaches to diplomacy through the
7 environment. He was in fact one of the
8 mediators in the Omya mediation that failed.

9 MS. EASTMAN: And I think there's a lot
10 of -- I would be interested to talk to Jim
11 Sullivan about this on the Regional Planning
12 Commission.

13 MS. MCCARREN: Traditionally in Vermont
14 -- historically, rather, in Vermont the issue
15 of statewide land use planning has been a
16 third rail. There is -- in the siting of
17 cellular towers it's a federal legislation and
18 it's a flip, and basically what it says is
19 communities cannot prohibit cell towers. They
20 have to allow them, but they can, through a
21 zoning process, determine where they are to
22 be. Now there's problems both ways, but what
23 you're talking about is essentially also what
24 we've been hearing. We need criteria.

25 MS. SMITH: And that's something that I

1 want to speak to you as the Commission. What
2 we've been hearing is a lot about the process,
3 the Public Service Board process. I want you
4 to really look at that list of questions
5 because I'm concerned that there's nobody
6 answering them.

7 MS. EASTMAN: No. No. I don't
8 disagree. I like your questions. I like the
9 things -- we, I think, heard something -- by
10 the way the staff is doing a lot of background
11 work for us right now trying to put together a
12 paper that just outlines what we heard from
13 other states so we'll have it in one place as
14 we go through and consider here's what
15 somebody else has done and here are the pros
16 and cons on that, and we also won't have -- we
17 haven't seen any of this. So don't worry.
18 You will see it almost right after us, but
19 really some -- what are all the things that
20 are possible and this is what we want to talk
21 about, what are the things that are possible.

22 We're going to hear this afternoon from,
23 you know, Michael Dworkin and Jim Volz about
24 these. There are a lot of people who think --
25 a lot of people who are also involved who

1 think there's room for improvement here in how
2 we go about doing things.

3 MS. SMITH: Renewable energy presents
4 completely different issues and we're not
5 getting good answers from the Public Service
6 Board and it's no real slap to them. It's
7 just that they are looking at it
8 case-by-case-by-case.

9 MS. EASTMAN: And as I say, to me the
10 world changed when we have federal policy
11 promoting certain things and as you say you
12 have merchant things. 20 years ago, 30 years
13 ago this is not how things would have been
14 proposed in Vermont, and we designed a process
15 for them, and so we've got to look at is -- as
16 you say, you put down who chooses where things
17 go and what -- when do we -- you know, and
18 I've just been thinking, and you will hear
19 more about this as we go along in the next
20 month, that there may be different thresholds
21 for different approaches.

22 MS. SMITH: I am concerned about wind,
23 but I also have a lot of concerns about solar,
24 and coming from someone who lives off grid
25 with solar and knows the technology works I

1 still am very -- when you look at -- drive
2 around that area it is just loaded with
3 beautiful, beautiful meadows and fields and
4 what if they were all -- where are the limits?

5 MS. EASTMAN: Right, and we're going to
6 have some change and things are going to look
7 a little different and we got to be used to
8 that.

9 MS. SMITH: I think Lawrence Susskind --
10 he's a very nice man. I think he would be
11 happy to answer questions for you and follow
12 up, and I do highly recommend you listen to
13 especially his teaching of it because then he
14 can help you understand his perspective on it,
15 but we have to stop fighting, and you know we
16 can have a lot more fun developing energy. We
17 don't have to do this in a way that's a slug
18 fest.

19 MS. EASTMAN: So more questions for
20 Annette today or we'll take a 10-minute break.
21 Okay. Thank you very much.

22 (Recess.)

23 MS. EASTMAN: We're due to have Senator
24 Benning and Representative Cheney here at 11.
25 Representative Cheney was due here at 11:15

1 and Senator Benning is not in the room at this
2 time. So you know is the woman from South
3 Burlington still here who wanted to make a
4 comment?

5 What I would like to do is -- what time
6 is it? 11:06. Let's take the next nine
7 minutes and if people wish to make a public
8 comment, let's do it now while you're here and
9 then we'll get back to the agenda. How about
10 that? So yes, ma'am, please, and yes, sir,
11 there will be time for you. Thank you.

12 MS. ELY: Hello. Thank you for
13 squeezing me in. My name is Jennifer Ely and
14 my comments, my remarks, are focusing on
15 wildlife; the bobcat, the fisher, the bear who
16 are the best indicators of the ecological
17 health in Vermont's landscapes.

18 I'm a biologist. I have a Master's
19 degree in natural resources. Today I'm
20 retired, however, for 30 years I worked in
21 acquiring, designing, and managing public
22 lands here in Vermont trying to strike a
23 balance of respect for park visitors and
24 resident wildlife so that they, both groups,
25 could peacefully co-exist with one another.

1 I've attended -- well this is my fifth
2 Commission meeting I believe, and I'm here to
3 offer my perspective on two design
4 restrictions or to be placed on future
5 ridgeline turbine projects as a condition of a
6 proposal being considered.

7 Please understand that any development
8 of Vermont's ridges is a fundamental loss to
9 critical wildlife habitat here. I would
10 rather see our state focus on energy
11 conservation and increased efficiency and
12 revisiting even -- I know this is too radical
13 -- but our frugal roots as part of our way of
14 tackling global climate change. However, if
15 society is determined to develop its ridges
16 here in Vermont for energy generation, then I
17 think these two restrictions would make a
18 tremendous difference in terms of wildlife.
19 They are very specific. My hope is that they
20 might become recommendations in your final
21 report if you get to that level of detail.

22 Another avenue for action would be for
23 people here in the audience and others to
24 perhaps be asking for these concessions during
25 the permitting process for new turbine

1 projects.

2 Okay. Restriction number one it's
3 demanding that project developers look more
4 seriously at ways to reduce the footprint of
5 impact on the ridges. Certainly only to allow
6 single width roads even during construction.
7 Helicopter in heavier equipment if feasible so
8 that the road based on the ridges doesn't need
9 to be so fortified, steep-sided, and wide.

10 Minimize the footprint of turbine pads
11 too, and I'll e-mail you examples in Spain
12 where they are just much smaller. I don't
13 know how they did it, but I saw them myself.
14 In other words, specify that proposals must
15 demonstrate how -- proposers must demonstrate
16 how they have looked seriously at using
17 technologies more common out west for remote
18 areas where drill rigs and heavy equipment are
19 helicoptered in rather than accepting as a
20 given massive road building on Vermont's
21 ridges.

22 The second design consideration is to
23 demand that the developer restrict motorized
24 public access to the ridges not only during
25 construction, but forever. I'm not talking

1 about curbing existing uses of these. It's
2 curbing new levels and uses by people of these
3 more remote areas. It won't be possible, of
4 course, to keep everybody away, but less
5 traffic; the occasional hiker, snowshoes, and
6 such will probably be tolerated by the
7 wildlife hopefully.

8 Before human settlement bobcat, fisher,
9 and bear really roamed Vermont's valleys much
10 more freely. Today the presence of people has
11 pushed these species in particular to higher,
12 less developable, more remote areas,
13 especially the higher elevations of its
14 mountains and ridges. These have become their
15 main travel corridors, particularly bobcat,
16 fisher, and bear, and no doubt they are going
17 to become increasingly important to them in
18 the warming world. So the wind turbine access
19 roads they cut into those areas and across
20 them, but this impact can be minimized by
21 reducing the footprint of service to a minimum
22 so that the craggy features so important to
23 bobcat are left intact. The ridges still
24 undulate forever less susceptible to erosion
25 and diverse forest remains intact as much as

1 possible helping us to fight global warming.

2 And in closing but we shouldn't stop
3 there. We must demand that those people
4 servicing the turbines also keep those ridges
5 remote to people if they are that way today.
6 Only then can we realistically hope in my
7 opinion that the new ridgeline wind turbine
8 projects can peacefully co-exist with our
9 wildlife. Thank you.

10 MS. EASTMAN: Thank you. Just a couple
11 minutes. Be brief for me. Thanks.

12 MR. LIDDY: My name is Dennis Liddy. I
13 live in Westfield, also own a property in
14 Eden, and what I'm going to tell you is a
15 story that may be in support of what Annette
16 has said looking at community based
17 stakeholder -- community based stakeholder
18 process.

19 I bought a home in Westfield in 2006,
20 and from 2006 up until April of 2011 there was
21 never a meeting ever held in my community that
22 had anything to do with the wind project.
23 They did after. In April of 2011 the
24 Selectboard decided to hold a meeting because
25 people were asking about the transmission

1 corridor and lines and what was going through
2 so they had this meeting. They had Green
3 Mountain Power representatives there, and it
4 was only then at that meeting after it seemed
5 like there might be people opposing letting
6 transmission lines get through that the
7 community was told in a public meeting that
8 there was this good neighbor fund.

9 So my question then back to our
10 Selectboard is well when did you find out
11 about it, and they said well we found out
12 about this in February, and my question then
13 was why wasn't the community notified or sent
14 something about that particular proposal at
15 the town meeting. There's -- there was never
16 any warning about anything related to wind
17 that I know of and for a meeting in Westfield.

18 So the process is broken when, you know,
19 it was -- a man mentioned that they had gone
20 and told the communities. They may have gone
21 to the Selectboard. If the Selectboard
22 chooses not to let you know, and the problem
23 with that was one of our Selectboard did a
24 right-of-way for Green Mountain Power pushing
25 that project.

1 The other flip side of that coin B&E has
2 proposed to build a wind farm there and had a
3 met tower up. It was taken down. I don't
4 know that -- the process of that, but I had
5 gone down to the Town Clerk's Office and asked
6 if they have any information on a proposed
7 project here in Eden and -- any paperwork, and
8 one of the guys -- one of the listers told me
9 well it's going to go in the big oil basin,
10 and you know they probably have to go through
11 state lands at some point up off of East Hill
12 Road to get to it, and he kind of showed me on
13 a map where it would be.

14 So I asked the town clerk do you have
15 any paperwork on it. No. She said there's a
16 box of stuff here from Lowell brought us.
17 Maybe it's in there. I said it wouldn't be in
18 there. When I went to the hearings at the
19 Public Service Board in February when we were
20 testifying and getting our testimony about the
21 Lowell project I finally went upstairs to the
22 Clerk of the Public Service Board -- Public
23 Service Department. Do you have anything or
24 can you give me anything on Lowell? I mean on
25 -- yeah, proposed B&E project in Eden. She

1 came out with files that were that thick. In
2 it was a copy of the original application, you
3 know, for the met tower that was, you know,
4 when it was approved it was sent back to the
5 town clerk and it had been sent to the town
6 clerk in Eden. Her name was on it. It was
7 signed and yet she had told me when I went in
8 there and inquired about it she didn't know
9 anything about it. Had no paperwork.

10 At a subsequent meeting we had in Eden,
11 you know, I think it was -- it was the
12 Selectboard Chair at the time, I think he
13 still is, said oh we found that paper. Well
14 -- and I said well -- or somebody else said
15 well where did you find it. All he said I
16 don't know. I'm going to find out, but so
17 that is how it's important to have a community
18 based process and one that includes everybody
19 in the town, not the Selectboard people who
20 may be all in favor of a particular project
21 going here or there, but then not letting
22 their citizens in their town know about it.
23 Thank you very much. I appreciate it.

24 MS. McCARREN: I have one question for
25 you. Did you vote the bums out?

1 MR. LIDDY: Unfortunately I think the
2 process in Vermont as far as the town meeting
3 being the most pure form of democracy is just
4 the opposite.

5 MS. EASTMAN: Thank you. I'm sorry. We
6 are now going to go back to our regular
7 schedule. Sorry about that.

8 So Senator Benning is here and
9 Representative Cheney. Thank you so much.
10 Senator Benning.

11 SENATOR BENNING: Madam Chair, I do have
12 several items. Do you want me to pass that
13 out now?

14 MS. EASTMAN: Sure. Thank you.

15 SENATOR BENNING: Madam Chair, for those
16 of you who don't know me, and despite popular
17 opinion my name is not Erin Brokovich, my name
18 is Joe Benning and I am a trial attorney from
19 the Town of Lyndon, and the past two years I
20 have had the opportunity to sit on the
21 Senate's Natural Resources and Energy
22 Committee.

23 I am a State Senator representing
24 Caledonia Orange District. I am presently 56
25 years old, and for a great deal of my life I

1 have participated in activities that have
2 cleaned up man's mistakes, and by that I mean
3 environmentally I have had a number of
4 wonderful opportunities to take a real hand in
5 trying to correct what I saw as something that
6 should never have happened in the first place,
7 and I recognize that this is a siting
8 commission, but let me suggest to you that in
9 the pictures that I'm about to walk through
10 with you since that's already happened and now
11 we have a siting commission after the fact,
12 that to me is a lawyer is a prima fascia
13 evidence the system we now have is flawed in
14 some fashion and needs to be corrected.

15 I am going to walk through the
16 photographs with you in this conversation and
17 I will promise to be as brief as possible, but
18 if you could start by looking at the very
19 first picture which shows a bucket loader
20 working, a cutout, if you will.

21 What you're looking at used to be the
22 top of Lowell Mountain. What you are now
23 seeing is a wonderful piece of engineering,
24 and I will give credit to JA MacDonald
25 Corporation for the individuals they had

1 working up there, but the nutshell is we have
2 violently destroyed what was a pristine
3 mountaintop environment, and part of the role
4 I hope that the Siting Commission has is to
5 determine whether or not placing something of
6 this nature in that kind of a pristine
7 environment is appropriate, and I would hope
8 at some point that the train would be backed
9 up just a little bit to first ask the question
10 not where this should be sited, but whether we
11 should actually be doing this without knowing
12 a whole lot more information about what the
13 end result benefit may be.

14 Page 2 is what we have ended up with.

15 AUDIENCE: Can you hold it up?

16 SENATOR BENNING: Hold it up. I don't
17 have a Vanna White here to do that. Thank
18 you.

19 What you are looking at is what is known
20 in the industry as T9. This is tower site
21 nine on top of Lowell Mountain. The
22 structure, if you will, that you are looking
23 at in the middle of the picture at the very
24 top of that picture is a 180 foot by 180 foot
25 pad. The layers that you see are 20 feet

1 deep. Each layer is composed of crushed rock
2 and various earth materials that have
3 literally been blown off the top of the
4 mountain, and then each layer is covered over
5 with an erosion mat. They have gone up with
6 100 feet worth of layers, and if you imagine
7 just for a moment standing at the base of the
8 state capital and looking up the front steps
9 of the portico, what you see where the Goddess
10 of Agriculture is holding her hand up at the
11 very top is 236 feet tall.

12 In this particular picture you're
13 looking at a structure that is one-half the
14 size of that State House. There are 21 pads
15 now atop of Lowell ridgeline which brings us
16 to page 3.

17 Yesterday at the Governor's inaugural I
18 was listening to the words of our state's
19 motto that basically goes these green hills
20 and silver waters they are my home. They
21 belong to me, and as I sat there listening I
22 was reminded of this particular photo and what
23 it is that we're leaving to our next
24 generations is our legacy. If I was convinced
25 that the benefit of what's going on with these

1 structures was outweighing the legacy that we
2 will be leaving behind after 20 years of power
3 received or if they build new towers, because
4 I'm sure you have heard by now these towers
5 have about a 20-year life expectancy and have
6 to be replaced if we're going to continue,
7 what we're leaving behind is a legacy not just
8 the towers, which I hope will have enough
9 decommissioning funds to be removed, but also
10 the road that now goes across the ridgeline
11 which is about three and a half miles long.
12 There's an access road about another three and
13 a half miles to get there. So you're talking
14 about seven miles worth of roadway that was
15 not there along with the structures that you
16 saw earlier in the previous picture.

17 As a Vermonter, as an environmentalist
18 who has spent most of my environmental
19 activity cleaning up for man's mess, I believe
20 this is a problem and I believe a Siting
21 Commission would take that into account in
22 trying to determine whether or not placing
23 these structures on top of ridgelines is a
24 smart idea.

25 If you think about climate change

1 bringing us more frequent and more violent
2 weather events, and then ask yourself looking
3 back at what happened on Route 107 and Route 4
4 what happens when the next Irene event comes
5 along and it sits on top of this particular
6 ridgeline, and the answer right now in my eyes
7 is we're going to have a major mess, and it
8 will be a major mistake that someone will have
9 to clean up. And then you have to get into
10 the question all right do we have the
11 appropriate decommissioning funds or repair
12 funds set up to take care of this problem.

13 I don't think any of us really knows the
14 answer to that question right now which is why
15 I'm hoping your Siting Commission will start
16 asking those questions in whatever
17 recommendations you eventually make that that
18 has to be something dealt with.

19 If we can turn to page 3 of your
20 photographs, what you're now looking at is the
21 power line that runs from the Sheffield Wind
22 site towards Lyndonville. Now I'm not going
23 to lie to you. There was a transmission line
24 there before. The point of this photograph is
25 that when taken from the air you suddenly

1 realize if you're building a power plant in a
2 remote location and the power from that power
3 plant has to be sent to whoever is going to be
4 using it, known in the industry as the load,
5 you have to do things like this, and basically
6 that means clear-cutting a linear strip
7 through some of our most pristine forest
8 lands.

9 As somebody who has spent a lot of time
10 in the woods I object to this. If you're
11 going to site a plant of any kind of
12 generating plant, it should be as close to the
13 load as possible. I think you folks have
14 already heard that before so I'm not going to
15 continue on with that discussion.

16 We have another problem and that is page
17 4. I understand VELCO is here this morning
18 and I don't know whether --

19 MS. EASTMAN: No. They will be here
20 this afternoon.

21 SENATOR BENNING: Okay. This is a VELCO
22 map that you're now looking at. VELCO, for
23 those of you that may not know, is basically
24 in control of all of our transmission lines
25 and they have a statewide map that indicates

1 where transmission lines have reached their
2 capacity and where there may be some places to
3 put more in.

4 Well today if you look at the upper
5 portion of the State of Vermont in the
6 picture, that tells us in that white area the
7 transmission has reached its capacity. We are
8 now talking about placing yet another
9 generating site in the towns of Newark,
10 Brighton, and Ferdinand, and yes I know right
11 now there's only an application for met
12 towers, but unless we want to stick our heads
13 in the sand and pretend this is not happening,
14 the fact is a met tower is step one in this
15 two-step process, and the second step is the
16 wind towers that follow immediately
17 thereafter. Anybody who has participated in
18 this process understands that that's exactly
19 what's going on.

20 Some of the concerns I know you've
21 already heard about from folks who have been
22 frustrated with the Public Service Board
23 process is that their voices are not being
24 heard, and one of the voices I very much hope
25 you will be listening to will be Kerrick

1 Johnson, or whoever he sends as a
2 Representative from VELCO, to talk about the
3 fact that they have told Seneca Mountain Wind
4 that the transmission capacity is not there
5 for this new power plant, and yet Seneca
6 Mountain Wind spent two months of this past
7 summer dropping approximately \$20,000 on my
8 local radio station touting the benefits of
9 big wind.

10 If you watch television at all, you will
11 notice a pretty slick ad campaign that's going
12 on right now -- thank you for that -- you will
13 notice a very slick ad campaign going on right
14 now that starts out with this bucolic scene at
15 Crystal Lake in Barton. The marketing
16 specialist who worked on that is brilliant.
17 You will see a wonderful Vermont country beach
18 scene and some hills in the background, and
19 eventually there's out of the corner of your
20 eye a couple of wind towers on the horizon and
21 the statement that wind is beautiful.

22 Beauty I suppose is in the eye of the
23 beholder, but the whole campaign is designed
24 to get people to succumb to the idea that wind
25 is good, therefore, we need to have it. I

1 would only hope that you would pause long
2 enough to say do we need it and are we
3 building it in the right places if we do. If
4 we think we need it, is it providing us
5 something that's actually doing what the
6 proponents say we are going to receive.

7 So when I start to dig into the answers
8 to those questions I become very concerned and
9 very frustrated. The primary reason for
10 building these in the first place was to tell
11 us that we need to reduce our carbon
12 footprint. I'm sure you have already heard
13 that most of Vermont's carbon output is in our
14 transportation fleet and in our home fuel
15 oils, neither of which has anything to do with
16 these towers.

17 I know that there is a vision statement
18 out there now being proposed by some
19 politicians that we need to move towards an
20 electric fleet. I have no quarrel with that.
21 What I do have a quarrel with is building
22 these structures before we actually have the
23 vehicles that are capable of actually
24 replacing the current fleet we have. I know
25 we have some, but I know the expense and the

1 reliability of the vehicles that we now have
2 is not giving us the need to build these
3 towers at this point in time, and even if we
4 move towards that transportation fleet
5 transformation, we also have power available
6 on the New England grid. Power is a
7 commodity. It's bought and sold across state
8 lines and across international lines.

9 So the question becomes if we have
10 readily available power from elsewhere, why
11 are we forcing ourselves to build power
12 in-state. There are some who suggest Vermont
13 needs to take the lead in making sure we have
14 our own power. That's a noble concept, but it
15 is akin to me looking at all of you and saying
16 we are all wearing clothing right now
17 virtually none of which comes from the State
18 of Vermont. If you suddenly had a politician
19 advancing a cause that said we are going to
20 have all of our clothing made and purchased in
21 Vermont, I'm sure all of us would suddenly
22 think that's probably not a smart idea, but
23 for some reason or other we've skipped that
24 question in these wind towers.

25 I want to back up half a step. These

1 wind towers I'm talking about industrial
2 strength wind. I am not talking about small
3 wind, and I am not talking about other forms
4 of renewable energy, all of which I believe
5 are tools in a toolbox that we are using to
6 combat climate change. I am in support of
7 that effort. I am not in support of using an
8 inappropriate tool and that's really what this
9 is all about.

10 So as a result of that there's a thick
11 packet on your table now. It's a 40-page bill
12 that has -- it's about to be introduced by
13 Senator Hartwell and myself. We're waiting
14 for the last signature to be executed.
15 Senator Hartwell and I have introduced it
16 primarily, but there are several other
17 Senators who are signing on board, and there's
18 a companion bill, as I understand it, now
19 being introduced in the House.

20 Our efforts are not simply to throw up a
21 stop sign and say this is going to stop. Our
22 request for a moratorium is merely to pause
23 long enough to ask serious questions (A) we
24 would like to evaluate, now that we've got
25 them, Lowell and Sheffield, to determine just

1 how much power is being produced.

2 That slick ad I was talking about a
3 moment ago at the very end says wind power in
4 Vermont is powering 42,600 homes. That's a
5 great statement and it's also very misleading
6 because the real question to ask is how many
7 homes are actually being powered at this very
8 second in time. Not over a year's time.
9 Where today you might get 50 homes, tomorrow
10 you might get 2,000 homes, et cetera. The
11 exact question that needs to be analyzed is
12 how much do we actually get by way of a
13 benefit from these towers. That's information
14 that is now being produced as data. We need
15 to take the time to study that data before we
16 blow off the top of any other mountains.

17 We also have the ability to check that
18 data against how much of a reduction in our
19 carbon output are we arriving at. That data
20 needs to be compared to other renewable
21 sources that we are using, other tools in our
22 toolbox to determine whether or not there are
23 better tools to use. That's a simple request,
24 but it does take time, and I don't want to see
25 another mountaintop blown off until we take

1 that time and actually get that information.

2 I'm asking that this Siting Commission
3 consider supporting the bill. Once you've
4 read the bill you'll understand completely
5 where we're coming from, why it is we feel the
6 Public Service Board process is not actually
7 doing what it would be expected to do in these
8 circumstances. It gives us the time to
9 redesign a system and a policy to allow us to
10 do it right, and that's the whole point.

11 If we come to a decision that these
12 structures on top of our ridgelines are
13 actually of greater benefit than the
14 environmental destruction I'll call it, our
15 environmental legacy that we're leaving
16 behind, then Senator Hartwell and I and the
17 co-sponsors will back away and we'll say okay
18 we've at least analyzed it and figured it out,
19 but until that's actually done no more
20 mountaintops.

21 There are other studies. Health
22 studies. There are issues being raised by
23 people who live close by to these facilities.
24 That information has not as yet been taken
25 into account in a fair way that Vermonters

1 would walk away from this and say I got my day
2 in court. We have lots of information being
3 generated that we need to study, but as you
4 know as a Siting Commission it takes time to
5 gather that information.

6 When you get to the point where you're
7 actually developing your recommendations that
8 will take time. Your ending study will then
9 be presented to the Governor and to the
10 Legislature where that whole process goes
11 right back to square one and we do it all
12 again. We have to develop a statewide policy
13 that incorporates it. We have to pass
14 legislation designed to make sure all of our
15 angles are covered and that takes time. We're
16 asking for three years. We might be amenable
17 to shortening that time period if we were
18 convinced that all the information was
19 collected, analyzed, and a proper policy was
20 developed and statutes were passed to make
21 sure all that policy was put in place, but we
22 need the time, and if we don't have the time,
23 these projects continue to blow off the tops
24 of mountains.

25 So let me say that if you consider

1 supporting the wind moratorium I've outlined
2 the last sheet that you should have. It says
3 Senator Joe Benning at the top and Jan 11th.
4 It's just a simple outline and it starts off
5 with would you please consider supporting the
6 bill, and it sets forth the short version of
7 what I just tried to relate to you.

8 If you don't want to do that, however,
9 the bottom of the page talks about things that
10 I desperately would hope you would include in
11 your siting recommendations. You don't
12 establish a siting plan for any generation
13 facility prior to deciding whether it's
14 actually necessary. That's a simple old
15 fashioned Vermont concept. You don't do
16 something, especially when it costs you money,
17 if you don't need to do it.

18 We would ask you to make sure that you
19 minimize the length of any transmission lines
20 by siting a generation facility as close to
21 the load as possible. You have probably heard
22 by now that for every mile of transmission
23 line you lose a certain amount of energy.
24 That's not being smart.

25 I would hope that your Siting Commission

1 would demand protocols for siting different
2 forms of electric generation. Wind is one
3 particular tool to use. It requires different
4 methods of handling it. A methane plant
5 requires different methods for handling it.
6 Having separate protocols in place would be
7 critically important. By that I mean the
8 protocols would match whatever the facility is
9 rather than be a blanket approach because
10 blanket approaches do not work; and, finally,
11 that you incorporate anticipated climate
12 change weather events and the decommissioning
13 plans be made a part of the siting process.

14 That may sound a little circular in how
15 I presented it, but if you think about it,
16 it's pretty easy. We know we're going to have
17 more Irenes. We know that's going to cause
18 major damage to the most sensitive areas of
19 this state. Ridgelines are the most sensitive
20 areas in this state by any measure, and if a
21 weather event like Irene comes along on top of
22 Lowell Mountain, we know that there will be
23 problems and we need to make sure -- if we
24 believe that's an appropriate tool to use, we
25 need to make sure we have all of our angles

1 covered so that there are not major
2 environmental disasters after the fact that we
3 all have to pay the bill for later on.

4 And in this particular case, much like
5 Entergy Louisiana and how we are all concerned
6 about whether there are proper decommissioning
7 funds, now we have to question whether there
8 will be Canadian officials we're having to
9 deal with to make sure whatever is cleaned up
10 here is taken care of.

11 That's the long and short of my
12 testimony. I would be happy to answer any
13 questions.

14 MS. EASTMAN: Senator, the only question
15 -- well one question that I have, and I just
16 read, you know, your purpose for the bill and
17 it's not just the moratorium, but it's also
18 moving siting generation to -- over to the Act
19 250 process.

20 SENATOR BENNING: Yes. I probably am at
21 the tail end, Madam Chair, of many people who
22 have testified about their frustration with
23 the current process. Act 250 is land use.
24 This is land use. The Public Service Board
25 process, while it is expected to give due

1 deference to Act 250 criteria, it is not bound
2 in the same way that District Environmental
3 Commissions are.

4 When a region, for instance, in the case
5 of Lowell like the Northeastern Vermont
6 Development Association votes for a moratorium
7 to call for an analysis of what these plans
8 are doing, then that's just ignored by the PSB
9 that's a problem, and I say when they ignored
10 it they decided to put in met towers anyway,
11 and that gets back to you have to associate
12 met towers with wind towers. That's the only
13 reason they are being put up, and if you know
14 you already have a regional plan that says we
15 don't want this here, but you go ahead and put
16 up the met towers because they are just met
17 towers, that makes no sense at all to anybody
18 from any party, from any walk of life, if you
19 can't make the connection between the two.

20 So, yes, our bill does call for moving
21 the siting process into Act 250 jurisdiction.
22 I don't pretend this is the perfect bill. We
23 are trying to elevate the level of the
24 conversation to make sure we at least get
25 everybody's voices heard in the process. So

1 if somebody comes along and says the Public
2 Service Board process can be strengthened to a
3 point where we don't have the current
4 frustration you have been listening to, I'm
5 sure we're agreeable to listening to that
6 conversation, but we don't want to have any
7 other mountaintops blown off while we're
8 having that conversation. Great question.
9 Thank you.

10 MS. EASTMAN: Other questions for
11 Senator Benning today.

12 MS. McCARREN: I actually have a
13 question for you. We should also reveal that
14 Joe and I serve on the Vermont
15 Telecommunications Facility together so I get
16 to see him from time to time. Joe.

17 SENATOR BENNING: Yes, Louise, in the
18 famous words of somebody, we'll leave the
19 light on for you.

20 MS. McCARREN: Let me see if I can say
21 in other words what you said and why it's been
22 on my mind.

23 The traditional siting process from the
24 PSB was used for major base load generating
25 stations and it took into account primarily

1 need, then cost, stability, and reliability,
2 and what we have -- and what has changed is
3 that we have a major Vermont public policy
4 established by the Legislature in favor of
5 renewables and in favor of renewables
6 apparently regardless of their effect on any
7 of those things.

8 If that is the major public policy of
9 the state, right, don't the -- doesn't the
10 Public Service Board have to implement that
11 policy, and to your point what we now have is
12 a land use problem. It is not an electricity
13 problem.

14 SENATOR BENNING: Yes, and the Chair of
15 the PSB has said that very thing. He came to
16 Newark and was explaining to people the
17 obstacles that were getting so many people
18 frustrated. The PSB has a responsibility to
19 follow a statewide policy. The current
20 statewide policy is we build as much renewable
21 as possible as fast as possible because we
22 want to have an impact on climate change and
23 we want to lead the world in that effort.

24 That policy, while it may be noble in
25 its underlying objectives, has a tendency to

1 bring mistakes along with it, and part of the
2 mistakes are the reason that we are all
3 sitting here right now, but you have hit the
4 nail right on the head.

5 MS. MCCARREN: You guys have to fix the
6 policy problem. We can't fix the policy
7 problem.

8 SENATOR BENNING: Yes. Part of the
9 reason I am here right now is that you have
10 been set up in such a way that you're coming
11 back to us with some recommendations. We are
12 going to take those recommendations very
13 seriously, but those recommendations are just
14 the first step in a process that will take a
15 great deal of time in order to arrive at a
16 better policy that achieves the objectives
17 that we all hope we'll achieve, but we make
18 sure we're doing it right and we don't want to
19 blow off any more mountaintops while we're
20 doing that. That's why I'm here.

21 MS. EASTMAN: Tom.

22 MR. BODETT: Yes. Senator, thank you
23 for being here by the way. Most all my
24 political experience is in global. I'm kind
25 of at the deep end of the pool here for

1 something to put my foot on, and I read your
2 bill and it appears to recreate this
3 Commission in addition to the wind moratorium
4 which is kind of outside of our purview to
5 even endorse or not endorse, but the other
6 recommendations, particularly your list at the
7 bottom of the page, are things I have had
8 circles and stars around all through our
9 testimony over the last six weeks. I find
10 that very interesting, but my question is a
11 lot of this stuff we're looking at has been
12 looked at already.

13 There was the 2004 Commission. The
14 Vermont Law School, we're going to hear from
15 later this morning, has done this huge report
16 on all of these same things we're discussing,
17 and then your bill also recommends a
18 Commission like this one to continue that
19 work, and yet none of this stuff seems to be
20 becoming policy.

21 So my question is what would you
22 recommend we do in terms of recommendations in
23 our work that would make it more -- I don't
24 know if this is a word -- implementable than
25 some of the work that's been done in the past?

1 How do we keep from being ignored I guess is
2 the question.

3 SENATOR BENNING: That's a great
4 question, and let me start by saying so far
5 wind opponents and wind proponents have been
6 off in two corners shouting at each other.
7 There is a way to bridge the gap if both sides
8 understand we're trying to protect the
9 environment and you keep that as the
10 foundation.

11 Now somewhere along the way the Governor
12 recognized that there was such an uproar being
13 made that he instituted this Commission, and I
14 give him kudos for that. Your Committee's
15 recommendations to the Legislature I see it as
16 being part of a ball that's rolling downhill
17 now. No pun intended. That we all take a
18 step back and look at what the policy is, what
19 it's doing to us, and eventually we will
20 arrive at a point where we all have a common
21 understanding that we're trying to protect the
22 environment.

23 The one thing I can say about the
24 building I work in across the parking lot here
25 is everybody in there wants to protect the

1 environment. Your Commission, in order to
2 have something happen from here by making a
3 recommendation, especially if you support the
4 bill, you will notice in here we've got a set
5 of -- sum of money set aside to direct ANR to
6 continue this process because it is critical
7 information to what we eventually end up with.

8 The folks who have taken the time to
9 hike up Lowell Mountain, and I did, have a
10 burning passion about this subject, and if you
11 haven't figured that out right now, I'm one of
12 the folks that has that burning passion to
13 make sure we do not do any more damage to our
14 environment than is absolutely necessary to
15 protect our environment in the long run.

16 I think there is a growing number of
17 legislators who are asking the very same
18 question that you have just asked.
19 Traditionally there has been policy statements
20 made, things have been said, but you don't get
21 that extra step of actually implementing the
22 policies that you should, and that's primarily
23 because we've never been faced with this kind
24 of mountaintop destruction. Now we have, and
25 if you concentrate on knowing that destruction

1 is a part of the ultimate objective here, you
2 tend to get real fired up.

3 So I'm hoping that's what we all end up,
4 real fired up. Hope that answers your
5 question.

6 MS. EASTMAN: Chris.

7 COMMISSIONER RECCHIA: Real quick. I
8 wish that, you know, policies automatically
9 resulted in everything happening the way the
10 policy said. I feel like there's something
11 else happening here that, you know, you can
12 look at this map, right, and say -- and I
13 think we're in a different model with the
14 merchant plants, and I guess I would like your
15 thoughts on what is causing things to not go
16 the direction that we would want them to go.
17 If it's not needed or it's not sited in the
18 right location to serve the real policy
19 objectives we have, what's going wrong here?

20 Do you have thoughts on that or is it
21 really about the environmental criteria or
22 something else?

23 SENATOR BENNING: No. I really hate to
24 say this, but it's political. It is a great
25 thing to stand up in front of prospective

1 constituents and say this is how I'm going to
2 convince you that we can lead the world to do
3 something. Every politician wants to do that,
4 and when you get yourself rolling in that
5 political conversation you tend to have the
6 vision go before the actual substance and
7 that's what we're facing right now.

8 We have had this vision that we have to
9 have all the renewable power possible in-state
10 as quickly as possible, and we've gotten to
11 that vision now that only after that process
12 has begun on the ground set up a Siting
13 Commission to talk about how that should work.

14 So if we accomplish anything here today
15 from both sides of the argument, may it be
16 that we establish the proper level of
17 government oversight to make sure what we're
18 doing is giving us a benefit that isn't
19 outweighed by this kind of destruction. Does
20 that answer your question?

21 MR. RECCHIA: Yes partially, but I think
22 I'm just going to use the word money.
23 Something is driving this. In other words, we
24 all want -- we all want affordable health
25 care, but it didn't -- it doesn't

1 automatically happen. It is a policy, but it
2 doesn't drive the private sector to actually
3 say oh that's what they want. I'll do that.

4 Something's happening here where there's
5 some other -- there's something else going on
6 where you have all these projects in the
7 Northeast Kingdom where clearly by the map
8 it's not supporting the overall goal of
9 providing that secure system. So what is it
10 that's driving the private sector to say they
11 want to do these projects in those locations?

12 SENATOR BENNING: Well here's the cynic
13 in me. The Northeast Kingdom is the least
14 populated, probably not what you would call
15 the richest area of the state. A company
16 comes along that knows it can get some hefty
17 production tax credits and is very interested
18 in doing that, has the wonderful ability to
19 say we're going to provide an environmental
20 benefit that everybody should be on board
21 with, and then as part of the process offers a
22 town that's pretty hard up for cash a contract
23 by which you will get a sum of money, and the
24 local taxpayers can say wow I'm going to have
25 a break on my taxes. You know to some of us

1 in the Northeast kingdom that's a real
2 powerful thing to refuse.

3 The 60 some odd people who were working
4 with JA MacDonald, the contractor on this
5 particular spot, many of them are my friends
6 and neighbors, and one of the worst feelings I
7 have about going forward on this moratorium
8 request is knowing that this will have a
9 direct impact on some of their jobs, but as I
10 told one of the engineers the other day when I
11 took this first picture that was hanging on
12 his wall, I said if we really do have this
13 kind of money in the Northeast Kingdom
14 wouldn't it be a lot smarter to repair Route
15 122 and Route 5 which are falling apart and we
16 have grass growing up through, and if you ride
17 a motorcycle like I do you take your life in
18 your hands when you're riding them because of
19 the gaps that are in the road? Wouldn't it be
20 smarter to spend the limited funds we have on
21 that process when we know the towers
22 themselves are not having the direct impact on
23 our carbon reduction goals that we thought
24 they were supposed to?

25 That's just common sense, but the power

1 of that argument to say I'm going to get a
2 break in my property taxes and those wonderful
3 commercials that show a bunch of nice kids
4 playing on the beach at Crystal Lake, brings
5 up another thought this bucolic scene Vermont,
6 and we're way ahead of the world in our
7 environment and our way of life, and out of
8 the corner of one shot you will see a tower
9 off in the distance. If none of you folks
10 have been to Crystal Lake, please go. If you
11 stand on the very beach where that film was
12 made, you're going to be so overwhelmed by
13 what you see, and as I said earlier beauty is
14 in the eye of the beholder, but that power
15 plant has so transformed the character of the
16 beach area that it's unbelievable.

17 Now even if you're a proponent of these
18 things you have to admit that you had -- these
19 have had a tremendous impact on what we
20 normally consider to be Vermont. Even if you
21 believe we should continue to use this
22 particular renewable energy tool, you have to
23 know standing on that beach, which by the way
24 is in the Town of Barton not Sheffield, as you
25 stand in the Town of Barton looking at this

1 Sheffield Wind site you have had a tremendous
2 change in your neighborhood. I would think
3 that's part of your siting process.

4 MS. EASTMAN: Thank you. Okay. Thanks.
5 I know we're running late, but we're going to
6 listen to -- we're going to hear from
7 Representative Cheney.

8 REPRESENTATIVE CHENEY: Do you still
9 have time? I have at least 20 minutes.

10 MS. EASTMAN: Yes.

11 SENATOR BENNING: Madam Chair, thank you
12 for the time and I hope you don't need these
13 pictures.

14 MS. EASTMAN: No.

15 REPRESENTATIVE CHENEY: Hello. I hope
16 you're not too hungry. I might keep you here
17 a little while longer. I'm Representative
18 Margaret Cheney and I'm Vice Chair of the
19 House Natural Resources and Energy Committee
20 and have been involved with energy policy for
21 the past six years. Now starting another term
22 in that position.

23 I've been involved in the front end of
24 policy development so I've been asked to give
25 a brief history and context for Vermont's

1 renewable energy policy from 1998 to the
2 present. It's basically the law of the land,
3 and I think it's important to understand that
4 in a larger context for some of these
5 discussions.

6 I also recently returned from a week
7 long trip to Germany where I was one of nine
8 Americans hosted by the Heinrich Boll
9 Foundation to see what Germany's accomplished
10 and to engage in a transatlantic energy
11 conference. We met with everyone from members
12 of the Parliament to farmers and there were
13 some parallels and contrasts that were
14 instructive.

15 First, I think it's important to
16 contextualize our energy portfolio. I chose a
17 slide from 2009 because it shows what a
18 dominant role nuclear power played until
19 earlier this year when we stopped buying power
20 from Vermont Yankee. You can see nuclear
21 representing about 30 percent of our power,
22 Hydro-Quebec about a third, and renewables the
23 pinkish slice at the top.

24 System A is market power purchased out
25 of state, usually fossil fuel sourced.

1 Naturally when our contracts with VY expired
2 in March of last year we faced a supply gap.
3 We can fill that with renewables or with
4 fossil fuels, but as much as 39 percent of
5 Vermont's electricity next year will come from
6 the general electric market which is almost
7 all carbon pollution from gas, oil, and coal.

8 So now for the history lesson. Many
9 years ago Vermont lawmakers saw the potential
10 that would come from encouraging local
11 renewables, potential for local control and
12 energy independence for job growth, for the
13 stability of the transmission system, for
14 citizen engagement, and because we've always
15 prided ourselves on being the green state for
16 environmental protection, especially with the
17 growing threat and consequent imperative of
18 slowing climate change.

19 So over the years the Legislature passed
20 policy and set statutory goals for utilities
21 to meet. After the issuance of the
22 Department's Comprehensive Energy Plan at the
23 end of 2011 the Legislature passed a most
24 recent law requiring that 75 percent electric
25 renewable from both in-state and out-of-state

1 sources within 20 years. This built on our
2 existing SPEED law passed in 2004 that
3 requires Vermont utilities to have 20 percent
4 of their retail sales supplied by new in-state
5 renewables by 2017.

6 I'll return to that in a minute. Last
7 year the Legislature incorporated that 20
8 percent goal to be part of a 55 percent total
9 renewable goal which counts large out-of-state
10 sources like Hydro-Quebec. Since 1998 we have
11 been passing renewable energy legislation
12 under both Democratic and Republican governors
13 and strong bipartisan support in the House and
14 Senate.

15 In 1998 that was the first we allowed
16 electric customers to generate their own power
17 with small scale renewable systems. Typically
18 solar. As excess power can be fed back to the
19 grid, net metering has helped utilities avoid
20 buying expensive market power on a hot day.
21 About two percent of our load statewide is now
22 supplied by homeowner scale net metering
23 systems, and you can see the exponential
24 growth recently in solar and in solar related
25 jobs as we continued over the past 15 years

1 since 1998 to improve the original net
2 metering law.

3 And of course in 1999 we made history
4 with Efficiency Vermont, the first of its kind
5 in the nation, and in 2007 we became the first
6 state to turn electrical load growth negative
7 avoiding transmission buildouts, new power
8 plant purchases, and saving utilities and
9 customers money.

10 In 2004 we passed a SPEED goal as I
11 mentioned earlier. This is an existing
12 mandate to our utilities. They have achieved
13 the 2012 goal, but they have a ways to go
14 before reaching the 2017 requirement. With
15 the completion of the Lowell Mountain project
16 we have reached 15.4 percent.

17 In 2009 we made history again by
18 becoming the first state to enact a statewide
19 feed-in tariff program which we call standard
20 offer. It pays long term fixed prices for
21 different renewable technologies under 2.2
22 megawatts in size. We started with a 50
23 megawatt cap, but raised the 2009 cap last
24 session to an eventual 127 and a half
25 megawatts.

1 Current standard offer projects include
2 seven large solar farms such as those off 1-89
3 in Sharon and up north in Ferrisburg, three
4 hydroelectric, one landfill methane, one
5 biomass, and 13 farm methane plants.

6 In the interest of time I'll skip the
7 next slide. So how does this translate from
8 policy past to projects built. The standard
9 offer projects under 2.2 megawatts are now
10 joining larger in-state projects to help
11 utilities meet their statutory SPEED goal.
12 Again relative to the 20 percent by 2017
13 requirement they, the utilities, are at 15.4
14 percent with the tools in their toolbox being
15 renewables like wind, solar, landfill methane,
16 and the others you see up there. The 4.6 left
17 to go in less than five years represent more
18 than 205,000 megawatthours of annual
19 generation yet to be achieved.

20 The standard offer program for projects
21 under 2.2 megawatts may provide about 50
22 megawatthours. This means that between now
23 and by the end of 2016 the Vermont retail
24 utilities will need to acquire about 205,000
25 megawatthours. If it is all wind, this

1 requirement will constitute 73 megawatts of
2 wind project. If it were all solar, this
3 would constitute about 167 megawatts just to
4 give you some scale, but presently there are
5 no large scale wind projects in the
6 Certificate of Public Good permitting process.

7 Finally, this is something many people
8 aren't even aware of. Among the many
9 provisions of last year's energy act were the
10 following clarifications and requirements.
11 These qualifications and requirements for
12 approving energy purchases: That
13 determination of need be based on
14 environmental and economic costs; that there
15 be no undue adverse effect on natural
16 resources; that life cycle greenhouse gas
17 impacts be considered; and that the Agency of
18 Natural Resources complete statewide resource
19 mapping.

20 I want to shift gears now to show
21 Vermont is not alone in recognizing the need
22 and the opportunity inherent in stronger
23 renewable laws. The entire European Union has
24 set goals to reduce greenhouse gases, increase
25 renewables, and increase energy efficiency all

1 by 20 percent by 2020. At least 118 countries
2 around the world have renewable energy
3 targets, but Germany, the strongest economy in
4 the EU, has set even more ambitious goals.

5 Here are some of the recent most recent
6 goals passed by the German Parliament. In the
7 far left reductions in greenhouse gas
8 emissions, in the green double column
9 increases in renewable energy both as a
10 percentage of electric production and in all
11 other sectors such as transportation and
12 heating, and then finally, equally important
13 to them, efficiency goals to reduce
14 dependence. These are in ten year increments,
15 but note the near term goal in renewable
16 electricity, that first green box, 35 percent
17 by 2020.

18 So why have we set these goals. In the
19 pragmatic German way unemotionally for climate
20 protection, they see global markets for green
21 technology, they see new and well paying jobs,
22 and they see supply security as imports are
23 phased out, and they are currently heavily
24 dependent on imports.

25 So how are they doing in achieving those

1 goals? In 2000 when Germany passed its
2 feed-in tariff law it had three percent
3 renewables in its electric portfolio. This
4 chart shows 2011 with 20 percent renewables
5 the red, and the rest still various forms of
6 coal, along with natural gas and nuclear
7 energy which you may know is being phased out
8 in Germany over the next 14 years out of
9 safety concerns not only from Fukushima, but
10 harkening back historically to Chernobyl, but
11 this chart is already out of date.

12 In late 2012 when I visited they were at
13 25 percent renewables. So that red line is
14 bigger. Up from three percent in just 12
15 years with the sources essentially the same as
16 those shown in the stack on the right from the
17 bottom; wind, biomass, hydro power, and solar.
18 It would be inconceivable to them to put a
19 moratorium on any of these resources.
20 Instead, they would chose to site them
21 intelligently.

22 This shows the growth in renewable
23 electricity in Germany since 1990 in gigawatt
24 hours. You can see the growth pick up in
25 2000. That's about halfway across the chart

1 when the feed-in tariff law was started. The
2 bottom blue is hydro power and it's remained
3 relatively stable, but the growth comes in the
4 choice of wind, green biomass, and yellow
5 solar. Remember the slope of this chart as I
6 switch to the next slide.

7 Paralleling the increase in renewable
8 energy you see dramatic growth in GDP, the top
9 blue, and a concomitant decrease in greenhouse
10 gas emissions. The reason the greenhouse gas
11 emissions start going down sooner than when
12 the feed-in tariff law came in is that was
13 just post unification when East Germany
14 suffered a big blow to its economy and
15 essentially stopped manufacturing.

16 So there are four key components to the
17 strategy for renewable growth there: A
18 nationwide feed-in tariff guaranteeing a fixed
19 and reasonable revenue stream for the power
20 produced like our standard offer but
21 nationwide and without size limits; aggressive
22 efficiency policy incentives; modernization of
23 the transmission system; and something that we
24 can learn from, public participation and
25 opportunity.

1 So one reason renewable energy enjoys an
2 80 percent approval among the Germany
3 population is what it does for their local
4 economy. Significant job creation over a
5 10-year period and the jobs stay local. Power
6 plants are dotted around Germany bringing the
7 benefits of distributed generation, and
8 finally they take climate change very
9 seriously. If they keep at this pace, they
10 will see half a million for jobs and a
11 significant decrease in fuel use.

12 From 1998 to 2010 here's the dramatic
13 growth in jobs associated with renewable
14 energy.

15 Another key reason renewable energy is
16 so popular in Germany is related to this
17 ownership comparison. In the U.S., on the
18 left, energy is owned by corporations and
19 utilities. Look at Germany on the right.
20 Only 50 percent corporate ownership. Notice
21 the large slice of farmers. It's actually up
22 to 11 percent now.

23 MS. McCARREN: I just can't read the
24 green.

25 REPRESENTATIVE CHENEY: Those are

1 cooperatives and the farms are now up to 11
2 and corporate 50 percent. So as a result
3 renewable energy has become a small town and a
4 rural revitalization phenomenon.

5 The renewable energy project I visited
6 in Bavaria, most of the ones I saw are in
7 Bavaria which is a rural conservative state
8 with an uncanny physical resemblance to
9 Vermont except they have less sun, and you
10 will see solar panels on every available roof
11 from farms with local people earning revenue
12 on the installations.

13 And there are now 600 energy
14 cooperatives with 85,000 new co-op members up
15 four times in the last three years responsible
16 for 290,000 megawatthours a year. The average
17 starting size of a co-op is 30 members with
18 share purchases from 50 euros each, but
19 averaging 3,000 euros, and this is in context
20 of the average household income in Bavaria
21 being 25,000 euros. The average return on
22 development for these average people is four
23 percent plus the local community benefits I
24 mentioned. Local resistance is virtually
25 nonexistent because of neighborhood

1 involvement in each project.

2 The next and final slide, actually
3 penultimate slide, before I show it I want to
4 tell you I stole it from Germany. I was
5 amazed that almost everywhere I went somebody
6 showed me a -- showed us a slide like this so
7 -- but both, from conservatives to liberals to
8 farmers to entrepreneurs, and this is what it
9 looks like. Local ownership control and
10 profits make a difference in how the community
11 values local renewable development. This is
12 not my slide.

13 And finally I'm sure you're all
14 wondering there is indeed a rigorous approval
15 and planning process for wind development in
16 Germany. Decisions are made on the local
17 level with a predictable application process
18 and citizen participation. Different levels
19 of government coordinate to agree on best
20 areas for deployment with designated wind
21 areas chosen as part of a regional planning
22 process, and as with every element in the
23 Germany energy revolution there is constant
24 room for adjustment and calibration. They are
25 learning as they go along using all renewable

1 technology available to them and collaborating
2 with the public, and I will finally add as a
3 personal observation that I agree strongly
4 with Senator Benning that beauty is indeed in
5 the eye of the beholder.

6 I have trudged all along the area under
7 Sheffield, not looking -- I've seen it from
8 below of course, but I mean at the ridgeline
9 and I did not see that as mountaintop removal,
10 and a bear biologist there told me in fact the
11 habitat had been improved.

12 So I urge and hope you will be looking
13 at all types of projects because I think they
14 vary widely and we need to be considering them
15 individually. Thank you.

16 MS. EASTMAN: Thank you. Questions for
17 --

18 MS. MCCARREN: I do, but I want to make
19 sure my colleagues -- this may be a relatively
20 unfair question because it really comes down
21 to asking, but it's something that's really on
22 my mind.

23 The price issue, and the cost and price
24 of renewables will ultimately drive up the
25 retail prices in Vermont. Retail price now is

1 about 16 cents and that may be something that
2 as a policy matter the state is happy to do.
3 It certainly makes Scott's job a lot easier
4 because at a high retail price more people are
5 going to conserve, but what I am really
6 worried about and what bothers me a lot is if
7 we have \$4 gas or \$5 gas, we're not going to
8 be able, I don't think, this is my personal
9 opinion, and I really -- this is a policy
10 question, I don't know the answer to it, we
11 are going to have an extraordinarily difficult
12 time forcing folks to pay whatever above 16
13 cents will be the result of the renewables
14 because there is this alternative with gas. I
15 mean gas is trading about \$3.50 now. Assume
16 it goes to 5. You still -- that produces
17 electricity at three to four cents a
18 kilowatthour, and so what I'm just saying is
19 you got that sitting out there in our borders,
20 not even in our state.

21 How -- from a public policy point of
22 view how can you think about sustaining those
23 kind of rate levels?

24 REPRESENTATIVE CHENEY: Well we are not
25 seeing any impact on rates as of yet even with

1 the passage of the standard offer law. In
2 2009, in fact if you're a Green Mountain Power
3 customer you probably got a rate decrease in
4 your most recent bill.

5 In terms of the relative price
6 difference between natural gas and renewables
7 yes, of course, natural gas is at an all time
8 low. Our state energy policy, however, goes
9 beyond price, and as I tried to illustrate
10 here over many years with strong bipartisan
11 support under all parties, governors of two
12 parties, we have been passing into law a
13 policy that recognizes the benefit of
14 renewable energy.

15 So it is of course expensive compared to
16 natural gas, but that's not our only
17 consideration.

18 MS. MCCARREN: I understand. I totally
19 understand. I understand that's the policy.
20 I'm asking a more pragmatic question which is
21 yes, I mean right now because gas is so cheap
22 you're seeing some of that reflected in the
23 reduction in retail prices. No question about
24 that, but what I worry about is maintaining
25 the ability to require customers to pay 16

1 cents. It's all relative. You're absolutely
2 right. It's relative when sources are sitting
3 out there at four or five cents.

4 Now 16 cents is all in so that's not a
5 fair comparison, but I think history has shown
6 that when you have that kind of price
7 disparity between a retail price and a
8 production cost what you end up you put huge
9 tensions into the system, and there's nothing
10 wrong with having a policy about renewables,
11 right, and renewables will be more expensive
12 and we'll pay those, but at some point you get
13 that huge, huge gap between a production cost
14 and a retail price. It's very, very hard to
15 hold the forcing people to pay the retail
16 price together, and that just bothers me a
17 bit, and I was wondering if you had any
18 observations on that.

19 REPRESENTATIVE CHENEY: Well I think
20 your question is a hypothetical one because we
21 haven't seen those kinds of cost increases,
22 and if we were to move to renewables, the
23 percentage of our portfolio being renewable,
24 perhaps we would. Right now we're at 15.4
25 percent in-state renewables and we haven't

1 seen an impact on our retail electric rate.

2 MS. McCARREN: I'm not making myself
3 clear and I'll stop. It's not so much the
4 absolute, right? It's the spread. It's the
5 spread between the gas, gas producing
6 electricity at three or four cents, and the
7 retail price. It's the spread not the
8 absolute. So you're right. You can still put
9 more renewables in and et cetera, but you
10 still have the gas and that's -- again I'll
11 stop because it's just something I really am
12 concerned about.

13 We saw it in the 80's when this exact
14 same thing happened and it was the precursor
15 of what turned out to be restructuring. I
16 just was wondering when the Legislature has
17 these conversations does it think about that.

18 REPRESENTATIVE CHENEY: It takes so long
19 to build the percentage of renewables in the
20 state that if we got to that point I would be
21 astounded. I think your question is a
22 theoretical one and not a practical one.

23 MS. McCARREN: With all due respect
24 we're seeing gas at \$4 produce three cent
25 electricity in New York. So okay.

1 MR. BODETT: I have a very quick.

2 MS. EASTMAN: Tom.

3 MR. BODETT: There are two points. You
4 can give me the answers online because I want
5 more information.

6 One is regarding how does that local
7 planning and mapping process work there. If
8 you had a little more information on how that
9 -- how their permitting process, if you will,
10 goes, and the other one was how Germany is
11 planning the grid stability issue. I mean I
12 assume there's like a European grid and there
13 is a national grid, and although they are very
14 dependent on imports they are trying to get
15 away with -- away from -- I should say what
16 are they planning to do once they are off, if
17 you will.

18 REPRESENTATIVE CHENEY: I'll have to get
19 you the information about the -- more details
20 about the planning. I would be happy to do
21 that for the entire Commission, and as for the
22 second one their grid improvement they have
23 two challenges. One, they plan to build
24 offshore large projects in the North Sea, and
25 they are going to need to build large

1 transmission lines to bring that to the south
2 where the population centers are.

3 In addition, they have to accommodate by
4 directional traffic from renewables
5 intermittents, and right now they don't have
6 that -- a problem, but they anticipate they
7 will need to improve the transmission system.
8 If there is resistance to specific projects
9 right now in Germany, it's going to be to the
10 large transmission lines that are going to be
11 required to be built in the North Sea.

12 MR. BODETT: Thank you.

13 MS. EASTMAN: Gaye.

14 MS. SYMINGTON: Margaret, you talked
15 about community ownership and as a strong
16 feature of the German system and maybe that
17 relates back to some of the discussion around
18 just the community process itself, and so the
19 potential shift towards a more collaborative
20 process.

21 Can you see that relating to the siting
22 process, that the siting process should take
23 into account the ownership structure or are
24 you suggesting that that -- or is it in
25 Germany is there some preference given to

1 projects that are community owned or
2 cooperatives?

3 REPRESENTATIVE CHENEY: No. I think in
4 Germany the ownership structure came first and
5 the siting and approvals of the siting is more
6 related to input from citizens, regional plans
7 much as the way it probably should be done
8 here, but ownership is not one of the criteria
9 as far as I know. That just helps with the
10 local acceptance.

11 MS. SYMINGTON: So I guess I'm curious
12 if you think that is something we should think
13 about as part of the siting criteria here?

14 REPRESENTATIVE CHENEY: We have as part
15 of the standard offer law some -- we've
16 recently incorporated some considerations that
17 we think should have priority. For example,
18 constrained transmission areas. You could
19 amplify those kinds of categories to encourage
20 types of projects and specific siting projects
21 that I think would be more intelligent than
22 the process is now.

23 MS. EASTMAN: Any other questions?
24 Thanks so much. I personally -- I really
25 appreciate to -- just the 1998 to now what

1 you've been working on so we can really
2 integrate those things, be sure we've got them
3 all looked at, and as you say maybe we need to
4 enhance some of the work that's already been
5 done.

6 Thank you. So we're going to take a
7 break. I think we should try and take an hour
8 -- try to start at one as we said we would.

9 (Luncheon recess.)

10 MS. EASTMAN: I'll call our meeting back
11 to order if there is any order now. So thank
12 you. So I guess I would say we're calling it
13 that we're entering our deliberation phase.
14 So we even changed the format of the room, but
15 we would like to start really talking about
16 things and questions that we have as things
17 come up, and interestingly enough, although --
18 I mean I didn't know Tom before he joined the
19 Commission and I, of course, knew the other
20 people, but we've done everything in public so
21 we've had no time to figure out how we really
22 work together and things like that, and so as
23 I was talking earlier I was saying to Scott
24 that I think out loud. Kerrick knows that,
25 but Scott was saying he goes home and writes

1 it all.

2 So we're now going to figure out how
3 this all works and we're going to use you guys
4 as the guinea pigs, one, because thank you,
5 Michael, we really want to get you before you
6 go to New Zealand and you're going there to
7 write a book, but you had to leave Vermont to
8 do that or think you do.

9 MR. DWORKIN: I need to turn 400 pages
10 of random thoughts into 300 pages of good
11 thoughts.

12 MS. EASTMAN: Wow, I don't know how you
13 do that.

14 MR. JOHNSTONE: You'll do well.

15 MS. EASTMAN: So I appreciate you coming
16 today, and, Jim, thank you for coming
17 yourself. We didn't want to put the Chair of
18 the Board in a difficult position, but of
19 course --

20 MS. McCARREN: It is your room.

21 MR. VOLZ: No, it's not my room. It's
22 the Department's.

23 MS. EASTMAN: But we all appreciate you
24 coming and sharing what you know and what you
25 -- any ideas that you have, and then, Kerrick

1 and Deena, I mean we have just got a lot of
2 questions. We even heard today some more
3 about transmission issues and things like
4 that, and I know we're the Electric Generation
5 Siting Commission, but how everything
6 integrates and what you think ought to happen
7 and so forth and so on because everything is
8 open on the table at this point as far as
9 we're concerned.

10 So this is our first time out and, Jim,
11 we were going to let you start and then have
12 Deena and Kerrick and finish with Michael, but
13 if you have got the time, we would appreciate
14 you staying around because we do want this to
15 be more of a dialogue and a lot of us have
16 questions not just Louise.

17 CHAIRMAN VOLZ: I'm happy to stay.

18 MS. EASTMAN: Thank you so much.

19 CHAIRMAN VOLZ: So you want me to start?

20 MS. EASTMAN: I want you to start.

21 CHAIRMAN VOLZ: Great. I want to thank
22 you for inviting me. I know you initially
23 invited my staff, but I think this is really
24 important that I wanted to make sure that I
25 was able to convey to you my thoughts about

1 this, and unfortunately because of what's
2 going on back at the Public Service Board and
3 with the Legislature and budget and everything
4 I wasn't able to spend as much time preparing
5 for this as I had hoped so I don't have a
6 presentation.

7 So I'm wondering how you would like me
8 to proceed. What would you like to hear
9 about? Do you want me to go through your
10 outline and talk about the topics in there?

11 MS. EASTMAN: We would like to focus on
12 what our charge is, but when I talked to you
13 on the phone you mentioned that you had some
14 ideas about what you thought might be worth
15 improving. I mean you've been doing this work
16 since the 1980's, right?

17 CHAIRMAN VOLZ: Right.

18 MS. EASTMAN: That's a long time. You
19 have seen a lot of changes, and I guess I
20 think you guys are the ones that know what's
21 going on and what is working and not working.

22 CHAIRMAN VOLZ: All right. Well I think
23 the outline you have actually does a good job
24 of organizing it so I think if I go through it
25 that might be useful.

1 What are the strengths and weaknesses?
2 I think that having a Board like we have has a
3 real positive aspect I think. It's an expert
4 Board and it gets an opportunity to make -- go
5 through a structured decision making process
6 is what the Board process is. It's a very
7 rigorous structured process and I think that
8 you get good results from that process.

9 We have lots of really smart people who
10 come together and put a lot of thought and
11 effort into creating a record, and then we
12 make our decisions based on that record and I
13 think it helps remove the politics from it,
14 and it helps make it be fact based and well
15 informed, as well as I think provides a lot of
16 intelligence. So I very much like the basic
17 structure that we have now.

18 I think the concern that may have given
19 rise to the Commission here, one of the
20 concerns anyway, is how the public -- what
21 role the public has in the process, and right
22 now the role the public has is fairly limited.
23 We try to have public hearings in all of the
24 cases, significant cases, and perhaps even
25 have more than one public hearing. We might

1 have a few even, but the purpose of the public
2 hearing is to hear from the public. It's not
3 part of the record so we can't rely on their
4 -- what they say to make findings or base our
5 decision on, but it does provide us with
6 information about issues that the public is
7 aware of that we might not be aware of, and if
8 we hear something like that, then we usually
9 ask the parties to address the issue further,
10 or we might even hire experts to address the
11 issue or we may use our own staff to address
12 the issue, but to look into it more deeply,
13 but that's the primary purpose of the public.

14 Many times the public comes to public
15 hearings thinking that -- I think thinking
16 that it's almost like a democratic process in
17 which if there's a large turnout for or
18 against something that should have some
19 relevance to our decision, and the way -- and
20 maybe it should. I'm not saying it shouldn't,
21 but that isn't the way we're structured right
22 now.

23 The way we're structured right now we
24 have to make our decision based on the record,
25 not based on public sentiment one way or the

1 other, and that could be changed if people
2 thought that that would be a better system.
3 I'm not sure it would be necessarily. I think
4 the whole idea, as I said earlier, was to have
5 a well informed, structured decision making
6 process, not something that's driven by
7 necessarily popular sentiment at one point in
8 time or another, and whenever you build
9 anything anywhere there are going to be people
10 who are impacted and people who are not going
11 to like it and other people who might like it.
12 So that's always a problem in any kind of
13 development that you're engaged in that's --
14 and we see that in our cases as well.

15 One of the -- as far as coordination of
16 state permit issuance with other agencies I
17 think the way it's structured right now works
18 -- from my perspective works fairly well. It
19 probably doesn't work that way for some of the
20 other parties. I know the developers would
21 like to have it all happen more quickly so
22 they probably would like to be able to get
23 everything at once, have parallel tracks in
24 everything more quickly.

25 I think the intervenors and the folks

1 who are participating in the case who are
2 concerned about the development's impacts
3 would probably rather have it go more slowly
4 and have more opportunity to participate. So
5 there's always a tradeoff there.

6 Right now when we issue our decisions in
7 the 248 process we have to find all the
8 criteria are met, and those criteria can be
9 met by permits from ANR or from other
10 agencies, usually from ANR in most cases, but
11 we usually don't do it that way. We usually
12 try to make findings directly that the
13 criteria are met. We then, if they need a
14 permit, we also require them to get the permit
15 as well.

16 We could do it the other way. We could
17 not address the criteria directly where a
18 permit is involved. We could just say we're
19 going to assume the permit is going to meet
20 the criteria and wait until the permit and
21 condition the approval on the permit, but I
22 think the way the statute is written right now
23 that actually doesn't work. You really have
24 to have independent evidence from the
25 petitioners that the criteria are actually

1 met. Then of course they still need the
2 permit anyway.

3 Right now appeals from ANR permits are
4 -- for renewable projects go to the Public
5 Service Board. I think the purpose of that
6 was because it was thought the Environmental
7 Court was taking too long, at least that's my
8 understanding, and so we have them now.

9 The only one we've gotten so far is the
10 Lowell Mountain. The permits from the Lowell
11 Mountain case are before us right now, and
12 because they are before us I can't talk about
13 them specifically, but it's a work load issue
14 for us, and it's also, when it's all said and
15 done, I'm not sure it's necessarily going to
16 be that much faster.

17 The strengths -- continue on the
18 strengths and substantive criteria. In terms
19 of review I think they are fine for the most
20 part what we have in the statute. It
21 accomplishes what the Legislature wants to
22 accomplish. If folks are not happy with
23 certain aspects of them, obviously they could
24 change. We are implementing them as they are
25 written in the statutes. I think for the most

1 part they address the issues that need to be
2 addressed except for the concern I think that
3 has been expressed about the impact of -- the
4 cumulative impact of the policy.

5 So, you know, we do a case-by-case. We
6 approved the Sheffield project. We approved
7 the Lowell Mountain project. We approved the
8 Georgia Mountain project. We approved the
9 Deerfield project. We have not looked at
10 whether it's a good idea to have that many
11 projects in Vermont altogether or not, or I
12 know in one of the cases one of the experts
13 for the parties who was an aesthetic expert
14 said this will be okay as long as you don't
15 string windmills all up and down. This one
16 project will be okay, but if you're talking
17 about building projects all along the Green
18 Mountain ridge, then he would be against it.

19 MS. EASTMAN: So if that's a concern, we
20 need legislative change.

21 CHAIRMAN VOLZ: I think you do if you
22 want to address that.

23 MR. JOHNSTONE: So then I'm curious when
24 you -- you're talking about it as a state
25 cumulative basis. Do you also think about it

1 within viewsheds? Have you given any thought
2 on the deliberation on the impacts from the
3 viewshed perspective for aesthetics or is it
4 really just the statewide cumulative that
5 you've been thinking about?

6 CHAIRMAN VOLZ: No. In the case itself
7 the viewshed is one of the issues under
8 aesthetics, and that's what this witness is
9 testifying about was that it could be seen
10 from an area that her client was concerned
11 about, but if that were the only project that
12 could be seen from there, that would be fine,
13 but this was the Long Trail. If you could --
14 you were hiking the Long Trail and you could
15 see these projects one after another all along
16 the spine of the Green Mountains, they would
17 have a problem and that -- so when we look at
18 the viewshed for sure, and in fact the
19 previous Wind Siting Commission had issued its
20 report in 2004 recommended a 10-mile rule and
21 we follow that right now. We're requiring
22 notice within 10 miles, to all the towns
23 within 10 miles. We also require notice to
24 all abutting landowners.

25 MS. MCCARREN: Can we just ask

1 questions?

2 MS. EASTMAN: Yes.

3 MS. McCARREN: Don't take this the wrong
4 way --

5 CHAIRMAN VOLZ: Okay.

6 MS. McCARREN: -- I was struck because
7 of the Charlotte solar issue because I live in
8 Charlotte about -- maybe I got this wrong,
9 Jim, so just correct me -- is that what I
10 understood was that per PSB rule that the
11 developer had to have -- had to identify the
12 land. They have rights to the land and could
13 not move the project?

14 In other words, the land had to be tied
15 right with the project to get approval from
16 you -- from the Board? Did I get that right
17 and is that by rule because it's not in the
18 statute?

19 CHAIRMAN VOLZ: I don't think it sounds
20 right.

21 MS. McCARREN: Then I'll take it
22 offline.

23 CHAIRMAN VOLZ: I'm not sure that we can
24 require a developer to -- if they propose a
25 project at a given site, we can't say you know

1 it shouldn't go there. It should go a half
2 mile away.

3 Like in the Sheffield case the
4 intervenors objected to certain of the --
5 certain locations of certain of the turbines
6 and the developer was able to relocate those
7 turbines that addressed those issues and
8 that's what they did. We could deny the
9 project on the ground -- had they not proposed
10 that and voluntarily moved them we could have
11 denied the project on the grounds the impacts
12 where they are proposing to put the turbines
13 were so great it couldn't be approved, and
14 then they would have to decide what they would
15 do next, but I don't think you have to say to
16 them you have to move them.

17 MS. McCARREN: It's the reverse way
18 around. They lost their place in the SPEED
19 queue. If they had to -- they would have to
20 start over if they didn't have the project in
21 the exact same piece of land.

22 CHAIRMAN VOLZ: The SPEED program.

23 MS. McCARREN: I'm sorry. I didn't mean
24 --

25 CHAIRMAN VOLZ: In the SPEED program you

1 have a queue. So you have a project that's
2 proposed and you need to be fairly specific
3 what that project is. If you aren't -- and so
4 when you are that specific enough to get on
5 the list, then if you don't develop that
6 project, you develop a slightly different one,
7 then you're off the list. That's a fairness
8 issue because there are other people further
9 down the list who are ready to go and didn't
10 need to move their project.

11 MS. McCARREN: The reason I raise it is
12 because this is essentially a land use issue
13 problem that we're looking at, and if the
14 developer comes in and has rights to this
15 piece of land, gets in the SPEED queue, and
16 then the town at least is faced with well we
17 really can't negotiate with that developer to
18 move it to a different site, a commercial site
19 or something.

20 CHAIRMAN VOLZ: Because they will lose
21 their spot.

22 MS. McCARREN: What their argument is
23 well if that happens, we're not going to do
24 the project at all because we'll have to go to
25 the bottom of the queue and whether or not

1 that might -- as I understand this, this is by
2 rule not in the legislation.

3 CHAIRMAN VOLZ: Right, or it's by order
4 maybe.

5 MS. MCCARREN: Maybe by order, yeah,
6 could be an order, whether or not that might
7 be something to look at because it would
8 provide the towns more flexibility in working
9 with the developer to find a preferred
10 location from the town's point of view.
11 That's all.

12 CHAIRMAN VOLZ: That's something we
13 should consider. I think that's a good point.

14 MR. DWORKIN: Eight or ten years ago
15 there was a case, if I remember the name,
16 Halnon.

17 CHAIRMAN VOLZ: Yes.

18 MR. DWORKIN: In which it was a small
19 residential wind turbine, but it was put up
20 right in front of -- on the landowner's own
21 land and in front of the picture window of a
22 neighbor. The Board wound up saying it would
23 not be approved because it was an undue
24 adverse aesthetic impact in front of the
25 picture window of the neighbor that could be

1 easily resolved if it was moved 75 yards to
2 just around the corner, and so the Board
3 didn't order the change, but it announced if
4 the change was made it could be approved, and
5 if the change wasn't made it would not be
6 approved.

7 That went to the Supreme Court and they
8 confirmed the Board had the right to do that
9 kind of thing, but it's not the SPEED program
10 queuing question, and it doesn't involve
11 having to go on someone else's property. It
12 was a different location on the same
13 landowner's property. That made it easier,
14 but I wanted to cover the point there are
15 times when moderate siting changes have a
16 significant effect have been affirmed in that
17 context.

18 CHAIRMAN VOLZ: As far as voluntary
19 siting guidelines go in terms of setbacks and
20 sound, et cetera, I think when Michael was the
21 Chair he developed -- he had Jean Vissering
22 develop a guideline for really small scale
23 renewal of wind, in particular, development.
24 That if you met these guidelines, it would
25 help you get your project sited because if you

1 followed the guidelines you would be able to
2 meet more of the criteria -- more likely be
3 able to meet the criteria. I think that was
4 -- I think that's generally a helpful thing
5 for the smaller projects.

6 For the larger projects I think it --
7 that's out there. People can look at it and
8 follow it. To actually have us set specific
9 guidelines, I think if they are just
10 guidelines they don't have to be followed that
11 could be useful, but I think the more
12 sophisticated developers really know what the
13 issues are and know really what they need to
14 do.

15 So I don't know there's necessarily a
16 need -- if there were anything -- if they were
17 not voluntary but actually required setbacks,
18 I think that reduces the flexibility to deal
19 with particular projects in particular
20 locations.

21 MR. JOHNSTONE: Do you have any thoughts
22 on decibel levels?

23 CHAIRMAN VOLZ: In our Board orders we
24 follow the World Health Organization
25 guidelines which I think are 45 dB outside and

1 30 inside, and the attendant -- the typical
2 attenuation between the inside and outside is
3 15.

4 MR. JOHNSTONE: You said internal
5 guidance you follow.

6 CHAIRMAN VOLZ: It's Board orders.
7 Right now that's what we require. It's what
8 we've been requiring. Somebody can make a
9 case it's not adequate or that it's overly
10 stringent. We can change our order, but for
11 now that's what we're following.

12 Public opinion, I think I already talked
13 about that.

14 MR. BODETT: Can I ask you a question on
15 that, Jim? That's come up a lot in the
16 testimony. We've heard how public opinion is
17 weighed by your Board and some of the other
18 agencies as well, and you made a good point
19 that you react to public opinion in terms of
20 how they might direct your attention to
21 problems you weren't aware of.

22 Is there some sort of an educational
23 process that you do, like a handout?

24 CHAIRMAN VOLZ: We have a 248 guide
25 that's available on our web site and at public

1 hearings, we hand them out that explains how
2 individuals can participate in our process,
3 how it works, how they can intervene, what
4 standards they have to meet, and how the whole
5 thing works.

6 MR. BODETT: It talks about most
7 effective kinds of testimony versus just like
8 you say coming in and saying we're all against
9 it so --

10 CHAIRMAN VOLZ: No. The guidelines are
11 for how to intervene and become a party in the
12 case, not for how best to participate in the
13 public hearing. The public hearing I think
14 there isn't -- there isn't -- the only way to
15 make the -- the only way to make the public
16 hearing different from what we have now as far
17 as its effect would be to somehow make it into
18 evidence of some kind I guess, but I'm not
19 sure that that's really a workable solution.

20 MR. BODETT: I wonder, I work at the
21 town level on the Selectboard and we -- often
22 there's a hot issue and a whole room full of
23 people shows up, and like in a town plan
24 situation or zoning, and what we found we say
25 this is what's most useful for us. I know

1 you're all here tonight and upset about this.
2 What is most useful to us is if we heard this
3 kind of information, and I'm wondering if that
4 was understood by the public before the Public
5 Service Board that is it -- isn't about what
6 their feelings are on the project as much as
7 it is have you considered what it might do to
8 this river or what have you, something that
9 may not have been presented to you as
10 evidence?

11 CHAIRMAN VOLZ: Well at the beginning of
12 every public hearing we explain that, that
13 what the purpose of the hearing is and what
14 the -- what issues the -- what issues you
15 should be focusing your attention on in terms
16 of what we would like to hear. So we try to
17 do that, but again even if they do all of what
18 you just said, it's not evidence in the
19 record. So we would still have to then decide
20 that whatever comments they were making were
21 not adequately being addressed by the parties
22 already. The issues they were raising were
23 not being adequately addressed by the parties
24 already, and then we would take some steps to
25 make sure they are addressed, but for the most

1 part most of the issues in the case that are
2 brought about that are related to all the
3 criteria you have to review in order to bring
4 them out for the project are already being
5 addressed by all the parties.

6 MR. DWORKIN: Jim has referred to
7 something I totally agree with about the
8 distinction between the public and the record,
9 but it's probably worth a minute, I thnk, for
10 me to say what it means to be record evidence.

11 It really is three key criteria. One is
12 that it's put in under oath under penalty of
13 perjury or under affirmation. The other one
14 is that it's put in, in advance and subject to
15 discovery so there's no surprises, and the
16 third is that it's subject to cross
17 examination, and those are really big hurdles.
18 That when you get 80 people in a high school
19 gymnasium most people -- (interruption) -- the
20 public hearing is designed for people that
21 don't want to work through the uphill slope of
22 doing that, but --

23 MS. EASTMAN: But that gets to our
24 issues that we have heard a lot about, of
25 course, is that the contested case process is

1 an expensive process. So, you know, so what
2 about intervenor funded. I mean --

3 MR. DWORKIN: I have testified in favor
4 of intervenor funded for many years. I really
5 think it's worth taking a serious look at, but
6 I want to make clear there are substantive
7 reasons there are distinctions between public
8 comment at a public hearing and the way I
9 usually tell my law students raises questions
10 but doesn't answer them, and evidentiary
11 proceedings which can answer questions but
12 have to be filtered through that process.

13 MS. EASTMAN: So what's your response to
14 intervenor funding?

15 CHAIRMAN VOLZ: I don't have a position
16 on it one way or the other. I think it's
17 something that it costs money. That money has
18 to come from somewhere, and so as a former
19 public advocate who worked at the Department
20 for 20 years I'm concerned about the
21 ratepayers having to pay for it. So I think
22 the intervenors we have -- so far the
23 intervenors we have had so far have been --
24 have provided positive input to the decision
25 making process for the most part, and if -- I

1 think if you have to fund yourself, I guess
2 then you have to pick your battles and you're
3 going to be more focused at -- on the issues
4 you care about.

5 If you're funded, then you might -- you
6 might not be as careful about how you spend
7 that money.

8 MS. EASTMAN: What about funding
9 municipalities?

10 CHAIRMAN VOLZ: That I can see a little
11 bit more, but you know the more -- there's a
12 tension between the same thing with municipal
13 plans of how much weight do you give it.
14 There's a tension between giving
15 municipalities more say and trying to develop
16 a statewide policy to, for example, promote
17 the development of renewable projects all
18 around the state. So if you give each town
19 too much -- that's why the Board is here
20 because we have a statewide look at things,
21 and why we are able to preempt local zoning
22 and Act 250 so we have a statewide electric
23 system can be built and operated and reliable.

24 If you're talking about reliability, I
25 certainly would want to keep that model

1 because otherwise we would not be able to keep
2 the lights on if towns could veto transmission
3 projects or generation projects that are
4 needed for reliability.

5 Renewable projects are generally not
6 needed for reliability so I have less concern
7 about them, but if you want renewables, then
8 you're going to have a harder time and it's
9 going to take longer and be more expensive the
10 more opportunities you have for people to
11 participate in the process. That's just the
12 way it works good or bad.

13 MS. EASTMAN: I guess -- and I've
14 interrupted you. Well here's the concern I
15 have and remember I administered Act 250. I
16 live in a very small town with no staff and I
17 know exactly the issue of getting the proposal
18 45 days in advance of the hearing started when
19 that may be the first official contact with
20 somebody and then having to come up and
21 participate in this process.

22 So I'm wondering if -- I remember having
23 these arguments with Bill Gilbert when he was
24 legal counsel for the Governor. He would be
25 complaining about planning and I said we don't

1 have planning in Vermont so let's not complain
2 about it until we have tried it, and I guess
3 we still haven't tried it here, and I'm really
4 curious about this idea of at least, you know,
5 is there a way to do some real conversation on
6 at least a regional level about what needs to
7 happen, you know, in a region maybe through
8 the regional planning process and early
9 getting people participating in that, and yes
10 having to then actually have some more weight
11 meaning no it's not going to go, you know,
12 here or there.

13 In a minute we're going -- or sometime
14 we're going to get to the VELCO map where I
15 look at what's needed or what the capacity is
16 where I live, and so what are we doing here?
17 I mean I agree renewables are a great idea,
18 but -- and more than a great idea, but it's
19 like, Tom and I had this conversation, right
20 now they are being proposed by somebody to go
21 maybe to the easiest location as opposed to
22 best.

23 So how do we move from the easiest to
24 the best so that it both benefits, you know,
25 from a carbon level, but also benefits from a

1 system level? You know, I mean that's what,
2 you know, concerns me.

3 CHAIRMAN VOLZ: I don't disagree with
4 anything you're saying. I think those are all
5 really good concerns, and I think if you could
6 address them, that would be terrific. I don't
7 have an answer for you.

8 MS. SYMINGTON: We'll write that down.

9 CHAIRMAN VOLZ: I don't have an answer
10 how to do it. I think having regional
11 planning or statewide planning, regional
12 planning would be helpful.

13 MS. MCCARREN: That's why I raise the
14 issue on the SPEED thing. There may be
15 something under your control.

16 CHAIRMAN VOLZ: Right, but that's a
17 relatively small part of this, but yes, and
18 you made a good point. We can look at that.

19 COMMISSIONER RECCHIA: Maybe I can jump
20 in and add to that point on the bigger
21 projects if it's a place where everybody put
22 all that energy and time and money and
23 application effort that turns out to be
24 completely wrong, then we failed on this other
25 part. In other words, you know the planning

1 level of having somebody who wants to do a
2 project like this figure out where it's wanted
3 and needed.

4 MS. MCCARREN: That's to Jan's point.

5 COMMISSIONER RECCHIA: And that's Jan's
6 point. If they get to the point where they
7 are in the process and somebody says not here
8 but there and they don't own that property and
9 that messes up the whole project, then the
10 whole project was messed up to begin with
11 because they didn't do those first steps.

12 CHAIRMAN VOLZ: It will make it more
13 expensive if you do that.

14 MS. EASTMAN: And I have heard that
15 argument also for --

16 CHAIRMAN VOLZ: I'm not saying you
17 shouldn't do it for that reason.

18 MS. EASTMAN: I'm also saying I think
19 things can be very expensive when you start
20 out and things have to change and you go back
21 and forth, and I think there can potentially
22 be some benefit for doing something upfront
23 that actually then has some weight to it,
24 okay, and then make something else happen, you
25 know, faster.

1 Now I think state planning failed in
2 1973 because the map was fuzzy in part and
3 because there's always winners and losers from
4 this kind of thing, but something like, you
5 know, electric generation, if this is our
6 statewide policy, then how best to get us
7 there. Maybe we've got to do a whole new
8 thing that we haven't done for years.

9 To me the world is incredibly different
10 than it was in 19 -- the summer of 1976 when
11 Louise McCarren was representing the public
12 and I was a law clerk for Don Rushford. The
13 world has changed regarding who is now
14 proposing things. I mean it's not, you know,
15 our utility is proposing things. It's
16 whoever.

17 CHAIRMAN VOLZ: The original -- the
18 previous Siting Wind Commission suggested, if
19 I remember correctly, suggested that we
20 designate areas in the state where we want the
21 wind to go. Let somebody figure out where it
22 ought to go and then say if you go here you're
23 going to have a lot less trouble getting
24 permits. It will be a lot easier. Your point
25 we can do this in a way that can also make it

1 cheaper and easier.

2 MS. EASTMAN: I'm still on Tom's easy
3 and best. That's what he said to me.

4 CHAIRMAN VOLZ: That would take perhaps
5 a statewide process, not the Legislature, and
6 everybody to get together and figure out what
7 areas of the state do we want to designate.

8 MS. EASTMAN: Or I'm wondering, and so
9 again just keep this in the back of your mind,
10 I look at what VELCO -- what you're required
11 to do relative to the 20-year plan already and
12 every three years, and I'm really curious
13 about -- I mean you're required to do this
14 planning process around some things. Is there
15 anyway to put some of these other issues in
16 there as well? Now you -- I know that may be
17 complicated and so forth and so on, but I'm
18 just --

19 MR. BODETT: You have time, right?

20 MS. EASTMAN: I'm looking at what are we
21 already doing in Vermont that we could build
22 on that would be better for everybody. So
23 just note that in the back of your mind. I'm
24 thinking you already do this.

25 MS. SYMINGTON: I'm confused when you

1 say that would end up in the Legislature. You
2 want the Legislature -- we should have the
3 Legislature drawing a map of where wind --

4 CHAIRMAN VOLZ: No. I'm sorry. I
5 didn't mean to suggest that. It would require
6 a legislative change and the Legislature would
7 have to authorize a process that would result
8 in that.

9 MS. EASTMAN: And I'm a believer it's
10 easier -- well Gaye is an expert on this, but
11 it can be easier to take an existing process
12 and tweak it than it is to say oh we have a
13 new thing here just as a side for you guys to
14 see. You shouldn't show me that map and tell
15 me what you're doing.

16 CHAIRMAN VOLZ: I have a hard time
17 imagining that the Legislature is going to say
18 give some order -- some agency the authority
19 to designate which mountaintops.

20 MS. EASTMAN: Guess what they are doing
21 now? They are giving you that authority and
22 who is designating that mountaintop is
23 somebody out of state coming in and saying I
24 got to meet this requirement to get this built
25 by x. So that's --

1 CHAIRMAN VOLZ: Maybe I'm wrong then.

2 COMMISSIONER RECCHIA: And they are
3 buying the land and the option for the land in
4 advance and any discussion --

5 MS. EASTMAN: So -- and it's not just
6 anybody. I mean we do plan or we try to, we
7 pretend to plan for other things, and I know
8 people are concerned about -- I mean I even
9 heard the comment today are we going to be
10 dealing with Canada to solve issues.

11 COMMISSIONER RECCHIA: They are not
12 going to be completely independent. They are
13 going to be joining --

14 MS. EASTMAN: It's --

15 COMMISSIONER RECCHIA: Follow the money.

16 MS. EASTMAN: Anyway, just a thought.
17 Is there something we could do? So I know you
18 can't do it based on what you're currently
19 authorized to do.

20 CHAIRMAN VOLZ: Right. Right. I think
21 the idea sounds like a good one if everybody
22 could come together and agree to do that.

23 MS. EASTMAN: Go back and we can talk a
24 few more minutes. I'm sure we'll interrupt
25 you.

1 CHAIRMAN VOLZ: So the next thing on
2 your outline that I have here is adequate
3 protection of lands, environmental, cultural,
4 resources, back to the coordination all state
5 level permits. We've pretty much addressed
6 that.

7 The problem with that I think -- I think
8 that -- unfortunately I think some people have
9 suggested that we should get the permits from
10 ANR exactly at the same time or even ahead of
11 coming to the Board, and I think that's really
12 problematic because frequently the project
13 changes as a result of the Board process. So
14 we have your permit in hand for impacts that
15 -- for the project that you have proposed and
16 then all of a sudden the project has now
17 changed and you have to go back for the new
18 impacts. That would seem like an unnecessary
19 wasteful approach.

20 So I think the way we're doing it right
21 now they have to demonstrate in our process
22 that they can satisfy the criteria, and then
23 once they get our permit they go and get the
24 permits from ANR is probably the most
25 efficient way to do it.

1 MS. EASTMAN: And you think that the
2 criteria that you're currently -- that are
3 currently part of 248 are sufficient to get at
4 all the environmental impacts? I mean we
5 talked about the issue of cumulative impacts,
6 but you think it gets at all the environmental
7 and health impacts that we don't need any
8 change? I know these things were written in
9 1969, 1970.

10 CHAIRMAN VOLZ: Well we're following
11 them now. The projects have been built.
12 People can look at them and see if they think
13 it's adequate or not I guess. We're getting
14 complaints from people near the Sheffield
15 project and the Georgia Mountain project and
16 near the Lowell project about issues. So
17 noise in particular and flicker sometimes from
18 some projects. None of these three projects,
19 but from other smaller projects we have had
20 flicker issues. There are issues that
21 continue afterward and, which is the next
22 topic, monitoring.

23 So whether they are adequate or not I
24 think perhaps ANR is going to be a better
25 person or entity to answer that question.

1 MS. EASTMAN: They are coming on the
2 15th and I will ask them that. I'll also ask
3 them -- this is a warning to Deb. I mean I'm
4 also curious on the environmental side of
5 things really. I know when we passed -- when
6 we gave generation to 248 as opposed to
7 keeping it in 250. The 2500 foot fragile
8 issue level didn't go over and I don't
9 remember it ever being discussed, and I was on
10 the Environmental Board in the 80's when this
11 happened, but I don't remember that being
12 discussed, and I'm curious now if that's
13 something that shouldn't be addressed.

14 You know we decided in 1970, the State,
15 that areas above 2500 were fragile and that we
16 weren't going to allow any development there,
17 and we decided it allegedly at the time for
18 scientific reasons and all of that kind of
19 thing, and I don't know -- and I can remember
20 conversations -- am I wrong guys -- even when
21 we did the transmission line for the Canadian
22 power it's all below 2500 feet.

23 MR. DWORKIN: Physically it is. I don't
24 remember the conversation but --

25 MS. EASTMAN: Well you remember who I'm

1 married to. I remember actual conversations
2 back that long ago about how to site that so
3 it would remain under 2500 feet
4 notwithstanding that it wasn't required to be.

5 So I'm just curious about that issue,
6 and for -- if there are any other fragile
7 areas in Vermont where we shouldn't -- we
8 simply should say no upfront and I don't know.
9 I remember -- you know we have a lot of permit
10 processes because we don't -- I don't know
11 because it's the way we resolved it. It's a
12 question I still have. Sorry.

13 CHAIRMAN VOLZ: The 2500 feet isn't in
14 our -- something we take account of.

15 MS. EASTMAN: It is in Act 250.

16 CHAIRMAN VOLZ: We have had people come
17 out and complain about it. Sam Benoit came to
18 one of our public hearings and was impassioned
19 about how much time and effort went into
20 protecting above 2500 and now we were throwing
21 that away.

22 MS. EASTMAN: Well I'm thinking about
23 Sam and others and I mean I have listened to
24 those guys all these years about that issue,
25 and now based upon what can happen, and we've

1 got a lot of different people coming into
2 proposed projects, so just --

3 CHAIRMAN VOLZ: Lot of things to
4 consider.

5 On monitoring and compliance the way it
6 works now is the Board and the Department
7 really don't have -- and ANR really don't have
8 enforcement staff. We don't have people going
9 around doing inspections and making sure. We
10 rely on members of the public to complain
11 about something they think is wrong and then
12 we check into it, and so that's how it works
13 right now. We assume that -- well
14 historically we regulated utilities with whom
15 we had an ongoing relationship, and if they
16 didn't follow our orders and do what we said,
17 they would get their business in big trouble
18 along the way. So it was much less of a
19 problem.

20 Now that we're dealing with independent
21 power producers and developers who aren't
22 utilities in the traditional sense and who we
23 don't fully regulate in the way -- the way we
24 regulate our electric utilities, it's a little
25 bit different situation.

1 So whether we need to have -- do more
2 monitoring and compliance I guess is a
3 question. It will cost more money. We would
4 need more people, and so I think the self
5 reporting way that it works right now I think
6 it seems to work okay, but I know there are
7 people who are not happy with it. That they
8 -- it shouldn't -- people who live near these
9 projects and who already feel burdened by them
10 feel extra burdened by the fact if the
11 developer is violating the CPG it falls on
12 them to do something about it, and so I think
13 that's a valid concern really.

14 MS. EASTMAN: Deb, are you -- what's the
15 monitoring and compliance capacity at ANR now
16 for big projects?

17 SECRETARY MARKOWITZ: So we do have
18 enforcement staff and they are somewhat
19 regional, but there's limits to our
20 jurisdiction. So, for example, during
21 blasting there was a lot of complaints and we
22 have no jurisdiction over blasting. So we
23 don't have the legal authority to inspect and
24 do anything about it.

25 Certainly if there's stormwater

1 complaints we're up there and we're looking,
2 and in fact did a lot of that. When there's
3 noise complaints it's not our jurisdiction so
4 our folks, you know, as much as they want to
5 be helpful have no authority to get involved.
6 So that's something that we really ought to be
7 thinking about is what's the mechanism for
8 making sure when there's conditions that they
9 are enforced.

10 I mean we had a complication with Lowell
11 where it was a neighbor who -- a neighboring
12 landowner, actually the landowner who leased,
13 he's still connected, but it wasn't on the
14 property that was being developed who violated
15 his own -- the rules that were applied to his
16 own operation that ended up having an impact
17 on the site by creating a stormwater washout.

18 Now nothing that the developers at
19 Lowell did caused that. It was a neighbor and
20 we got involved there because I don't know,
21 but it was -- there are these other layers of
22 complication.

23 COMMISSIONER RECCHIA: And, Jan, I am
24 looking at our Department's role in that. I'm
25 considering anything the Board issues in an

1 order as an enforcement component to it, and
2 you know we too have staffing issues, but I
3 think it squarely feels like it's squarely
4 within the public advocate and consumer
5 protection roles we have to try and address
6 these things. So I think we have to look at
7 ways that we can help beef that up.

8 MS. EASTMAN: I'm wondering as you guys
9 are looking at that to the extent it's a
10 facility is it that it's both of you doing it
11 or one of you doing it and doing it well. You
12 know what I mean? So that not being
13 redundant, but being sure everything gets
14 looked at.

15 COMMISSIONER RECCHIA: We work pretty
16 well together.

17 CHAIRMAN VOLZ: And I agree it should be
18 those two agencies and not the Board itself.
19 I think it makes more sense.

20 MS. EASTMAN: Well I especially think --
21 I mean I guess I'm a believer if they have
22 capacity they are already doing permits anyway
23 let them do it. We don't need to create a new
24 function for you.

25 CHAIRMAN VOLZ: They can come to us to

1 -- for orders to enforce over imposing fines
2 and penalties and things like that.

3 COMMISSIONER RECCHIA: And we have a
4 consumer affairs advocacy role more on the
5 utility side. People call and complain about
6 their cable bills or they have been shut off,
7 that system exists to be able to incorporate
8 citizen concerns and have a mechanism.

9 MS. EASTMAN: Okay.

10 CHAIRMAN VOLZ: Or it could be expanded
11 to include these kinds of complaints about
12 compliance with CPGs for generation projects.

13 As far as sound goes we require a sound
14 monitoring plan for each developer for the
15 larger projects and -- which includes a
16 complaint procedure, and so for sound we have
17 that covered. For other things like the
18 blasting which is construction, most of the
19 construction stuff is temporary so we put
20 conditions in place concerning that, but if
21 they violate the conditions, then somebody has
22 to let us know. We have no way of knowing
23 about it.

24 COMMISSIONER RECCHIA: In that respect
25 you really are in many respects, that one

1 particularly, you are really like a court that
2 is there to receive --

3 CHAIRMAN VOLZ: Right. That's our role.
4 People come to us to get things resolved.

5 MS. STEBBINS: So it would be useful I
6 would think.

7 MR. JOHNSTONE: It would be useful.
8 There might be a two-step dance here. They
9 might build and work out how they would do
10 that. The usefulness process I don't know
11 what your timelines were, but if we could hear
12 at some point what your thinking is on how
13 best to accommodate it. Is it more authority?
14 Direct granting of authority from the
15 Legislature so you could do it? Is it order
16 by order? Is it comes through you and you
17 guys figure out how to do it?

18 SECRETARY MARKOWITZ: It may be more
19 complicated because also our inspectors, our
20 enforcement folks, have particular expertise
21 and so they are not going to have, for
22 example, expertise that relates to noise
23 complaints. I assume that they could learn
24 the blasting impacts. That's related enough.

25 MS. EASTMAN: Construction to other

1 construction.

2 SECRETARY MARKOWITZ: But blasting they
3 don't deal with it at all. It's Public
4 Safety.

5 COMMISSIONER RECCHIA: And only in the
6 context of blasting caps, turn off your
7 radios.

8 SECRETARY MARKOWITZ: So maybe that's a
9 gap.

10 MR. JOHNSTONE: Building a highway, AOT
11 has experience with this as well. Somewhere
12 in state government there's some expertise.
13 That's why I asked.

14 SECRETARY MARKOWITZ: We'll take a look
15 at those.

16 MR. JOHNSTONE: Since you're coming back
17 anyway it would be useful. I know through the
18 process everything you said about the public
19 feeling like it's a burden and an unfair
20 burden on the back end is exactly what we've
21 heard over and over and over.

22 MS. EASTMAN: And I know we say
23 construction things are temporary, but I also
24 I liked Jennifer Ely's talk today to remind us
25 the least -- the smallest footprint we could

1 create is the best thing to do, and so I am
2 curious why you can't build towers with
3 helicopters.

4 MS. McCARREN: Of course you can. Of
5 course you can. That's what they do in the
6 west. They are building these big
7 transmission lines.

8 MS. EASTMAN: I know the transmission
9 lines here were built a lot by helicopters.

10 MS. McCARREN: It is very expensive.

11 MS. EASTMAN: Maybe it is very
12 expensive, but I'm just -- sorry, Kerrick.

13 CHAIRMAN VOLZ: In the west it's
14 actually cheaper to do it that way than to get
15 up to the mountains.

16 MS. McCARREN: Absolutely right. It's
17 pretty standard practice.

18 MR. JOHNSON: If I could, I'll only say
19 at one point it is actually cheaper for us to
20 employ helicopters where we did along the
21 route to construct the NRP because otherwise I
22 think working with the Agency of Natural
23 Resources and the Department of Public Service
24 we would have been required to run about
25 40,000 mats down so we wouldn't damage

1 wetland. So actually even with the cost, the
2 fuel cost and all the like, in some respects
3 it was as safe, if not safer it was quicker
4 and it was cheaper to do it with helicopters.

5 MS. EASTMAN: And again I'm now weighing
6 potential environmental impacts later and the
7 cost of that. So just, again, especially in
8 fragile areas I was just curious about that,
9 and because I mean I saw everything going in
10 on my highways and they go in in pieces. So
11 they are not --

12 CHAIRMAN VOLZ: I think you have to
13 understand, for example, Sheffield or Lowell
14 they -- the roads that they build are used not
15 just for construction, they are used for
16 ongoing maintenance. So we have conditions in
17 the permits that after the construction period
18 is over with the size of those roads don't
19 need to be the way they were when they were
20 putting up the turbines. They make changes to
21 them and reseeding and regrading, and they try
22 to get them -- put it back so that the visual
23 impact at least is minimized so you just see
24 the road and you don't see all the -- during
25 construction it really looks horrendous.

1 MR. BODETT: What's required for
2 decommissioning? Is the road completely
3 removed?

4 MS. EASTMAN: That did you understand --

5 CHAIRMAN VOLZ: That depends on the
6 site. It can be. It depends on what was
7 there before. So if it was already some roads
8 there before, then you might have to put it
9 back to what it was before if it's actively a
10 logged site and had roads around it.

11 SECRETARY MARKOWITZ: I apologize for
12 interrupting. I was going to mention with
13 Lowell that was a point of very serious
14 negotiation with our Agency as we were looking
15 at environmental impacts, and they did
16 ultimately agree to restore the road, but they
17 are restoring it to what it was, although they
18 are leaving some of it in place because they
19 need to -- well at the end of the project when
20 they are taking down the turbines and it's
21 restored basically.

22 COMMISSIONER RECCHIA: It's a vegetative
23 restoration. Recognize they are not putting
24 rocks back.

25 MR. DWORKIN: Can I address

1 decommissioning?

2 MS. EASTMAN: I'm having the same
3 thought. Decommissioning issue is an issue.

4 MR. DWORKIN: This is on finances and
5 decommissioning. I'm the co-author, with a
6 professor at Carnegie Mellon and one of my
7 students there, of a study of decommissioning
8 costs for wind compared to natural gas sites,
9 and it was in Electricity Journal about six
10 months ago.

11 The point of the article is two-fold or
12 three. First, that natural gas pads, which is
13 about 14,000 along the Rocky Mountain front,
14 and wind pads are roughly the same size. They
15 are roughly the same depth. They are roughly
16 the same trouble to clean up. One of them is
17 a tower that goes up a few hundred feet. One
18 of them is a pipe that goes down a few
19 thousand feet. They both have a road coming
20 in and they produce, in terms of the cost of
21 decommissioning, roughly the same cost.

22 They also in terms of kilowatthours or
23 jewels or energy or calories, however you want
24 to measure it, they typically produce ball
25 park the same amounts of energy. They sell

1 into the same markets and therefore they have
2 the same revenue within a factor of 15 percent
3 or so.

4 What's really been striking is the
5 decommissioning cost funds have been in place
6 for natural gas since the early 50's and they
7 are typically costing between \$10,000 a site
8 and \$25,000 a site. That's the amount you
9 need to bond for so you put up about a fifth
10 or tenth. For wind it's been measured in
11 \$50,000 to \$250,000 and up per site. In other
12 words, 10 times as much as for natural gas,
13 and we make two observations in our article.
14 One is that you ought to have an adequate
15 fund. Even the wind ones turn out to be on
16 the low side of marginally appropriate if you
17 look across the board.

18 The other one is you should not have a
19 consortium because the way it's set up right
20 now is an unfair penalty on wind compared to
21 natural gas, or it's an unfair premium for
22 natural gas compared to wind because they only
23 have to put up a tenth as much even though
24 they are having the same impact selling to the
25 same markets. It's just an example of where

1 you're going across the board what's a level
2 playing field.

3 At this point you've got a very clear
4 demonstration of the natural gas situation
5 nationwide. It's hardly been touched in 50
6 years. They put it in and never raised it,
7 whereas, the wind ones, most of them are
8 contemporaneous, so there's a low to
9 acceptable range for wind decommissioning, but
10 there's nowhere adequate for natural gas
11 decommissioning.

12 So in addition to the technical question
13 of what you actually require them to do, it's
14 really important to have adequate
15 decommissioning upfront so that when you
16 require them to do it there's a deep pocket or
17 at least an adequate pocket.

18 MR. BODETT: What does it actually cost
19 them?

20 MS. EASTMAN: That's what he's saying,
21 50 to \$250,000 a tower.

22 MR. BODETT: No, I mean -- not what does
23 it cost them to put up the decommissioning
24 fund, what does it actually cost them to
25 decommission?

1 MR. DWORKIN: The amounts are running in
2 the between 100 and \$200,000 range. They are
3 putting up 50 to 250. It's significantly
4 affected by whether you've got eight platforms
5 or eight pads, you know, at the end of a
6 two-mile road or you have got one pad at the
7 end of a two-mile road, but the amounts are
8 running in the couple hundred thousand bucks.

9 COMMISSIONER RECCHIA: Michael, was that
10 corrected for like constructibility issues? I
11 can picture natural gas, you know, wells being
12 in locations where you can easily access them.
13 Wind being something different.

14 MR. DWORKIN: The study doesn't do that.
15 It just looks at the amounts that have been
16 required.

17 COMMISSIONER RECCHIA: But the actual
18 cost of decommissioning a gas well is still in
19 a certain range?

20 MR. DWORKIN: Yes.

21 COMMISSIONER RECCHIA: And I'm going to
22 apologize. I know I'm going in and out. The
23 Legislature has called me over there. I'm
24 sorry to do that.

25 MR. JOHNSTONE: Enjoy.

1 COMMISSIONER RECCHIA: And if it's
2 disruptive for people to come and go --

3 MS. EASTMAN: It's not disruptive for
4 us. It's helpful. So we interrupted you
5 again.

6 CHAIRMAN VOLZ: That's all right. So on
7 decommissioning I thought it was interesting
8 what Michael said, but -- in a policy sense,
9 but what we're charged with is setting the
10 right decommissioning fund for the project we
11 have in front of us. So it's actually the
12 cost. We don't have anyway to deal with the
13 fact gas is underpaying. So that's what we
14 do. We try to make the developer put up -- do
15 a reasonable estimate of what it's going to
16 cost to decommission and then make sure we
17 have enough money to see that happens.

18 MS. EASTMAN: How does the estimates
19 that you put in place so far compare to what
20 Michael is saying his report shows?

21 CHAIRMAN VOLZ: They are similar.

22 MS. EASTMAN: The hundred to two hundred
23 thousand dollars?

24 CHAIRMAN VOLZ: It depends. Yes. I
25 have heard per turbine. I'm not sure. Off

1 the top of my head I don't recall what the
2 decommissioning levels were for Lowell
3 Mountain or for Sheffield.

4 MR. DWORKIN: There are plenty that are
5 done nationwide, but the cluster is a hundred
6 to two hundred nationwide.

7 CHAIRMAN VOLZ: The only other thing I
8 want to mention is the issue of cumulative
9 impacts. I think perhaps one way that might
10 -- you might be able to address that is 248
11 requires us to make sure that the project is
12 consistent with the 20-year electric plan that
13 the Department produces, and if the 20-year
14 electric plan took a statewide look and
15 designated where wind ought to go, we could
16 look at that. We don't have to follow it, but
17 we can look at it, and if the Department was
18 participating in our case saying this is our
19 plan, this is -- this project is okay because
20 it's being located where we say it should be
21 consistent with the plan, or they can come in
22 and oppose a project that wasn't doing that, I
23 think that there's a good chance --

24 MS. McCARREN: Did you just say that
25 because Chris just left?

1 CHAIRMAN VOLZ: I would like him to
2 still be here.

3 MS. McCARREN: Chris, you decide where
4 these things go.

5 CHAIRMAN VOLZ: Well that's one way to
6 handle it. I think the Governor gets elected
7 by the people of the state. The whole state,
8 not just one section of the state. Unlike the
9 Representatives, and the Department works for
10 him and --

11 MS. EASTMAN: So let me just ask. So,
12 Deb, do we look at cumulative impacts for
13 other large projects? We do in some ways,
14 don't we?

15 SECRETARY MARKOWITZ: As I understand it
16 this is pretty new and it's something that is
17 -- I know during -- so my experience with
18 these major projects is limited to Lowell, you
19 know, and I came in the very end of it.

20 MS. EASTMAN: I'm thinking non-energy
21 projects.

22 SECRETARY MARKOWITZ: Well but it still
23 comes from this conversation. So my
24 experience with cumulative impacts is my
25 biologist trying to get their head around it

1 and talking and thinking about Lowell. Could
2 they really talk just about its impact on
3 bears if who knows what's going to happen
4 nearby? When do they get to start looking at
5 cumulative impact?

6 So from that conversation the take away
7 is that I don't believe we're doing that other
8 places, and in fact one of the -- one of the
9 -- one of the pluses of the 248 process as
10 opposed to the criteria, the limited look at
11 criterion in Act 250 is because you've got a
12 broader mandate to consider the environmental
13 impacts here we actually have been able to get
14 in a whole conversation about its habitat
15 blocks which goes towards the -- it's another
16 angle of cumulative impact is to say what are
17 the big blocks, and what's the -- there's
18 value in preserving them, and so we're
19 concerned about these impacts.

20 So I believe that in Act 250 it's not
21 something that we get to raise.

22 MR. JOHNSTONE: One place you might look
23 at before you come back next time is, is there
24 any lessons to be learned, and I realize this
25 is a crazy example because people don't always

1 think we have done these very well, but in a
2 sense that's what TMBLs are trying to do on
3 the water side is pull all the impacts
4 together and understand how much sand can fit
5 in a ten pound sack, if you will, and I don't
6 know if there's any lesson learned, and again
7 a lot of people say we have never done those
8 very well in Vermont, and I get that part of
9 that. You can shoot at me for that one, but
10 there might be something in there to think
11 about.

12 SECRETARY MARKOWITZ: I see what you're
13 getting at. So the TMDL is under the Clean
14 Water Act the EPA requires us to have a
15 pollution budget. The Clean Water Act says
16 you can't pollute -- you can't put nutrient
17 pollution into the waters of our state. Of
18 course we are anyway because just by living we
19 are putting in nutrient pollution. They step
20 back and say okay we are limiting the amount
21 by looking at how little is -- how much can
22 you do without having a negative impact, and
23 of course Lake Champlain is already impacted.
24 They come up with a pollution budget and we
25 have to figure out how we're going to meet it.

1 That has been very challenging, so I'm
2 not sure that model really can work here. I
3 think --

4 MR. JOHNSTONE: I wasn't thinking the
5 model. I was thinking if your staff see any
6 lessons in it.

7 MR. COSTER: There's also the 401.

8 SECRETARY MARKOWITZ: Lawsuits. That's
9 the lessons.

10 MR. COSTER: We do the same thing with
11 the 401, but it's actually a watershed limited
12 analysis and I think the cumulative impacts
13 we're talking about here are just much
14 broader. So to the extent that model can be
15 expanded we'll certainly look at it.

16 MS. EASTMAN: But it is because we were
17 starting the water quality planning in advance
18 of the relicensing when I was there. I mean
19 -- and that is the thing. I mean actually I
20 was thinking about that when Jennifer was
21 talking today because when we looked at
22 Deerfield people were looking at doing
23 everything every place. The public wanted all
24 these things. You don't have to do that.
25 It's a whole watershed. Certain things may be

1 appropriate in certain places but not
2 everywhere, and I don't know. That was a
3 pretty good -- that was a pretty good planning
4 process.

5 MR. MARKS: It comes back to planning.

6 MS. EASTMAN: That's what I'm saying. I
7 think there are ways to -- Vermont has some
8 experience, maybe not in the electric
9 generation, but in other areas.

10 MR. DWORKIN: Deb's comment about 248
11 compared to 250 reminded me of an example from
12 1986 in which it was a chance for the Board to
13 take a look. There was a proposal to run an
14 electric transmission line from Chester to
15 Londonderry called the Chester-Londonderry
16 case, and there were two proposed routes, one
17 of which would have been along a highway all
18 the way, the other would have been
19 significantly short running through an
20 unbroken wilderness area, and that would have
21 been significantly cheaper.

22 The Board ended up ruling it should be
23 along the road and not go through the area
24 even though it would be cheaper because it did
25 not want to have the effect of breaking up a

1 large undeveloped wilderness area and that was
2 quite feasible under 248. Whether it would
3 have been so under 250 is a harder precedent,
4 but I want it to be an example where 248 made
5 it possible for the Board to look at what
6 could in a loose sense be called cumulative
7 impact area preservation concerns, and that's
8 been -- as I said, that was 1986 and has not
9 been reversed since then.

10 It doesn't do the analysis though. All
11 it does is says here's the door.

12 MS. EASTMAN: And it says we're still
13 doing it case-by-case and who knows what a
14 Board is at a particular time.

15 MR. DWORKIN: Although Boards have been
16 significantly stable. That's one of the
17 reasons there are six-year terms.

18 MS. EASTMAN: Jim, what else? We
19 interrupted you.

20 CHAIRMAN VOLZ: I think I'm pretty well
21 done. Just briefly turning back to regional
22 and municipal planning commission
23 participation, I think right now the
24 developers have to give and utilities have to
25 give 45-days notice. I think we talked about

1 this, a little bit about this earlier, and
2 then the regional and town planning
3 commissions have to file within 7 days after
4 that 45 days, and then after that the
5 developers or utilities actually file a
6 petition, and many times by the time they file
7 their petition it's actually different from
8 what they gave notice of. It's changed
9 because people have gotten input and things
10 have changed, and I was just thinking that it
11 might be useful to not have the towns comment
12 at that point, but have them comment maybe
13 three weeks after the petition. Something
14 like that. Some reasonable period of time to
15 look at the actual petition and comment on
16 that instead of the commenting on the thing
17 that was filed 45 days before.

18 MS. EASTMAN: Again we've got a catch-22
19 because what they need is, especially small
20 towns, at least in my experience where we have
21 no staff, need as much notice as possible of
22 what's clear as possible because it's all
23 volunteers who are going around to do the
24 work, and so it's not the Selectboard making
25 that decision usually. It usually goes to

1 Planning Commission or somebody else to look
2 at it and then they advise, and I do know
3 things change and then you're right though,
4 maybe we need an -- at least a different
5 process of something earlier than this timing
6 thing to give them as much time as possible,
7 but I think about this and am weighing wanting
8 everything to be final, you know, before they
9 get it, but then that doesn't give them a lot
10 of time, and if that is their only notice,
11 unless we come up with a better community
12 based process to begin with, then we want them
13 to know things early so that they can be
14 involved in a conversation that -- not the
15 easy place in town, but the best place in town
16 for the issue, and I know, Michael, you've got
17 some thoughts about that and whatever.

18 Jim, the thing that, and I'll have to
19 think about it more and I think I know I'll
20 come back to you on it, this issue of maybe
21 having different standards of review or
22 different weight for things depending upon the
23 project, whether it relates to reliability or
24 not, is something that I am really interested
25 in.

1 CHAIRMAN VOLZ: Okay.

2 MS. EASTMAN: And of course I don't want
3 to violate any constitutional issues.

4 MR. JOHNSTONE: Not knowing any.

5 MS. EASTMAN: You know because maybe
6 that would get at some of these issues. I
7 understand the need to have reliable energy
8 sources for the State of Vermont, but when
9 these projects are coming in and they are not
10 necessary for that, maybe people -- maybe a
11 local plan should have more weight or a
12 regional plan have more weight.

13 CHAIRMAN VOLZ: Sure. I think that's
14 certainly a reasonable way to do it. You will
15 get fewer projects that way.

16 MS. EASTMAN: Maybe.

17 CHAIRMAN VOLZ: Maybe you won't. Maybe
18 you'll get better projects. You'll get them
19 located in better places.

20 MS. EASTMAN: If there's enough money
21 involved, you will get the project. It just
22 may be in a better place.

23 MR. JOHNSTONE: Can you speak a little
24 bit about how we heard a lot about parties
25 come in whenever the projects come in, and

1 this is probably a bridge over to Kerrick as
2 well, but seemingly some of them are a long
3 way from any reliable transmission and how the
4 Board deals with that when they have an
5 application to build any new type of
6 generation, how does the adequacy of the
7 transmission system or the cost to actually
8 transmit it to where it is acquired in the
9 system, how does that come to play during the
10 process for you all?

11 CHAIRMAN VOLZ: I'm not aware of anybody
12 proposing -- none comes to mind at least
13 proposing a project that didn't have that
14 already worked out by the time they proposed
15 the project.

16 As part of getting their permit they
17 have to -- at some point they have to do an
18 interconnection study. ISO-New England
19 provides to make sure they are going to be
20 able to be integrated into the system and what
21 the impacts are going to be, and if there are
22 impacts, then they have to mitigate those. If
23 there isn't a transmission line, then they
24 need to -- the project needs to pay to have
25 one built. So that's why you don't get

1 projects that aren't too far away from
2 transmission lines.

3 MS. EASTMAN: But can I just clarify
4 this? If you had somebody propose -- had a
5 project proposed that was far away from a
6 transmission line, would you give them a
7 permit before you dealt with the transmission
8 line issue?

9 CHAIRMAN VOLZ: No. I don't think so.

10 MS. EASTMAN: Because that drove me nuts
11 all the time. Give an Act 250 permit for a
12 ski area and then nobody complains, and you
13 have to do the transmission line to do the,
14 you know, a new transmission line or a new
15 utility line and people then complain.

16 MR. DWORKIN: 248(B) expressly says it
17 requires consistency with the existing
18 transmission grid or a plan for ameliorization
19 for any impact on that.

20 MS. EASTMAN: Good.

21 CHAIRMAN VOLZ: As far as participation
22 by the public, one other thing I wanted to
23 mention about that which is the Board is in
24 the process of implementing an electronic case
25 management system which would allow parties to

1 file their --

2 MS. McCARREN: You don't really think
3 you are going to get that done.

4 CHAIRMAN VOLZ: We have a vendor who is
5 designing it and we hope to have it
6 implemented within a year I think.

7 MS. TIERNEY: In April of 2014.

8 MS. EASTMAN: I hope it works better
9 than the courts.

10 CHAIRMAN VOLZ: To avoid the problem the
11 courts had we have a turnkey arrangement.

12 SECRETARY MARKOWITZ: And Bankruptcy
13 Court does a great job with it. They are
14 paperless.

15 CHAIRMAN VOLZ: We'll allow anybody to
16 go on to our web site once it's up and running
17 and access any of the documents in any of the
18 cases and all of the orders, and that should
19 really help I think the public be able to
20 follow and participate in these cases in a way
21 that's not as expensive and cumbersome as it
22 is right now. It will allow for electronic
23 filing.

24 MS. McCARREN: Appeals and construction
25 and stays. The developer can start

1 construction once they get a Certificate of
2 Public Good without having all necessary
3 permits in hand? I just want to make -- this
4 is a sanity check, Jim. For instance, you can
5 issue a CPG that has a number of conditions on
6 it, some of which would include getting an ANR
7 permit that is not in hand, right?

8 CHAIRMAN VOLZ: The more recent ones
9 we've issued don't do that. We specify what
10 has to happen before construction starts.
11 There may be some things they don't have to
12 get done before they start, but generally --

13 MS. McCARREN: They have to have all the
14 ANR permits?

15 MS. EASTMAN: Because they can't start
16 without ANR permits. It would be a violation
17 of ANR.

18 MR. COSTER: There's some construction
19 phase and operation phase, so maybe.

20 CHAIRMAN VOLZ: Not only construction
21 but operation as well. They can't start
22 operating until they are in compliance with
23 everything and they have done everything.

24 MS. McCARREN: And so if you've got --
25 and the Board now handles the ANR appeals,

1 right?

2 CHAIRMAN VOLZ: For renewable projects.
3 Not all ANR.

4 MS. McCARREN: Okay. And so -- but
5 construction can start pending -- pending that
6 resolution of the appeal?

7 CHAIRMAN VOLZ: Yes.

8 MS. McCARREN: Do you have staying
9 authority?

10 CHAIRMAN VOLZ: Yes. We can stay. We
11 can stay the project.

12 MS. McCARREN: Okay. Just --

13 CHAIRMAN VOLZ: But I think almost all
14 of the ANR appeals, no matter how they are
15 resolved, even if the company loses, they
16 would just have to make changes on the
17 mountain. I don't think any of them would be
18 fatal to the project having to get built, and
19 no one asks for us to not allow it to be built
20 because --

21 MS. McCARREN: This is just a sanity
22 check here, and the party could seek a stay in
23 the Supreme Court of your orders, but has that
24 ever been done?

25 CHAIRMAN VOLZ: It's been sought. I

1 don't know if it's been granted. They ask us
2 first, then they can ask the Court.

3 MS. McCARREN: Exactly.

4 CHAIRMAN VOLZ: Right.

5 MS. EASTMAN: Okay. Any more questions
6 for Jim? He's going to stay, but I was going
7 to turn it over to Kerrick and Deena to talk a
8 little about the VELCO stuff.

9 MR. JOHNSON: Okay. I guess no more
10 questions.

11 MS. EASTMAN: Don't worry. We'll have
12 some more.

13 MR. JOHNSON: Thank you very much.
14 Actually Deena -- I think most of you know
15 Deena Frankel and myself, Kerrick Johnson, but
16 I also want to introduce Shana Duval who is a
17 teammate and we do a lot of public outreach
18 together, and the three of us had a hand in
19 putting together a presentation that we hope
20 is responsive, and Sheila was very helpful in
21 kind of channeling this group and try to make
22 sure --

23 MS. GRACE: Only if it's responsive was
24 I helpful.

25 MR. JOHNSON: And I guess I'll just --

1 because I want to make sure that Deena, whose
2 done the most work, I think given the
3 direction of the conversation is the only
4 thing I would say before I hand it to Deena
5 would be it's very interesting how this has
6 come full circle, and the transmission and how
7 the transmission is planned for the public
8 outreach we are required to do and the public
9 outreach we do above and beyond that sort of
10 see now as perhaps having offering some
11 template, some solutions to generation when a
12 few years ago it was transmission, we found
13 ourselves frankly in a very similar room to
14 this in this building trying to figure out
15 what went wrong.

16 We would like to think we've done a
17 better job and I'll just put a plug in for
18 both Deena and Shana in that whatever you do I
19 think, Jan, around this, folks around this
20 table know, in addition to process, there is a
21 human element of the culture and who is
22 actually doing, making it work, and we had
23 challenges with that. Those aren't done.
24 We're more than happy to talk with you about
25 that, but I guess that whole human element,

1 how we actually make this work, I know this
2 group won't forget it, but I want you to know
3 we know. Go ahead, Deena.

4 MS. FRANKEL: Thanks for the opportunity
5 to talk to you. I'm going to focus on the
6 Vermont System Planning Committee and Kerrick
7 is going to talk a little bit about some of
8 what VELCO has done to better adapt our public
9 engagement processes when we build
10 transmission to the lessons that we've learned
11 from recent projects, and it seems to me, you
12 know, I think what we are bringing to the
13 table today is kind of a lessons learned from
14 what has been five years of intensive work on
15 implementing an intensive stakeholder
16 engagement process around transmission
17 planning that grew out of some of the events
18 in the early 2000'S, and we can -- VELCO's
19 really needing to up its game following the
20 Northwest Reliability Project on the way that
21 we engage communities, and I hope that's what
22 I'm going to be able to talk about and really
23 invite you to -- I would rather converse.

24 MR. JOHNSON: Does that make sense?

25 MS. EASTMAN: Yes.

1 MS. FRANKEL: So I think there are three
2 things that this story about the Vermont
3 System Planning Committee is about that I want
4 to highlight from the kind of tell you what
5 I'm going to tell you part.

6 Number one, this is an example of
7 stakeholder engagement around a pretty
8 technical issue. So I think one set of the
9 challenges with this is how do you take
10 something that's sort of seen as the field of
11 experts and effectively ask the public
12 questions that are reasonably framed, are
13 understandable in English, and can really
14 bring people into a point in the process where
15 their input can make a meaningful difference
16 so that piece of engagement around a pretty
17 technical set of issues is the number one
18 piece.

19 Secondly, how you make this a very
20 transparent process where it's highly
21 accessible to anybody in the public who wants
22 or needs to understand what are we doing; and
23 then, thirdly, and really this is the -- was
24 the number one driver of how we got into this
25 in the first place, is lengthening the

1 planning horizon so that you get people
2 talking about these issues at a time when you
3 can actually make a difference about the
4 solutions.

5 So this is a little bit of history of
6 how was the Vermont System Planning Committee
7 process -- why are we doing this. You may
8 remember that back in the early 2000's VELCO
9 was -- did a very big, like 62-mile,
10 transmission line that ran up the western side
11 of the state in some of the most populous
12 areas of Vermont. It was really the first
13 time we had built transmission in maybe 30 --
14 a significant transmission project in about 30
15 years and there was very significant public
16 opposition.

17 So there were two kind of tracks of
18 reacting to that public opposition. One of
19 them was legislative. The other through the
20 Public Service Board. The year of that
21 project's sort of breaking into the public
22 consciousness, the 2005 Legislature passed an
23 Act 61 requiring VELCO to do a long range -- a
24 long range plan that had not been in the
25 statute nor actually was a formal Public

1 Service Board requirement, and the statute
2 required us to look out ten years and update
3 that plan every three years with a focus being
4 on identifying things we might need --
5 transmission that might need to be built early
6 enough that we could possibly avoid it with
7 alternatives.

8 And then an ancillary piece of that,
9 which has really had a big influence on what
10 we've been doing in the whole field of
11 developing alternatives to transmission, was a
12 requirement that all of the parties, both the
13 regulators and the utilities, become engaged
14 at the regional level in advocating for really
15 putting non-transmission alternatives,
16 generation, energy efficiency, on an equal
17 playing field, level playing field with the
18 transmission alternatives, and regional
19 planning recognizing that we don't really have
20 control over our own destiny today where
21 really the responsibility for transmission
22 planning rests largely with the independent --
23 with ISO-New England for the New England
24 region.

25 Then the other parallel piece of this

1 was a Public Service Board docket. The Public
2 Service Board in the NRP case agreed that the
3 project was necessary in order to meet --
4 maintain reliability of the transmission
5 system, but if VELCO had been engaged earlier
6 in considering the alternatives, that we may
7 have been able to avoid building that line
8 with either energy efficiency or generation,
9 which is what I mean when I use our jargon of
10 NTAs, non-transmission alternatives.

11 So the Board opened -- Michael was the
12 Chair and knows more about this than I do --
13 opened an investigation, Docket 7081, that was
14 negotiated. We reached a negotiated
15 settlement in that case. The Board set the
16 objective full, fair, and timely consideration
17 of non-transmission alternatives. We
18 negotiated for a year and came up with a
19 framework that is the result today is the
20 Vermont System Planning Committee, which I'll
21 describe in a little bit more detail.

22 So a couple of key points about this
23 process was that the framework was put in
24 place in the docket, but this was definitely
25 not a sufficient -- it was necessary in order

1 to make this process happen, but it was
2 definitely not sufficient, and really it's
3 taken five years of work together by the
4 parties at the table, which I'll enumerate in
5 a minute, in order to really give some life to
6 this.

7 One other thing I want to mention on
8 this slide is that while the legislation
9 required that we do a 10-year transmission
10 plan, the Board required a 20-year outlook.
11 So that what we do today is actually a 20-year
12 look out with updates every three years. Next
13 slide please.

14 CHAIRMAN VOLZ: I was the Chair during
15 that hearing.

16 MS. FRANKEL: I'm sorry.

17 CHAIRMAN VOLZ: It was a follow-on to
18 the NRP case. I want the right people to get
19 blamed.

20 MS. FRANKEL: I would say credit. So
21 this is the Docket 7081 put the Vermont System
22 Planning Committee in place. I think there
23 are two pillars of this are the requirement
24 that VELCO do this long range plan and then
25 the actual stakeholder process that receives

1 that plan and does something with it, and this
2 is the body that receives the plan.

3 So the key concept -- first of all,
4 there are about 30 people at the table
5 representing those six divisions and it's
6 basically six sectors. Each sector has a vote
7 on anything where we need to vote. We
8 actually have never voted on anything, and the
9 sectors are three utility sectors that are
10 divided by, first of all, whether they own
11 transmission or not, and that is the GMP and
12 VEC are transmission owners, and then a
13 division of large and small for the remaining
14 utilities, and then recently the process was
15 modified so that the energy efficiency
16 utilities, which is Efficiency Vermont and the
17 efficiency portion of Burlington Electric
18 Department, have a sector of their own, and
19 then there are three public members who are
20 appointed by the Public Service Board to
21 represent an environmental organization,
22 residential consumers, and commercial
23 consumers, and those each have alternates who
24 are also appointed by the Public Service
25 Board.

1 I will tell you we have had some
2 fantastic members, but this -- the public
3 engagement -- the public sector votes has been
4 one of the challenges of the process.

5 MS. MCCARREN: Because they can't reach
6 consensus, Deena, or they are challenged
7 because?

8 MS. FRANKEL: Because getting all of the
9 sectors represented at every meeting it's
10 really an attendance issue. It's really the
11 demands that service places on individuals.

12 MS. EASTMAN: But then you have the
13 wrong public members appointed. That's my
14 statement.

15 MS. FRANKEL: Or we may have -- we may
16 have to look at our process and say what does
17 it take.

18 MS. EASTMAN: But some is --

19 MS. FRANKEL: One of the things about
20 this process is that the signatories, the
21 people who negotiated this, were trying to
22 accomplish a lot of different things. The
23 regulators wanted to make sure that issues --
24 transmission issues didn't languish, didn't --
25 the utilities didn't meet for a long time

1 before they started addressing something
2 because it had controversies or things, issues
3 of cost allocation that needed to be worked
4 out, and so the process is very step wise, and
5 there are lots of procedural aspects to it.
6 It's fairly complicated and demanding.

7 So we meet all day once a quarter and
8 sit and talk about transmission for six, seven
9 hours. So the challenge of that, meeting that
10 objective of dealing effectively with these
11 really, you know, technical get-in-the-weeds
12 issues and effectively speaking English and
13 keeping them, three diverse public members,
14 with other -- with jobs engaged in that
15 process has been something that we have -- we
16 are working to find the right model.

17 That said, we have had fantastic public
18 members who have really helped to make this
19 process work because they make the experts
20 very aware of the need to kind of a reality-
21 checking process that happens on a continual
22 basis.

23 I'll just say a couple things about
24 transparency. All of this is on a web site
25 where every single piece of paper, minutes,

1 everything is accessible with the only
2 exception of information that is designated as
3 critical energy infrastructure and is
4 protected for that reason. Even that is
5 accessible to any member of the public who can
6 demonstrate they have a legitimate interest
7 and can sign a non-disclosure, and public
8 engagement there is a very elaborate set of
9 requirements that deal with the plan and then
10 the project specific, which I'll show you a
11 little bit more about.

12 So this slide depicts at a high level
13 the cycle of how the process works. The red
14 parts of the cycle are VELCO's planning
15 responsibilities and the blue parts are what
16 the -- are the responsibility of the
17 distribution utilities with collaboration with
18 VELCO, and the public engagement is really
19 threaded throughout this picture.

20 Because of the way ISO-New England's
21 planning responsibility works today the real
22 kickoff of all of this is that ISO does a
23 planning study. In the case of the current
24 cycle they did a Vermont/New Hampshire needs
25 assessment that actually identified on an

1 engineering planning basis what were the
2 issues that we expected to arise in the
3 transmission system for the next ten years.
4 They only look at ten. We supplement that
5 with the additional ten-year outlook.

6 So in the case say of the current cycle,
7 in December of 2011 VELCO did a draft based on
8 ISO-New England's analysis with input from the
9 Department of Public Service, efficiency
10 utility, and the distribution utilities. We
11 then deliver that in a formal way to the
12 Vermont System Planning Committee which has a
13 period of time, I believe it's 90 days under
14 the memorandum -- under the docket 7081 MOU,
15 to review the plan and give formal input back
16 to us.

17 We then incorporate that input. We have
18 to say on every single thing they said what
19 did we do with it, and then we deliver based
20 on that input a second draft which happened
21 this year at this time around April, and then
22 in April, May, and June we go out around the
23 state and do public meetings to get input on
24 the public review draft of the plan.

25 We did four public meetings that we

1 hosted that are meant to be dialogues, not
2 public hearings. We do a presentation of the
3 plan and then have really many hours of
4 conversation, in the case of this year's for
5 workshops, and then, in addition to that, we
6 went out to all the regional planning
7 committees and offered to go to them, and I
8 think we did seven of those if I remember
9 correctly.

10 MS. DUVAL: Seven out of 12.

11 MS. FRANKEL: Seven out of 12 said yes
12 we would like you to come to us. So we went
13 to the regional planning commissions and did
14 presentations.

15 MR. JOHNSON: The only thing I would say
16 there in selecting okay where do we want to
17 go, we looked at the map okay where might we
18 think we're going to do work. Let's make sure
19 that they take note in advance of -- hopefully
20 years in advance at some point we might be
21 coming to you. So some we didn't have any
22 work that we saw anywhere in the next 20 years
23 don't need to bother, but folks where we might
24 be doing the work those were the ones we got
25 in front of and we insisted we got in front

1 of.

2 MS. FRANKEL: So again the red part of
3 this process reflects the challenge of how do
4 you effectively engage people in a very
5 technical conversation at a time when there is
6 nothing in their backyard, especially in the
7 current plan. Really the plan says we don't
8 think we're going to have to build any --
9 we're building almost nothing in that plan.

10 The plan's conclusion is largely that
11 there aren't any big transmission projects.
12 I'm guessing there are a couple of projects in
13 there, but there's nothing like the NRP or the
14 Southern Loop where we're proposing to build a
15 long segment of transmission line. So how do
16 you get people engaged when it's very early
17 and the basic message is we're not coming to
18 you. So that's been an ongoing challenge. We
19 have had very robust conversations in those
20 meetings, but the attendance is small. We
21 know we're not reaching everyone who might be
22 interested in the conversation.

23 So then when we publish the plan in July
24 of each third -- each third year it then
25 becomes a distribution utility responsibility

1 to take anything where we think there's a
2 potential for a non-transmission solution and
3 to do project specific work on those
4 non-transmission alternatives.

5 So there was one thing in the plan, one
6 big issue in the plan this year which was a
7 set of deficiencies that we called a Central
8 Vermont deficiency that looked like there was
9 potential for avoiding the transmission.
10 Green Mountain Power was the lead utility.
11 All of the utilities in the state are affected
12 by this issue, and so there has been for a
13 year a study going on by Green Mountain Power
14 with another set of stages of public
15 engagement in that study, and that's about to
16 be -- the results of that are just beginning
17 to be released. So essentially there are two
18 rounds here of public engagement. One is at
19 the planning level and then the next one is at
20 the project specific level.

21 So actually -- would you go two slides
22 ahead to the next one please? I just want to
23 say a couple of things about what kind of
24 transmission we're talking about here. So the
25 Vermont System Planning Committee isn't -- the

1 charge under Docket 7081 is to deal with
2 reliability planning. These are, from our
3 perspective, projects that are likely to be
4 funded through a regional cost sharing through
5 what's called pooled transmission facilities
6 where all of the New England states are
7 participating in the cost, and if we build the
8 transmission then Vermont is paying four
9 percent of those expenses.

10 So it's those projects that this
11 planning process is designed to focus on.
12 There is an intersection between that
13 reliability planning and the idea -- and the
14 third kind of transmission, which is the
15 merchant transmission, that you would need if
16 you want to connect a particular generation to
17 the system.

18 Now those generation projects could be
19 ones that help solve -- avoid the need for a
20 reliability project, but I think it's
21 important to make the distinction that these
22 are really two -- that the focus of the VSPC
23 is on the reliability piece and intersects
24 with the merchant transmission in getting, if
25 a project is being built, the developer really

1 is the one who pays for that transmission, and
2 there is another category that we have never
3 actually built in New England which is
4 economic transmission. Projects to bring
5 power to market.

6 MS. McCARREN: I just had a question,
7 Deena. If a developer were to put a project
8 in an area which needed new right-of-way, the
9 developer would not have eminent domain. So
10 would you guys -- how would you handle that?

11 MR. JOHNSON: We were asked this
12 question when we were up in Newfane -- Newark.
13 Excuse me. I was thinking Southern Loop.
14 Thank you very much -- and the understanding
15 that I have is that in order to do that you
16 would have to -- first you have to be
17 recognized as a utility, duly constituted
18 utility, if you want to condemn for utility
19 purposes, (A), and then you would have to --
20 we wouldn't be doing the condemning. The
21 project developer would have to seek to become
22 a utility.

23 MS. McCARREN: They would have to become
24 a utility with those rights, okay, and then
25 the other question, Deena, was public

1 interest. The concept of public interest,
2 transmission lines, has that come to fruition
3 yet or did you put that under economic --

4 MS. FRANKEL: It isn't taken into
5 account in this chart, and as far as -- I mean
6 I think the rules of the road are under
7 discussion, are not known yet until that FERC
8 order 1000 issues are resolved. So we didn't
9 take that into account when we put this
10 picture together, and so I think segue --

11 MR. JOHNSON: Why don't we go right to
12 the map. That's where the interest seems to
13 be. Okay.

14 A couple things that I think it's
15 important to clarify. Quite honestly I mean
16 there's some trepidation to come talk to you.
17 We want to share everything we can with you,
18 but we're transmission. We're not generation.

19 MS. EASTMAN: I know.

20 MR. JOHNSON: I feel a need to just say
21 that. I think I can feel that I know --

22 MS. SYMINGTON: Don't you want to remind
23 us we're not transmission.

24 MR. JOHNSON: That's all right.

25 MR. JOHNSTONE: He did that subtly. We

1 have read our charter.

2 MR. JOHNSON: There are big differences
3 and this map, I think, gets to that as Deena
4 did a very good job in kind of teeing it up.

5 VELCO we're kind of the nexus. We're
6 the nexus between -- we connect. We connect
7 the monopoly world, the highly regulated world
8 of transmission, with the competitive market,
9 competitive wholesale power market.

10 In general now, as Deena pointed out,
11 for 30 years we didn't really start building
12 anything until like 2004. In the year 2000 we
13 had 84 million dollars of assets. We closed
14 2012 with a billion dollars of assets. Now I
15 can't tell you how many places where I go
16 where people are amazed that we have a billion
17 dollars of assets. How did you get there, and
18 quite honestly --

19 MS. EASTMAN: They are expensive those
20 poles.

21 MR. JOHNSON: In terms of our assets we
22 have gone something from like 200 miles to
23 over 770 miles of transmission. We have a
24 very, very large footprint. I think it's --
25 our property tax bill alone will be -- over

1 the next five years will be 20 million dollars
2 a year. We have 13,000 acres of right-of-ways
3 we have to manage every single year.

4 MS. EASTMAN: I'm not trying to make
5 your job harder.

6 MR. JOHNSON: Just making sure the data
7 are out there. As part of this Deena, I think
8 a few times keep coming back with Louise keep
9 talking about ISO-New England. So we are --
10 we work very closely with ISO-New England, and
11 there again Vermont is four percent of New
12 England's energy load, and just as things have
13 changed since you were at the Act 250 with
14 regards to locating a generation and the state
15 Public Service Board's requirements and who
16 are the players and stakeholders, our world is
17 changing and continues to be in transition,
18 not the least of which we had a combination of
19 two owners, now we have a new owner, which is
20 38 percent of our ownership is a newly formed
21 not-for-profit public benefits corporation.

22 We have had a substantial change to our
23 Board of Directors. The federal, the region
24 continues to change. Public policy driven
25 transmission. How do we better incorporate

1 non-transmission alternatives. How can we
2 better insure efficiency is being counted in
3 the load forecast going forward that continues
4 to evolve, and nationally federal reliability
5 standards that drive what we have, what iron
6 in the ground we have to do, that continues to
7 change each and every day.

8 So within that context here's what we
9 got. To try and help with the debate here, to
10 give ISO-New England credit because we do
11 pound on them when we need to, but we need to
12 give credit where credit is due. For the
13 first time ever the study, the ten-year look
14 out that Deena talked about that ISO did for
15 us, for the first time ever they agreed to do
16 a pilot project. Okay. You guys --

17 MS. MCCARREN: Wasn't it premised if
18 Yankee goes away?

19 MR. JOHNSON: Yankee going away is what
20 reinvigorated the process. We can't believe
21 you're actually to do this, but it's pretty
22 serious what you are going to do so we really
23 better get going on this needs analysis, and
24 we'll look out ten years. In the course of
25 that we said we understand your state's

1 statute requirement. We will help you and
2 we'll do a real serious high level look of
3 what kind of non-transmission non-poles and
4 wires solutions, where might it help to have
5 generation, real generation or real
6 concentrated efficiency if we target it, it
7 would avoid the need for you to build
8 transmission.

9 Out of that analysis what you see in
10 front of you are -- technical word here --
11 this is a technical issue for those red areas
12 are blobs. Not surprisingly if you look at
13 where they are it actually --

14 MS. EASTMAN: Rutland and Burlington.

15 MR. JOHNSON: Absolutely makes sense
16 what we have found, and this kind of debate,
17 Jan, really came up last session, because once
18 we did our plan, and this is the fast moving
19 pace, and we come up with a plan and it's as
20 transparent as we can be and get lots of
21 public output, but bluntly a lot of what we
22 have found is the second we put the plan in,
23 in a lot of ways is immediately obsolete
24 because things continue to change, and they
25 change on a daily basis.

1 MS. EASTMAN: So let me ask you --

2 MR. JOHNSON: Sure.

3 MS. EASTMAN: -- so across the north
4 this says that generation in this region has
5 reached the transmission capacity as of 2012.

6 CHAIRMAN VOLZ: That's the rectangular
7 at the top of the map that you can't read. I
8 think you ought to maybe describe what the map
9 shows because only people who have it in front
10 of them can really see it, but, sorry to
11 interrupt, there are other people in the room.
12 I think it's hard to follow.

13 MR. JOHNSON: That's a good point, and
14 the nice thing, at least some of the folks in
15 the room, we've tried to get this map to as
16 many people as possible. We talked about all
17 the meetings we had. We had meetings with the
18 Renewable Energy Vermont community. We had
19 meetings with the business community. We had
20 meetings with project opponents. We had
21 meeting with the legislators. We had meetings
22 with the service groups. We had meetings with
23 planning commissions. So thank you.

24 What this attempts to depict is where
25 could you possibly locate generation. This is

1 VELCO. Where could you possibly locate
2 generation that would provide a reliability
3 benefit. It's an initial look that says if
4 you put generation in these areas and there's
5 a key, a legend on the right that talks about
6 what type of benefit, the red offers high
7 potential for best benefit. Orange, rusty,
8 siena, thank you, that -- ocher provides -- is
9 beneficial for identified issues. The yellow
10 some benefits.

11 Southern Vermont not so much, but you
12 don't obviously -- you don't see a legend
13 there saying the room at the inn appears to be
14 all filled. However at the top that is the
15 case, and I'll just give three basic reasons
16 essentially why roughly speaking that's the
17 case.

18 One is there hasn't been a lot of
19 investment there. Citizens Utilities, which
20 exited -- was acquired, shall we say was
21 acquired by Vermont Electric Co-op, there
22 hasn't been a lot of investment in the plant
23 there so the shorthand is skinny wires. You
24 have skinny wires. You don't have a lot of
25 people. There's just not a load that's in

1 that area.

2 MS. EASTMAN: So I have to ask you --

3 MS. SYMINGTON: What happens with Bill
4 Stenger's --

5 MS. EASTMAN: Exactly. We have a
6 proposed investment of 500 million dollars in
7 the Northeast Kingdom that they are putting
8 their best effort out there over the next two
9 years and you know and --

10 MR. JOHNSON: I could not agree with you
11 more.

12 MS. EASTMAN: So is that in here?

13 MS. SYMINGTON: She's saying a question
14 --

15 MR. JOHNSON: I understand she raised an
16 issue, Gaye, and I said I agree those are all
17 issues, and now I'm going to get to the
18 punchline and give you the answer.

19 So thank you very much. So first I'm
20 going to go to the last of the high points.
21 Skinny wires, not many people, and not a lot
22 generation. That's why it says there the --
23 it's the transmission line seemed to be at
24 capacity.

25 Now about the Northeast Kingdom project.

1 I had specifically, upon first hearing of
2 this, and I heard I think most like -- just
3 about some people in this room I'm sure got
4 advance notice, but when I heard it I
5 specifically reached out to our distribution
6 utility owners in the area said look, you
7 know, how much planning are we're doing in
8 this area? Does this portend anything that we
9 need to worry about? Is this going to mean
10 that this could be a problem?

11 The initial answer has been very clearly
12 and repeatedly no, and there is some evidence
13 initially and there's so much -- it's so
14 unreal it's not something we can take formal
15 notice of, but in general if there's more load
16 there, that actually helps because you have a
17 lot of generation which doesn't match the low
18 load. If you have more load, then they can
19 become more in balance.

20 MS. EASTMAN: So I just now have to go
21 back and get this in my mind correctly. So
22 what you're telling me is that we're
23 generating a lot of power in the Northeast
24 Kingdom we're not using.

25 MR. JOHNSON: In general you can't say

1 it's not being used. There is a contract path
2 for electrons and there is the physics of
3 where the electrons go. So sure it's being
4 used, but to Louise's point in some cases they
5 are being curtailed because -- for system
6 reliability. Where it is right now, absent
7 some additional investment to maintain system
8 reliability, sometimes it has to be dialed
9 down, the output.

10 MS. EASTMAN: Understood. So you're
11 telling me if it's unlikely we need new
12 transmission up there --

13 MR. JOHNSON: No. To the contrary.
14 It's precisely we would likely need
15 transmission, and to go to Deena's point about
16 the categorization of essentially who pays, so
17 it's a matter of record that there's a
18 proposal on the table, Seneca Mountain.
19 Seneca Mountain is in the queue. There's been
20 analyses done. They are in the midst of that
21 process.

22 CHAIRMAN VOLZ: I don't know if you can
23 talk about that in front of me. I can step
24 out.

25 MS. EASTMAN: Will you step out for a

1 minute, Jim? Let him go out the door for a
2 minute.

3 CHAIRMAN VOLZ: Because it might come
4 before us.

5 (PSB Chairman Volz and General Counsel,
6 June Tierney, leave the room.)

7 MS. EASTMAN: I would like to
8 understand. I still think generation and
9 transmission are somehow connected.

10 MR. JOHNSON: They are very connected.
11 Next slide.

12 MS. EASTMAN: Explain to me.

13 MR. JOHNSON: So right now we're talking
14 about Seneca. As of right now there are
15 analyses being conducted under the auspices of
16 ISO-New England because it's a competitive
17 source of power in the wholesale market. We
18 have -- we help them in the analysis. If it's
19 below five megawatts, it's the distribution
20 utility who does the work consulting with
21 VELCO. If it's above -- five megawatts or
22 above, it's ISO but again consulting with
23 VELCO. Seneca was in the queue. They are in
24 the midst of having their interconnection --

25 MS. McCARREN: What the queue means --

1 explain what it means to be in that queue?

2 MR. JOHNSON: Essentially you say I want
3 to put a generator somewhere in New England.
4 It's a competitive wholesale market. They set
5 up a market and rules which says you have to
6 put essentially a deposit down. You get a
7 spot and it's like a macro SPEED essentially.
8 They are in that process.

9 We met with them when we first heard of
10 them and basically in so many words said that.
11 Just so you know, heads up, the Kingdom
12 Community Wind issue is a matter of record.
13 You can see there has been some reliability
14 issues identified for this project. You're
15 going to come in on top of that which means
16 that now when you do the analysis not only do
17 you consider Sheffield, you also now consider
18 Kingdom Community Wind, and then now you have
19 to further add what they are proposing to
20 build, and ISO-New England working with us
21 says okay, and this is what's going on if you
22 do seek to plug in here, here's what that
23 portends for the system. Here's what that
24 means, and as part of that process here's what
25 would have to be built. Here's an estimated

1 cost we think that will be.

2 MS. McCARREN: As bizarre as it seems, a
3 lot of people haven't worked with us, when you
4 go through the queue at ISO-New England, you
5 do an interconnection study so it will tell
6 you what it's going to cost you to
7 interconnect and what it can be rated at,
8 right, and you take the system as you find it
9 with the people who are ahead of you.

10 So -- right. So Seneca may -- I don't
11 know this at all, but they may find themselves
12 with very expensive to interconnect and be
13 de-rated. I don't know. Kerrick, can you
14 still disconnect -- can you disconnect the top
15 50 megawatts of the state and have it be
16 served out of Quebec?

17 MR. JOHNSON: Can you disconnect --

18 MS. McCARREN: It was a piece of
19 Citizens.

20 MR. JOHNSON: Block load. My
21 understanding there is work underway,
22 collaborative work between Vermont -- between
23 Vermont Electric Cooperative and GMP to try
24 and do precisely that, basically can we not --
25 can we somehow avoid, completely mitigate, or

1 at least somewhat mitigate the need to curtail
2 the generators.

3 MR. JOHNSTONE: I wanted to bring it
4 back to a point he was about to make to one of
5 your questions if that's all right, which was
6 you were in the process at one point I think
7 of getting close to talking about how new
8 demand in the Northeast Kingdom impacts this
9 dialogue that you just worked through.

10 MR. JOHNSON: Thank you, Scott, but I
11 don't know that we have any more that we can
12 offer.

13 MS. EASTMAN: They are saying it's not
14 going to impact the utilities, the
15 distribution utilities.

16 MR. JOHNSON: As of right now the
17 primary responsibility says is there going to
18 be an impact right now. One of our owners,
19 distribution utility with a very specific oh
20 here's what we need to do, there's 248
21 requirements, there's Act 250 letters, ability
22 to serve letters, and the like, nothing as of
23 right now is real that's showing up on our
24 radar screen.

25 MR. JOHNSTONE: Where you were headed I

1 thought, I thought I heard you talking about
2 outside of that there's the issue of so when
3 you have generation in the region and it's
4 hard to dispatch out, when you add new demand
5 inside the region that can have different
6 sorts of helpful impacts.

7 MR. JOHNSON: Yes.

8 MS. EASTMAN: I would like to go back to
9 before Sheffield and before Lowell. So when
10 you went up and talked -- when you went up and
11 had the conversation with Sheffield and
12 Kingdom Community that you just had with
13 Seneca, with Seneca you said because of this,
14 because of this, hey we're now going to need
15 transmission to get this out so it's going to
16 cost you. I guess I'm just again thinking
17 about the planning of issues before.

18 Did we -- I can say anything, right?
19 Did we need generation there to help with
20 reliability or help anything? You know what I
21 mean? Did we need that generation there that
22 now we have that generation there and we're on
23 the edge of now we're going to have to have
24 transmission coming from a place in the
25 Northeast Kingdom, and unfortunately, you

1 know, it's like the project along the roads,
2 are you going to put it along the roads as
3 opposed to going over land. We already have
4 our big transmission project.

5 MS. FRANKEL: I want to make a point
6 about how this cuts both ways. I hear your
7 point about okay we're showing this map that
8 indicates something about what's going on in
9 the northeast -- I mean in the northern tier
10 of the state, but the reality is that very
11 same development, based on where a developer
12 can get access to the land or whatever the
13 factors are that are influencing it today that
14 are not planning based is having a bunch of
15 positive impacts through -- like the SPEED
16 program which currently has 50 megawatts and
17 is going to be expanded 227 over the next
18 number of years, is resulting in a fairly
19 random -- when you look at the map it doesn't
20 match up very well with the color coding on
21 here, but the cumulative effect of that is
22 actually probably avoiding a transmission
23 project. That is the driver through the study
24 that I talked about earlier, that very same
25 random development of the projects in the

1 standard offer.

2 MS. EASTMAN: But the standard offer
3 projects are smaller projects, and my concern
4 is that -- again, my concern is when I look at
5 the cost of generation of something large, I
6 mean environmental cost or community cost,
7 don't I also have to look at the cost of them
8 getting that power out, I mean, or shouldn't I
9 be? Isn't there some connection there so that
10 if -- I mean isn't there or shouldn't there be
11 because if one didn't happen, then these other
12 things wouldn't happen. So I guess that's --

13 MS. MCCARREN: Are you saying should the
14 Public Service Board, when assessing a
15 proposed generating facility --

16 MS. EASTMAN: I want to look at where it
17 is in relation to the transmission to get it
18 out.

19 MS. GRACE: Should I call them back in?

20 MS. EASTMAN: Before you do that is
21 everybody done with asking questions about
22 Seneca? We can't talk about Seneca any more.

23 (PSB Chairman Jim Volz and General
24 Counsel June Tierney return.)

25 MS. EASTMAN: Shouldn't we have a

1 process somehow that does that? That says if
2 this is going to happen and then if this
3 happens then all these things are going to
4 fall?

5 MS. MCCARREN: One of the 248 criteria
6 is effect on system reliability and stability.
7 So I'm assuming that the Board --

8 MS. GRACE: I wonder if it's worth just
9 repeating just so that Jim and June can --

10 MS. EASTMAN: Jim, we were just talking
11 about -- or I was talking about the connection
12 between generation and transmission, and if
13 when you're considering a process for
14 generation Sheffield and Lowell, okay, do you
15 then consider what's the cost. If we need new
16 transmission to bring it out, does that cost
17 -- our costs of that get considered when
18 you're talking about the generation?

19 You see to me it's connected. I mean
20 you put in generation some place and it's got
21 to get to where it's needed, and without it
22 there wouldn't be a need for transmission.
23 Shouldn't there be some connection? When
24 should it be reviewed and looked at?

25 MR. JOHNSON: I'm thinking -- in the

1 case of Kingdom there was a line and it was
2 subject within the umbrella of a 248
3 application that had to be considered and
4 therefore it's all those things you said.

5 MS. MCCARREN: But it is also true
6 Kingdom Wind did not fully appreciate the cost
7 of interconnection, what it was going to cost
8 to do that.

9 COMMISSIONER RECCHIA: I was going to
10 ask, maybe you covered this before the
11 question, of who pays for that piece.

12 MS. EASTMAN: He explained it and it's
13 something we can't talk about.

14 MR. JOHNSON: To be clear --

15 MS. EASTMAN: I don't want to go back.
16 Jim is back in the room.

17 MR. JOHNSON: Generically when someone
18 pays to be in the queue they are -- basically
19 they are still in the process of deciding
20 whether or not they want to put the capital at
21 risk for a project. So it's our
22 responsibility as a non-discriminatory
23 maintainer of the grid to say all right we'll
24 help you do the study, and we help. ISO-New
25 England says here's what we think it's going

1 to cost, but that's a conversation between the
2 person who's paid to be in the queue and the
3 people whose job it is to ensure reliability.

4 MS. MCCARREN: It is not uncommon or has
5 not been uncommon for a developer to build a
6 project without fully understanding the
7 interconnection costs, and I think if you ask
8 the ISO folks they would say they are striving
9 to do a much better job, right, to get ahead
10 of the problem so the proposed developers get
11 serious appreciation of what it's going to
12 cost because it's not obvious. It's not just
13 a transmission line.

14 MS. EASTMAN: Exactly, and as I say when
15 you're talking about cost that's money to the
16 developer. That's when you're talking about
17 cost to them, a financial cost. To me the
18 cost related to all the potential
19 environmental and community impacts that come
20 not only from the generation, but from the
21 proposed transmission. Okay.

22 MR. DWORKIN: This might give you some
23 comfort here because 218(C) says that the long
24 range plan for the utility has to include
25 consideration of both economic and

1 environmental cost, and the 248 process has to
2 take into account or give you consideration to
3 the plan for utilities. To deviate from that
4 it needs to have a finding of a reason to
5 overcome the economic causes and the
6 environmental causes.

7 MR. JOHNSTONE: What does that mean?
8 Does that mean -- consideration can mean a lot
9 of things. It can be vagary with lots of room
10 for interpretation or it can be a value
11 externality. Where do we fall currently in
12 the mix on these questions?

13 MR. DWORKIN: Maybe I can't say this
14 better than Jim can, but I say the Board has
15 given an open playing field to people to make
16 that case. It is -- on the substantive thing
17 it's allowed cross examination and discovery
18 about it, and it's given, my reading from the
19 outside, is a fair weight to it, but you know,
20 does that mean it kills every project? No.

21 Let me just add functionally what it
22 means if somebody appeals to the Supreme Court
23 and says you didn't give adequate
24 consideration to environmental cost. The
25 Court will look and see did the Board take

1 testimony, did you consider it, did it write
2 up findings about what it would say, and did
3 it wind up a reason for where it came out.

4 COMMISSIONER RECCHIA: I just wanted to
5 say I took some comfort in that. When Louise
6 said that developers actually get through
7 these projects and don't know the full cost of
8 actually connecting that scared me because if
9 they don't get it on the project cost, how are
10 they going to get these externalities on the
11 environmental costs and anticipate those.

12 So I feel like in all these cases I'm
13 trying to look for ways that we can get
14 upstream from these projects and have the
15 right incentives in place for the developers
16 to get the right answers and get the right
17 direction.

18 MS. MCCARREN: Sometimes on the
19 interconnection issue it's not really a
20 transmission line or transmission upgrade. It
21 can be another piece of equipment. It can be
22 a VAR support, a whole bunch of things. So
23 the answer to that question is the developer
24 pays the cost of that.

25 MS. EASTMAN: So, Kerrick, we

1 interrupted you. So what else?

2 MR. JOHNSON: Would you go back one
3 slide please? If you're hoping, Jan and
4 Commission, is there a way we can add more
5 weight to generation if it serves a
6 reliability need, after listening to that I
7 would say this could be -- this is a whole
8 discussion in and of itself.

9 To Deena's point it's extremely
10 complicated, but when you seek, and there has
11 been -- in addition to the work, I would say
12 very good work that GMP led for the
13 non-transmission analysis where Vermont for
14 the first time really we're so -- we have --
15 in the five years we've moved far enough up
16 the pipe to really have an opportunity. We
17 have identified a reliability problem we have
18 to fix, and we actually have an opportunity to
19 solve it with generation as opposed to
20 transmission. This is the first time we've
21 been in this situation.

22 If you're going to try to add more
23 weight to generation, though, the one thing I
24 would -- out of all that I would direct your
25 attention to location, size, and technology.

1 Where is it, how big is it, and what kind; is
2 it solar, is it bio, what is it because it is
3 so site specific. It is incredibly site
4 specific.

5 I don't know how necessarily you
6 reconcile okay here's how much we will give,
7 what the test is in order to get the
8 additional weight and however you choose to
9 convey or reflect that weight in some
10 regulatory proceeding, but it's a complicated
11 question.

12 MS. EASTMAN: But that helps us get from
13 the easy to the best.

14 MR. JOHNSON: I'm with you. Absolutely.
15 I have a question I've been asked to clarify,
16 Michael. 218(C) does it apply to merchant
17 generators?

18 MR. DWORKIN: It doesn't. They don't
19 have to have a plant, but when you look in the
20 248 at the value of their proposal that should
21 be compared to the plan of the local
22 distribution utility. So that's an answer
23 that explains what I'm trying to say.

24 MS. EASTMAN: Yes, that's an answer that
25 explains it. Sorry. Just got a tickle in my

1 throat.

2 MR. JOHNSON: I want to add one. Deena
3 brings up a good point on this. When it rises
4 to a level we take notice of what's going on
5 in the ground on a smaller scale. It took a
6 while for the standard offer SPEED projects to
7 there be such a proliferation such that the
8 bulk transmission owners said oh my goodness
9 this is valuable. That, in the midst of
10 analysis last legislative session, similar to
11 where you all seem to be headed was, you know
12 --

13 AUDIENCE: Pea headed. (Laughter)

14 MR. JOHNSON: No. Similar to where --
15 the direction you're heading in, was they are
16 seeking if it is our policy to have a greater
17 amount of our supply portfolio be in-state
18 renewable, is there a way we can continue to
19 provide for additional amounts of this type of
20 power. Therefore, what we'll do is if you can
21 demonstrate that you provide some type of
22 reliability benefit, you don't accrue towards
23 the cap. That work, detailed time consuming
24 work is underway right now, and there's a lot
25 of I would say metrics, analytical tools that

1 have been developed to help reconcile that,
2 what is efficiency versus Cow Power versus
3 wind versus solar.

4 There's been a lot of work that has been
5 done over a long period of time, but it's
6 still fairly complicated. So I guess, Jan, I
7 was just -- with regards to how do we get to
8 the best, I would say given what we -- and
9 I'll say, Deena, given what we think what
10 works, if the rules are sort of clear, if the
11 people who are doing it kind of understand
12 what the written and the unwritten kind of
13 goals are and everyone buys in, you can get
14 there. It's time consuming, but I actually do
15 take your point. I think we kind of looked at
16 each other.

17 What we have found is overall all of our
18 public outreach at its most basic is to better
19 ensure system reliability and lower how much
20 of a burden of cost we are putting on the
21 system. If we do it right all Jim -- I think
22 I say this, all Jim and the Public Service
23 Board has to do is say amen.

24 MS. EASTMAN: Yeah, except for the fact
25 we have federal policy that says you can make

1 a lot of money if you --

2 MR. JOHNSON: Yes, but the federal
3 policy is evolving too, and we have, given our
4 ownership, given our statutory requirements,
5 we are not -- as Louise can attest to the fact
6 we're not all that popular with the other
7 transmission owners because they scratch --

8 MS. MCCARREN: We make you sit at a
9 separate table.

10 MR. JOHNSON: Precisely because of our
11 laws, ethos, and the way kind of that we are
12 there's three points of tension; how
13 holistically we look at the grid for
14 reliability, its transmission. I mean that's
15 what they are required to do. They do a
16 really good job. We keep trying to push
17 non-transmission alternatives further up for
18 consideration.

19 Secondly, how are they paid for because
20 you're exactly right. There's a federally
21 guaranteed rate of return for one solution and
22 how we fix reliability. We don't have that
23 parity on the other one. We keep trying.
24 We'll see if we get there. Yeah. We'll see
25 it get there.

1 The other thing, though, which is not a
2 small point Deena raised is how we can share
3 information this -- post 9/11 this critical
4 energy infrastructure information. We had to
5 do a lot of work internally because, you know,
6 you give maps, we give maps, here's what we're
7 going to do, and that was a real and continues
8 to be a real challenge in the interaction
9 between us and other stakeholders.

10 MS. McCARREN: I think in fairness to
11 you I say this is -- this non-transmission
12 alternative issue and how it's paid for it's a
13 big issue. It's a huge issue for them. They
14 are trying to grapple with it, but it is in
15 the land -- ga-ga land when you realize you
16 could put 50 million dollars into a generating
17 plant and the State of Vermont would pay all
18 of it or you can put in the 200 million dollar
19 transmission line and the State of Vermont
20 pays four percent of it, and how do you kind
21 of manage that and reconcile that, and it's
22 not easy, and Kerrick is pretty unpopular, but
23 we kind of defend him.

24 MS. EASTMAN: It's 3:10 and Gaye has to
25 leave early so I wanted to let Michael talk

1 for a while, but can I say it's very likely
2 we're going to need you guys back.

3 MR. JOHNSON: Whatever you need.

4 MS. EASTMAN: Can we do it on an
5 individual basis because I really want to give
6 Michael a chance while Gaye is still here.

7 COMMISSIONER RECCHIA: Otherwise we have
8 to all go to New Zealand.

9 MS. SYMINGTON: Or I can just go to New
10 Zealand.

11 MR. DWORKIN: I'll explain it to you. I
12 should probably begin with formalities. My
13 name is Michael Dworkin. I am a Professor of
14 Law at Vermont Law School where I direct the
15 Institute For Energy and the Environment which
16 is a two-dozen person think tank of graduate
17 students, post-doctoral students, and
18 professionals that works on energy issues
19 particularly with a strong environmental
20 awareness.

21 I'm on the Board of Directors of Vermont
22 Energy Investment Corp. which runs Efficiency
23 Vermont, you should know that, and as of four
24 weeks ago I've been on the Board of Directors
25 of VELCO as one of the quote public members

1 arising from the merger.

2 I want to make it really clear that
3 neither the Law School nor VEIC nor VELCO is
4 responsible for what I say. You get me and
5 not them.

6 Somewhat similarly I was on the Board of
7 Directors of Electric Power Research Institute
8 for seven years, including four years on the
9 Executive Committee, and they are not standing
10 behind anything I say. I've been on other
11 things at various times in the past which are
12 not implicated by what I say. JoAnn has all
13 that in the transcript and I can do whatever I
14 can do.

15 I wanted to start with a thought which
16 is that there are a lot of energy sources and
17 they are a really vital part of society, and
18 when we look at them we usually think about
19 three things. One is how reliable are they.
20 The other is what do they cost financially,
21 and the third is what is the shared
22 environmental cost. Environmental cost,
23 financial cost, and reliability, and those
24 issues come up over and over again with regard
25 to almost every project.

1 The other is there's an awful lot of
2 trade-offs against each other so that when you
3 say you do or don't like one generation
4 project you really can't do that rationally
5 without thinking what will happen in the
6 alternative.

7 That's not just true of generation.
8 Transmission to some degree has trade-offs.
9 It's different enough that it's worth thinking
10 about separately. In the back of your head
11 you note there are non-transmission
12 alternatives to transmission problems, and
13 there are transmission alternatives to
14 non-transmission problems, and even more
15 directly the single biggest alternative to a
16 generation option is some version of what is
17 sometimes called demandside management. We
18 sometimes call energy efficiency, sometimes
19 called end user efficiency, but if you really
20 don't like the generation, the single most
21 important thing to do about it is to radically
22 improve the efficiency, the productivity on
23 the energy side of alternatives so you don't
24 need so much generation because statutes have
25 been written for almost a century now

1 basically say think about a whole lot of
2 things, but if you really need it go ahead
3 anyway, and need is the single determination
4 that is usually the biggest predictor of what
5 happens. So controlling need through
6 addressing demandside options is really a
7 vital piece of the picture.

8 The other thing I wanted to say was that
9 Jan called me up and asked me to talk about
10 expected sources of energy for the state for a
11 long time to come.

12 MS. EASTMAN: I tried, Gaye.

13 MR. DWORKIN: One of them is quite
14 clearly, since I just said it, what I'll call
15 a source which is deliberate conscious end use
16 efficiency, which is insulating buildings,
17 putting in better pumps, putting in better
18 lights, putting in better ski pumps.

19 Snowmaking capabilities in Vermont produce
20 twice as much snow with half the energy that
21 they did more than 10 years ago, things like
22 that, but there are others.

23 After you have done the efficiency
24 there's going to be generation and at the
25 moment -- well, first, for half a century half

1 of the country's generation has come from coal
2 and about 20 percent from nuclear and about 20
3 percent from gas and about 10 percent from
4 large hydro.

5 New England has a somewhat different mix
6 because we don't use a lot of coal, but we
7 still do use fossil fuels in our margin most
8 of the time. There's no meaningful way to
9 talk about Vermont as opposed to New England
10 because it's really operated as one grid, and
11 I'm a little resistant talking about what each
12 town takes and contributes. For one thing for
13 a hundred years every town that doesn't have
14 generation has been taking it from their
15 neighbor, and the idea that now they should
16 never contribute to their neighbor doesn't cut
17 well given that history, and, secondly,
18 because as an engineering matter energy is
19 pumped into the grid which connects everybody.
20 It goes to everyone. It doesn't just go to
21 whoever paid the contract. The technical
22 definition of Kirchoff's equation is fairly
23 fancy, but the underlying idea is we are all
24 in it together is a pretty straightforward
25 one.

1 The fuels that have changed radically in
2 the last few years, though, are in two areas.
3 One is efficiency has become more and more
4 important. For half a dozen years the nation
5 has been essentially flat in terms of energy
6 growth. Before the recession started, through
7 the recession, and through the recovery. This
8 is not just an economic growth issue. This is
9 a technological change nationwide and that's
10 been true in New England. It's been
11 particularly true in Vermont which has had
12 some of the strongest and best efficiency
13 programs.

14 So we've got something where the
15 Department of Energy -- I'm sorry, the Energy
16 Information Agency's annual energy outlook for
17 the next half dozen years talks about slow or
18 probably no significant growth. We've got the
19 ISO calculations which relatively parallel
20 that, and the Vermont predictions which at
21 best we may even have some drop in demand. So
22 that's one big change compared to what we
23 thought five or eight years ago.

24 Second big change is that the price of
25 natural gas is essentially half what it was a

1 few years ago, and natural gas has kind of
2 jumped from being 20 percent to being 25 or 28
3 percent, while nationwide coal has dropped
4 from 50 percent down to close to 40 percent,
5 and we have struggled to put them in
6 perspective. These are big changes. We have
7 gone decades wondering whether solar would go
8 from a tenth of a percent to half a percent or
9 whether wind would be from two percent to five
10 percent, and we've seen in two years a change
11 of 10 percent of the total fuel mix in terms
12 of natural gas. So that's a really big deal,
13 and it has disrupted a lot of expectations.

14 For one thing there were about 130 large
15 coal-fired power plants projected to be built
16 as recently as four years ago at between three
17 and five billion dollars a piece. We're
18 talking hundreds of things and many billions,
19 and now there are I think only four that are
20 actively being pursued nationwide. They are
21 still expensive. They are about five billion
22 each, but natural gas is killing the
23 anticipated development of coal.

24 It also, if not killing, is certainly
25 lowering the expectation for the renewable

1 energy which instead of having to decide could
2 it beat a six dollar per cubic price for gas
3 is wondering can it beat a \$2 price for gas,
4 and the answer is it's a lot harder to beat
5 two than it was to beat six.

6 Now the big question is how long will
7 that last. There's some things that will make
8 you think it will last fairly long. There's
9 plenty of natural gas that's being reached by
10 new technology, hydrofracking, but there's
11 some reasons to think it might not. One of
12 which is the hydrofracking has significant
13 environmental consequences, and the
14 regulations on it are only beginning to come
15 into effect and they probably will reign in
16 some of it.

17 Another is worldwide hydrofracking is
18 not taking off as fast as expected and natural
19 gas can be shipped and exported overseas. So
20 if worldwide there's heavy demand for it, it
21 may not be cheaper in the U.S.

22 The third is we've seen price curves for
23 natural gas. We have seen tripling, you know,
24 for the last 12 years it's been
25 extraordinarily volatile. I mean coal goes up

1 or down by 10 or 15 percent, natural gas goes
2 up by 300 percent then down by the 90 percent.
3 It's hard to know how much you can rely on it,
4 and there are reasons it's volatile which are
5 it is relatively easy to ship, there's big
6 nationwide demand in the forecast for its
7 technological future.

8 So what that leaves is that if you think
9 natural gas is going to stay really low, then
10 you probably may not build much else, but if
11 you think that natural gas can't go down any
12 lower, and it probably can't go much below two
13 because just delivery cost no matter what you
14 do, but it might go up to four or six, then
15 you have a deviation between the most expected
16 path which is it will stay at 2 or 2.50, and
17 the chance that this is asymmetric. It can't
18 go down much and it might go up a lot. So
19 when you're planning for the future you have
20 -- sort of have to do asymmetric risk taking
21 which in practice means leaving open the door
22 to looking at it and building other things
23 besides natural gas because all these things
24 are trade-offs against each other.

25 That's one reason that I sort of quail

1 when I think about things like a moratorium on
2 wind because if I perceive gas could go up, I
3 don't know if it will but it could, or if I
4 think you could have a serious prolonged
5 conflict with Iran and world energy prices
6 could rise, or if I think another drought in
7 the midwest or another 20,000 people dying of
8 a heat wave in France, then you might get
9 serious carbon control, all of a sudden the
10 demand for low carbon, low fuel cost internal
11 is going to be really strong, and I would hate
12 to have something that made it impossible to
13 meet that.

14 Having said that, I'm not sure it makes
15 much difference in practice because I think
16 that prices will stay fairly low for at least
17 a while. I know that we're not going to want
18 to build facilities that haven't taken a
19 serious look at -- just to pick one example --
20 birds and bats, and for each of those you need
21 at a minimum four seasons of data and you
22 probably want eight seasons of data in order
23 to get some sense of what a site is like.

24 So you're talking where you would have
25 to have a change in pricing, then you have to

1 have a prolonged gathering of data before you
2 begin permit completion and operation. So I
3 don't see a lot of major wind projects about
4 to pop out of the ground in Vermont within the
5 next couple years, but I think I'll add one
6 more thing.

7 I think there's a reasonable shot, if we
8 do want wind, we can get it from the northern
9 Adirondacks across our transmission ties
10 across North Champlain or from southeastern
11 Quebec and the kind of townships where there's
12 a lot of wind. So I'm not sure that you need
13 it internally to have it, but I'm not sure we
14 don't either, and I'm a cautious enough person
15 I don't want to foreclose that possibility
16 totally, even though I think it's unlikely to
17 be the most attractive option. I guess it
18 might be an option before too long.

19 With that, those are some of the most
20 important things I want to say. I mentioned I
21 do want to talk a little bit about public
22 involvement, and it's been a kind of bugaboo
23 of mine for a long time. When I was Chairman
24 and the Northwest Reliability Project came in,
25 which was the proposal to run a transmission

1 line from West Rutland, I was -- I guess I'll
2 use that strong word -- I was a little bit
3 shocked to find out they had not notified the
4 landowners before the hearing began. There
5 was 620 property owners whose land they were
6 seeking a Certification of Need to run through
7 it, and later on there could have been a
8 takings and condemnation and easement and
9 evaluation, but most of them cared about the
10 fundamental need and they didn't have any
11 formal notice.

12 So the first thing we did was to require
13 notification of landowners which took about
14 six weeks. With that said, we moved
15 relatively expeditiously. It took us about 18
16 months to do what Connecticut had taken 11
17 years to do on a transmission line, and there
18 were a lot of reasons why, but still we were
19 at the end in the closing order we expressed
20 some dissatisfaction, and where we said
21 basically we were convinced that the line was
22 needed under the present circumstances, but we
23 also thought that with some long term planning
24 it could have been avoided. Some of it was
25 long term planning for efficiency and

1 generation within Vermont and some of it was
2 coordination with the Act 250 process.

3 I'm going to speak a little loosely now
4 because I haven't had a chance to check the
5 numbers, but I think I'm -- like a Ronald
6 Reagan story it's basically true even if the
7 details aren't quite right.

8 MR. JOHNSON: Let me write that down.
9 Reagan.

10 MR. DWORKIN: Visualize this situation
11 in which when Pyramid Mall and four other
12 malls around Burlington were built they needed
13 Act 250 permits and they had to certify that
14 they would meet the best available technology
15 including energy efficiency, and they got
16 those permits, but there was a kind of quite
17 conscious awareness if they had spent a
18 relatively small amount, under 20 million
19 dollars more, they probably would have cut
20 their energy demand by about 30 percent. If
21 they had done that, there would have been no
22 need or very little need for the 200 million
23 dollar transmission line that we built from
24 Rutland to Burlington, and we didn't have any
25 mechanism for saying why did Act 250 approve a

1 bunch of developments that once they are in
2 the ground somebody has to feed.

3 So it had me thinking it would be very
4 helpful if the State of Vermont had some
5 version of what became the System Planning
6 Committee, which I personally sort of watch
7 from mid distance, think has done an
8 extraordinarily good job of doing things
9 better than they were done ten years ago. You
10 know there's mechanics; how do you get enough
11 members to attend, how do you get the public
12 to be aware what happens if you hold a public
13 hearing and three people show up, but the fact
14 that they are talking about what's needed,
15 they are putting it out there, and you know
16 proof is in the pudding. There have been a
17 couple of significant, meaning tens of
18 millions to hundred million dollar projects,
19 that have been cancelled that would probably
20 have gone forward without that process, and I
21 think this had a significant pruning,
22 filtering, and screening effect because of a
23 lot of what we do, but it only applies
24 obviously to transmission projects sponsored
25 by VELCO.

1 Is there an equivalent for generation
2 projects? Not really, and a half a dozen
3 years ago Windham Foundation in Grafton gave
4 Vermont Law School Institute a little bit of
5 money to put together something called Merging
6 the Regulatory Streams about land use and
7 electric and how they can fit together.

8 We made a couple of recommendations, one
9 of which was for improvements in the Act 250
10 field by training people better not just on
11 the technology of what was available, but on
12 the implications of not using it so that when
13 they said should we or should we not require
14 weatherization in a shopping mall they didn't
15 just think it would cost 20 million or save 18
16 million in electric cost. They also thought
17 will it cause a transmission line to have to
18 be built afterwards or not, and we provided, I
19 think, a fairly good set of training materials
20 for that. I have to confess I don't know how
21 widely used they are and I don't know how
22 effective they have been in practice, but I
23 think that some progress was made.

24 The other thing that we recommended was
25 that there be some mechanism for the Public

1 Service Board to look at things on a
2 cumulative over time process, and we got
3 really very little buy-in on that and not much
4 has happened. We suggested a concept with
5 other agencies, federal agencies, sometimes
6 called open season where you would announce
7 periodically, let's say once a year or every
8 two years, that all applications for projects
9 have to be filed within the next 180 days.
10 Then they would be looked at as trade-offs
11 against each other, and I think that has a lot
12 to offer. To some degree it's what the ISO of
13 New England has started doing, and to some
14 degree it's what VELCO has caused to have
15 happening, but there was certainly no -- there
16 was no governmental takeoff on requiring that
17 and I think it might be of some use.

18 The other idea that I have had, but this
19 I have to confess is a partly baked idea.
20 It's not quite ready for prime time, has been
21 an equivalent to industrial parks or to
22 sometimes called renewable zones or grid
23 parks. It is that you would pre-identify the
24 two years worth of bat studies and the two
25 years worth of bird studies, and the close

1 link to a transmission line, and you would say
2 here are some areas which in fact we believe
3 would have a far faster and easier chance for
4 development of wind projects, and you would
5 then hope that that channels the development
6 away from the grid parks, and you would get to
7 what you have been referring to today as best
8 instead of easiest by doing some of the heavy
9 lifting upfront.

10 There's no problem in my mind about how
11 conceptually attractive that is, but there's a
12 terrible problem of who pays the cost of doing
13 it and when because the state -- these things
14 are not cheap. They are at a minimum in the
15 two to five million dollar range for serious
16 work, and if you have to have it paid by
17 developers who have not yet been identified,
18 it's awfully hard to get them to sign the
19 check, and if you have it paid by the state
20 agency, you need to somehow come up with a
21 item in the state budget.

22 MR. JOHNSTONE: It can be collected on
23 the back end.

24 MR. DWORKIN: It probably can and this
25 is what I would compare it to. The State has

1 a policy called line extensions where if you
2 want to build your house two miles off the
3 grid you pay for the line for that, and then
4 if somebody else moves in halfway in between
5 within seven years after you built it, you can
6 pay them part of it.

7 MS. EASTMAN: I was a right-of-way agent
8 when Quechee --

9 MR. JOHNSTONE: What have you not been.

10 MS. EASTMAN: -- when Quechee got built
11 and there were no line extension charges so
12 we, the ratepayers, paid.

13 MR. DWORKIN: I still have to say the
14 State is on the hook for putting the money
15 upfront hoping someone will show up to pay it.
16 I think it's probably worth it, but it would
17 be easier to make that pitch if the State were
18 running a surplus than if it was tight.

19 So those are some suggestions I've got.
20 I'm sorry. I did want to say something about
21 public involvement in addition to my desire to
22 have adequate notice, long lead times. I have
23 a tension here because I have spent a lot of
24 my life being a judge, being a litigator,
25 being a witness occasionally, and I really

1 believe that the quality of what comes through
2 the formal judicial process in terms of is it
3 likely to be true is higher than a typical
4 hearing outside Vermont Yankee where somebody
5 stands up and says, as if it didn't already
6 happen six times, I just found out that I live
7 near a nuclear plant and I'm going to sell my
8 house next month, and I come back a year later
9 and the same person says the same thing again
10 and again and again.

11 So I know that the public hearing
12 process has the huge advantages of being
13 relatively cheap and easy for people to
14 participate in, but it has the terrible
15 problem that it doesn't have the quality
16 control, and yet I know that the reverse is
17 true of the formal process. It is
18 extraordinarily expensive. It takes forever.
19 It screens out a lot of people, but what's
20 sometimes the called the crucible of truth,
21 that's the phrase of cross examination, and
22 the role of discovery and avoiding surprises
23 and mistakes is why we use it for big
24 important things and it has value.

25 So I don't want to move to a process

1 where simple declarations of whatever is on
2 people's mind immediately replaces the merit
3 of kind of formally tested opinions, but I
4 don't want to lose the input from the public
5 either, and I really want early notice, wide
6 distribution of notice, strong understanding
7 of what's proposed in order to kind of go out
8 and then get as much public input as I can.
9 The public raises the questions in the public
10 hearing and then the formal hearings resolve
11 them.

12 MS. EASTMAN: What about intervenor
13 funding for public or municipalities?

14 MR. DWORKIN: I think it's actually a
15 good idea. This is the shocking version which
16 I think is the intervenor funding, the current
17 version we have.

18 I see the Director of Public Advocacy
19 over here. I see the Director of Public
20 Service. They are all intervenor funders in
21 what other states would be a utility, and the
22 Board and nobody else --

23 COMMISSIONER RECCHIA: As long as we're
24 on that topic, just in the three weeks that
25 I've been doing this, so huge history and

1 knowledge there, but I see a tension between
2 the public advocate role and the state
3 interest and all those individuals that have
4 concerns that feel like they are not being
5 heard. What's the model?

6 MR. DWORKIN: As you move from the
7 700,000 who have a stake in the future and the
8 other half a million that might be born in the
9 next 20 years to one person standing up in the
10 hearing room saying this is what we think the
11 general good requires, you leave out 699,999
12 people.

13 I think at some level -- I hate to say
14 this -- the answer has to be yes because we
15 don't have time for 700,000 people each to
16 testify separately. So using something like
17 municipal bodies to be the aggregator, if you
18 will, makes some sense to me. I know that
19 this sort of transforms down to the town
20 level. For what it's worth I've been town
21 moderator of my town meeting for the last
22 seven or eight years. A bunch of fights would
23 otherwise be sent to Montpelier. Who shows up
24 to say I represent the town is a matter to be
25 resolved too, but we certainly came down to

1 representative democracy instead of directive
2 democracy many years ago, and I think that's
3 the best picture at some level.

4 I don't think we can live in a society
5 where nobody has to do anything they don't
6 agree with because that creates a veto power
7 which some people can hurt others. So I think
8 we need to kind of get as much information in
9 front of the decision makers as possible.

10 MR. JOHNSTONE: One of the, as you walk
11 around the room, dialogues that comes up
12 frequently is well there's no money to pay
13 that. I mean there's concern for ratepayers
14 and rightly so. At the end we all pay the
15 bills of whoever is paying for this, whether
16 it's the public subsidy or whether the
17 developer ends up paying the intervenors'
18 funding or ratepayers still pay that in the
19 end. I get it, but I always hear there's no
20 money in these projects, no real room for
21 that, and my view is that these are really big
22 projects and that there's certainly room for
23 that, but I'm just curious of your -- other of
24 you in the process, separate the question of
25 should we do it from are these projects of

1 sufficient size that enabling dollars for
2 intervenor funding is practical or
3 impracticable.

4 MR. DWORKIN: California has had
5 meaningful intervenor funding for 25 or 30
6 years now and has managed to channel it, but
7 they put a lot of process into that; who
8 qualifies, you have to make your case. You
9 don't get your money until the end. You are
10 at risk all the way. That you hired your
11 lawyer and you spent \$38,000 and you lose and
12 you've been hoping that the public will cover
13 your cost and it doesn't, you know, it's not a
14 risk-free process. The Town of x is going to
15 wonder if it's going to put a half million
16 bucks into litigating something and then might
17 not recover it.

18 So they are not easy answers. To put a
19 big picture on it medical costs 25 years ago
20 was something like 4 percent of GDP as were
21 energy costs. Medical costs are now pushing
22 20 percent and energy costs are still about 3
23 to 4 percent. You know, if you think it's
24 important society puts money in, but it
25 doesn't come for nothing. There's no free

1 lunch. I hope I answered your question,
2 Scott.

3 MR. JOHNSTONE: So another way to back
4 into the same question is of the type and
5 scale generation projects that we're most
6 often seeing in Vermont, projects are they 10
7 million dollar capital variety, a hundred
8 million?

9 MR. DWORKIN: The -- well the projects
10 that are most often seen are in the \$25,000
11 range.

12 MR. JOHNSTONE: I'm talking about the
13 larger scale projects, the non-SPEED projects.

14 MR. DWORKIN: I'm going to duck and
15 weave because I don't know.

16 CHAIRMAN VOLZ: I don't know.

17 MR. JOHNSTONE: They are fairly
18 expensive.

19 MR. DWORKIN: They are measured in tens
20 of millions of dollars.

21 MR. JOHNSTONE: Not de minimis costs.

22 MR. DOSTIS: There are projects that are
23 in the five and six hundred dollar range as
24 well.

25 MR. JOHNSTONE: So there would have to

1 be some mapping to capability.

2 MS. EASTMAN: And it's usually -- we
3 talked about perhaps different thresholds for,
4 you know, if it's a SPEED project.

5 CHAIRMAN VOLZ: There are other ways to
6 skin this cat perhaps. Right now in the State
7 of Vermont we have the Public Service Board
8 and we've got the Department of Public Service
9 and the Agency of Natural Resources. The
10 Board is the Board, but the other states have
11 a Board, what Michael said earlier, it's just
12 the utility and the Board and nobody else is
13 there, but in those states the Board has a
14 staff that acts in the same fashion that the
15 Department does and files testimony and takes
16 positions on whether something should be
17 approved or not.

18 In Vermont we've separated the Board and
19 the Department so that the Board doesn't have
20 staff that does that and the Department does
21 that. They represent the public interest.
22 Some states have public advocates who don't
23 represent the public interest they represent a
24 particular sector, like the consuming public
25 or the residential ratepayers, and you can set

1 up an office that does that and takes that
2 position in various cases.

3 MS. EASTMAN: Or the other thing, going
4 back to her issue, if it's not a reliability
5 issue you can let a town plan, you can let
6 have some other process --

7 MR. DWORKIN: Although I need to --
8 slight cautionary note here which is whether
9 something is or is not a reliability project
10 has two answers. One is the simple answer
11 which we use which is, is it listed on a list
12 of projects that ISO has developed, and those
13 are developed by meeting some criteria like
14 will it cover one contingency or two
15 contingencies or three contingencies, but if
16 you don't use that simple answer, which is
17 really just a code word for we're willing to
18 cover this, in reality reliability is a
19 continuum and you can put in something that
20 will satisfy a large industrial customer, say
21 IBM which never wants an outage for 30
22 seconds, and it can cost a million dollars if
23 the production line does down for five
24 minutes.

25 On the other hand, that's a degree of

1 reliability which is different from what other
2 people want or are willing to come home and
3 see blinking lights on their refrigerator and
4 flick a switch and reset the alarm clock. It
5 has a working answer which is we accept the
6 ISO reliability thing, but it doesn't really
7 have a conceptually pure answer.

8 MR. JOHNSTONE: I think it's also true,
9 and you two or any of you could comment on
10 that, the definition of reliability is
11 beginning to change as we can move great sums
12 and volumes of data. You can start your
13 thinking around the ability even to backing
14 various renewables together in a package that
15 can be managed with all of these data sites
16 and it's a ways out still, but we're moving to
17 some different evolutions which maybe is what
18 you talked about earlier that will change
19 everyday.

20 MR. DWORKIN: I'm on record in the
21 Northwest Reliability Project approval of
22 saying reliability is more important than it
23 ever was before as we are resting more and
24 more of society on electrification, and I said
25 that thing that I would not have approved it

1 under the reliability standards of the 1940's,
2 but I think the society needs more reliable
3 standards.

4 MR. JOHNSON: I think Michael's right in
5 many respects, and with regards to reliability
6 I think to the degree there is a delta between
7 what is IBM's demand and what does -- what do
8 average homeowners or smaller businesses
9 demand, that delta is shrinking.

10 MR. DWORKIN: I actually agree on that.

11 MR. JOHNSON: And I think to the degree
12 there has been a lot of crucible of truth
13 activity with regards to what reliable means
14 and challenging ISO in terms of what is it and
15 how do we get there, there's been a lot of
16 case law to try to exactly clarify what are we
17 getting for what we're spending that is back
18 in play because of Sandy, the advent of
19 climate change, how much can we spend to make
20 the system how resilient. So that is ongoing.

21 I'm sorry Gaye left, but there's two
22 things I think, Michael, to the idea of what
23 power supply from the future, a couple of data
24 points. One is that we just heard I think
25 Monday -- Monday that ISO-New England the

1 queue of who is seeking in the queue for
2 generation projects is New England is going
3 down and just in the last --

4 MS. McCARREN: Because demand and energy
5 are going down.

6 MR. JOHNSON: Exactly. So -- and it's
7 been going down and then there was a big drop
8 this last year. That's a data point. Other
9 -- two other things. One, Michael mentioned
10 the line that runs underneath -- the current
11 line that runs underneath Lake Champlain,
12 Plattsburgh Vermont 20, PV20. There are
13 active, nascent, however you would like to
14 describe it, proposals. We've been part of a
15 lot of work that went on for a number of
16 years. Could that be a project to ostensibly
17 take trapped wind with affirming source to
18 utilize an existing corridor and deliver kind
19 of wind power. Essentially to your thought,
20 Jan, about the connection. It's how you pay
21 for the connection. That issue, and, then
22 lastly, as to where power supply might come in
23 the future.

24 There is ongoing, probably Chris can
25 speak more to this, but there is this launch,

1 and I believe it's by December of this year,
2 not a joint but a coordinated procurement for
3 renewable energy exactly for how much of --
4 what type of power Vermont would seek to have
5 as part of that broad effort. I don't know,
6 but just I'm trying to respond to that
7 question.

8 COMMISSIONER RECCHIA: Regionally
9 coordinated power.

10 MS. EASTMAN: And unlike, as I remember
11 back to the conversations, it's Connecticut,
12 right, that looks at all the environmental
13 issues for any power contract? So when they
14 are purchasing out-of-state power, right, they
15 are actually reviewing the environmental
16 effect of what they purchase.

17 MR. DWORKIN: Vermont is moderately
18 complex. For a project built within the state
19 the Public Service Board has to consider the
20 environmental effects both within and beyond
21 the state.

22 MS. EASTMAN: Okay.

23 MR. DWORKIN: For a project outside the
24 state where you're buying the power but not
25 doing the siting you consider the

1 environmental effects upon the State of
2 Vermont, but you don't consider the
3 environmental effects outside of the State of
4 Vermont.

5 MS. EASTMAN: Okay. So in Connecticut
6 they consider the environmental effects
7 outside on their projects.

8 MS. MCGINNIS: That's part of what Gaye
9 wanted to discuss.

10 MR. JOHNSTONE: That's what they said.

11 COMMISSIONER RECCHIA: I think they
12 might be doing that in terms of life cycle
13 carbon.

14 MS. EASTMAN: I think.

15 MR. DWORKIN: I would be surprised if
16 they are doing it in the way that changes the
17 outcome of anything they would do otherwise.

18 COMMISSIONER RECCHIA: I don't think
19 they are evaluating water quality in
20 Pennsylvania or something.

21 MR. BODETT: I know we're kind of
22 running out of time, but I wanted to ask
23 Michael, I had some notes from -- I read the
24 memo that you produced. I have it right here.

25 MR. DWORKIN: There are a couple

1 different memos. Merging the streams.

2 MR. BODETT: I didn't read the entire
3 thing, I'll admit, but I was very interested
4 in getting your thoughts and you just referred
5 to the municipal aspects of sort of breaking
6 down or parsing out the public opinion process
7 into manageable chunks, and it seems obvious
8 having municipal bodies or regional bodies be
9 those manageable chunks makes more sense, and
10 you say in the report that you refer to the
11 Supreme Court decision that said municipal --
12 municipal documents are advisory not
13 controlling and that still stands obviously.

14 MR. DWORKIN: Yes.

15 MR. BODETT: And also that you cited
16 Vermont statute, regional plans must be
17 consistent with their municipal plans in their
18 jurisdiction and that should be reversed. It
19 seems to me that is the reverse now, isn't it?
20 Chris Campani is here from Windham Regional
21 Municipal. Plans don't have to be consistent
22 with regional plans under state statute?

23 MR. DWORKIN: Somebody other than me has
24 to answer that question.

25 MR. BODETT: To be approved by the

1 region. So I guess my question do you have
2 any thoughts?

3 MR. CAMPANI: Tom, where I'm splitting
4 hairs that's only if they come to the region
5 for approval because, of course, regions can't
6 make anybody do anything. So --

7 MR. BODETT: It's voluntary compliance.

8 MR. CAMPANI: Right.

9 MR. BODETT: So my question do you have
10 any thoughts on how, again even if there were
11 intervenor funding and say the Town of
12 Dummerston got a hundred thousand dollars to
13 intervene in some case but we were at risk
14 because if we lose this or something, you
15 know, how -- you know I can imagine that it
16 would take a lot of local political will to
17 take a hundred thousand dollar risk on a town
18 that small. There's a lot of towns that small
19 in Vermont. How can you imagine sort of
20 minimizing that risk of intervening?

21 MR. DWORKIN: I can imagine it easily,
22 but I'm not sure I would recommend it.

23 MR. BODETT: And maximizing the impact
24 of intervening is -- I guess what I'm saying
25 to change that, you know, advisory -- to

1 strengthen up that advisory status of the
2 Town's plan and region to a more compelling
3 status.

4 MR. DWORKIN: I'll give a three-part
5 answer. One is about the risk reduction of
6 management. You can write an intervenor
7 funding statute which says everybody gets the
8 money whether or not they do a good job so
9 there's no risk, but there's also high risk
10 that people will be paying the cash.

11 You can write one roughly comparable to
12 the one in California and others that say must
13 have contributed significantly to the
14 decision, which doesn't mean you have to win.

15 MS. EASTMAN: You don't have to win
16 necessarily.

17 MR. DWORKIN: But probably ought to win
18 at least a few points in order -- those
19 usually lead to post-litigation litigation,
20 and you have to watch out for the process
21 there. Or you can write one that says you
22 don't get any money until -- unless you win
23 across the board, and you can write ones on a
24 continuum there, but if you were going to be
25 essentially allocating the risk for

1 controlling the cost, you probably want to
2 write something about there's some risk that a
3 bad job doesn't get paid and that creates the
4 in-town fight about taking the risk.

5 MR. BODETT: I can see the risk would be
6 maybe another point if the effect of the
7 litigation was more guaranteed I guess. If
8 the towns felt like they were going to have
9 more sway by litigating, they may be more
10 willing to take a risk.

11 MR. DWORKIN: The other two things I was
12 going to say, one is imagine a town that
13 stands between a second town and what it
14 needs. We have condemnation things and we
15 have a statewide instead of a local decision
16 making because we don't want one town to be
17 blocking its neighbors.

18 At the national level it's pretty easy
19 to see you can't get from Maine to the rest of
20 the country without going through New
21 Hampshire, and you can't get to New England to
22 the rest of the country without going through
23 New York. We need rules to overcome that, and
24 there's some places in the State of Vermont
25 where if you look at how the -- physically

1 where it is, in order to get from where there
2 are people that need something, the ability to
3 provide it, you need to go through towns that
4 are just in between, and I personally believe
5 we're all in it together. That I think that's
6 the right. So I don't want to give a town
7 veto over what goes through it because I think
8 it can hurt its neighbors.

9 MS. EASTMAN: I don't want a veto, but I
10 want a town that's affected by something,
11 somebody, to be able to effectively
12 participate in a contested case process if
13 we're going to keep a contested case process,
14 and so assuming we do, I do know it's
15 expensive. I understand. So that's my
16 balance here. Okay. So if I'm not going to
17 say a town plan you know wins, which I'm not
18 proposing that, then how do they effectively
19 participate and that's what I mean. You have
20 the timing issue, when they get information.
21 I have to think about ways --

22 MR. DWORKIN: Improving that.

23 MS. EASTMAN: But then we still have the
24 issue of -- I mean I'm sorry. I live in one
25 of those small towns where my town budget is

1 only -- God what is it? If I take out my
2 roads and school, there's not a hundred
3 thousand dollars. It's not enough to fund one
4 participation.

5 COMMISSIONER RECCHIA: Can I throw out a
6 hypothesis here? It's a little bit of a
7 challenge, Michael, to what you said about the
8 risk and providing intervenors might encourage
9 people, even if they do a bad job, they get it
10 anyway.

11 I guess a question is I'm seeing all
12 these people intervening in concept. In other
13 words, they are spending the time, they are
14 spending the energy. The only thing they
15 don't have any money to spend so they are not
16 spending any money, but they are in the
17 process or trying to be in the process. So
18 what is the difference, other than quality of
19 result, if you give them a resource to be able
20 to actually do that intervention properly?

21 In other words, they seem to already be
22 in. The fact -- it's not like you're paying
23 them for their time. They are already
24 investing a huge amount of time and energy and
25 in a lot of cases personal sacrifice to

1 participate.

2 MR. DWORKIN: Let me be really clear. I
3 meant what I said when I said I have been in
4 favor of some form of intervenor funding.

5 COMMISSIONER RECCHIA: I believe you.

6 MR. DWORKIN: Having banged my head on
7 that wall in many forums I have hammered some
8 other concerns of other people about it, I
9 want to address those and recognize those, but
10 my immediate answer, Chris, if you tell people
11 that if they participate you will listen to
12 them and try to give them the best you do, but
13 you know they will do a more effective job if
14 they have some cash, or if you tell them that
15 they can apply for the cash, I think, first of
16 all, they will put in more money, they will
17 put in more hours, and it will cost more.

18 I personally believe most of the time it
19 will produce a better answer. Enough to be
20 worth it. I should note I haven't looked at
21 the numbers lately, but in 1999 Vermont was
22 the most expensive on a cents per kilowatthour
23 basis in the Northeast and by '05 it was the
24 cheapest. I don't know if that's still true,
25 but I don't think it's deviated greatly.

1 I care a lot about rates, but I think
2 we've done a lot on rates at the same time
3 that we paid significant amounts of money for
4 a higher quality environment and more reliable
5 system, and fundamentally I think the real
6 burden isn't through rates anyway. It should
7 be percent of state product that is spent on
8 utility services, not cents per kilowatthour.
9 I would rather pay a lot for a tiny bit of
10 power in the state and pay very little for a
11 huge amount of power.

12 Let me just be -- I want to flag a real
13 world problem and -- which I don't have an
14 answer, and again it's kind of an anecdote
15 that's largely true. There's a town on Lake
16 Champlain that voted by an overwhelming
17 margin, something like 600 to 200 or 800 to
18 200, to oppose the construction of a wind
19 turbine on the shore of Lake Champlain.
20 Within ten months of that they also voted to
21 reject the housing code which would have
22 required more efficiency. They also voted to
23 intervene in and oppose the construction of
24 the Northwest Reliability Project. So they
25 didn't want to use less power, they didn't

1 want to create power, and they didn't want to
2 bring in power, and every one of them was a
3 massive victory in the vote, but I'm afraid
4 that you can vote all you want to say that two
5 plus two plus two should equal three, but it
6 doesn't, and I think we need to deal with that
7 issue.

8 MS. EASTMAN: I don't disagree with
9 that, and this is why, though, I go back to
10 the issue that I think we've got to have
11 earlier conversations on it. I know. I hate
12 saying this, but -- I don't hate saying this,
13 but either through the regional planning
14 process or something where we talk about all
15 these things and your suggestions relative to
16 Act 250 I mean I totally get. I mean again,
17 you know, our environmental criteria and
18 everything were passed in 1970. What do we
19 need today? Is there some other things we
20 should be encouraging?

21 I can remember talking about small hydro
22 in 1980/81 when I was at Act 250. They
23 weren't going to have to go through Act 250,
24 but I begged them at least, you know, at least
25 considering all the things could be a good

1 idea for you to do in a very gentle way, if
2 you consider some of these things it actually
3 may help you. You know, how to help people
4 understand those very issues that --

5 MR. DWORKIN: They are better than the
6 ones we would have been looking at without the
7 system project.

8 MR. JOHNSON: I think that's true, and
9 in the continuum of how you capture and inject
10 in the system consideration of projects as
11 early as possible to come out with a better
12 product very, very -- one thing I'll add is
13 since we have both Deb and now Chris who is
14 here, I will tell you in addition to
15 intervenor funding and what Jim talked about
16 who has a role and how it relates to other
17 states, one of the big things we had earlier
18 on, because just like VELCO the regulators,
19 local public officials all had to learn how
20 you deal with transmission, was the
21 environmental regulators wanted really tall
22 poles, really tall poles, less of a footprint.
23 Fewer poles less impact on the land.

24 MS. EASTMAN: I have a power line up my
25 driveway, people telling me they had to drop a

1 pole every 250 feet.

2 MR. JOHNSON: And the Agency of Natural
3 Resources quite rightly said aesthetics is a
4 environmental value and we don't want these
5 that high so build them lower, and we spent a
6 lot of time having to reconcile what is
7 happening, but a very concrete -- and I did
8 talk to -- had talked several times with
9 Chris's predecessor about this.

10 One of the other changes that has been
11 required I think we have on one slide is that
12 the Department in terms of how do you capture
13 that local official opinion before they take
14 any position on a transmission project is
15 required to meet with the local whoever is the
16 designated entity to make the decision,
17 whether it be planning commission or
18 selectboard, and is required to meet with the
19 selectboard prior to them saying here's our
20 position on the VELCO project. Just for -- as
21 a concrete thing that is done.

22 MR. BODETT: When the southern loop went
23 through was that pre -- when we first met over
24 down in Dummerston you made some changes
25 since.

1 MR. JOHNSON: To tell you the truth that
2 was the southern -- the whole Vermont System
3 Planning Committee was going on, but quite
4 honestly what we did, we had so many lessons
5 on what we had done wrong on the NRP it was
6 okay we know what doesn't work. Let's try and
7 do what works mindful of where the discussion
8 seemed to be going with this Docket 7081
9 Vermont system planning.

10 MR. BODETT: I have to say that turned
11 out well.

12 MS. EASTMAN: We have a regional
13 planning.

14 MR. CAMPANI: So before you go off to
15 New Zealand if I can ask a question.

16 MS. EASTMAN: Sure. Go ahead.

17 MR. CAMPANI: We've discussed intervenor
18 funding for municipalities. Do you see a
19 difference with regional planning commissions?
20 Because the reason I'm asking is by statute
21 we're required to participate in the Section
22 248 proceedings, and unlike municipalities we
23 don't have a group of taxpayers that we can go
24 to, to say do you want to fund our
25 participation. We're dependent on a

1 performance based contract now with DEHCD for
2 our funding. We're expected to participate in
3 all hearings and so wind power is one thing.
4 If you have a nuclear power plant in your
5 region, it may involve a few more hours, but
6 it seems like we're a little bit --

7 COMMISSIONER RECCHIA: Do you have one?

8 (Laughter.)

9 MR. CAMPANI: I think so, but I don't
10 want to get into that, but I'm wondering so
11 from your perspective are we different
12 somehow?

13 MR. DWORKIN: Let me start by saying I
14 don't know the details and the details matter.
15 Conceptually I don't think it's real
16 different, but in practice it might be.

17 MS. EASTMAN: Conceptually I think it's
18 more like ANR and the Department of Public
19 Service. I mean when you're required to
20 participate, then where are the resources
21 coming to do that. I mean I can remember when
22 I was Secretary of ANR and we were required to
23 do all the planning in advance of relicensing
24 for every hydro facility. Excuse me.
25 Utilities had to end up paying for that

1 because we had no resources to do that, and
2 there was no way we could actually participate
3 if we didn't get the prior work done.

4 So interesting. We have to -- this will
5 be fun. It's like the old days, right?

6 MR. DWORKIN: I'll make one comment. My
7 perception, which may be wrong, is that a lot
8 of the municipal planning is done by consensus
9 and it's very rare to have a 4 to 3 vote to do
10 something, but if you're going to do this, you
11 have to have a discrete resolution mechanism
12 that gives a clear answer to what is the
13 Regional Planning Commission's position and is
14 there a way to get a yes or no on do you want
15 the project to go to the left or the right
16 side of the cemetery and things like that.

17 MS. EASTMAN: So it's 4 o'clock. Thank
18 you.

19 CHAIRMAN VOLZ: Can I make a couple
20 points just before we end?

21 MS. EASTMAN: Yes.

22 CHAIRMAN VOLZ: On the reliability as a
23 continuum that Michael was talking about, in
24 the discussion if you're going to say anything
25 about reliability, I think one thing to keep

1 in mind the bright line test that you could
2 adopt by saying it was related to ISO-New
3 England considers it a reliability project
4 might not be too bad a place to land because
5 most of the time we are always -- Vermont is
6 arguing with ISO about ISO being overly
7 inclusive about designating things as
8 reliability and transmission.

9 MS. McCARREN: Transmission.

10 CHAIRMAN VOLZ: And transmission.

11 MS. McCARREN: I could be wrong on this
12 and I shouldn't be wrong on this, the ISO
13 doesn't take reliability positions in gen. It
14 will say where there are bubbles and where gen
15 would relieve congestion, but they don't look
16 at generation from -- even though it may have
17 an effect on reliability because it is not
18 rolled into the tariff. They don't sort of
19 say -- unlike transmission lines where they
20 say oh yeah this transmission line is needed
21 for reliability.

22 MR. DWORKIN: Louise, you may know the
23 answer to this. When they said removing a
24 generating station like Vermont Yankee from
25 the system would require the following three

1 things to be done in order to maintain the
2 desired level of reliability and you add them
3 up they didn't add up to too much money, but
4 the analysis was -- defined reliability for a
5 generator, but what would have to be done if
6 it wasn't there?

7 MS. McCARREN: That's true, but the
8 point I was trying to make is that --

9 CHAIRMAN VOLZ: They define constrained
10 areas and where there needs to be relief.

11 MS. McCARREN: But they do opine on
12 where transmission is needed to maintain or
13 improve reliability, and I don't think that
14 they say -- they make that -- give that same
15 opinion about generation even though
16 generation can absolutely improve reliability
17 depending on where it goes.

18 MR. JOHNSON: I think like many things
19 at ISO there is a little tweak to that, and my
20 understanding is if you say I'm going to build
21 a project and you're in on December 1st and
22 December 10th they say you know what, we have
23 a reliability problem and ISO says we have a
24 reliability problem here, thank god you're
25 putting that there because that's going to

1 help, the generator, the developer of the
2 generation can't say well we should get a
3 piece of the action and you should monetize
4 that. However, if there is a reliability
5 deficiency, there is a way to apply to get
6 some portion.

7 MS. McCARREN: Again.

8 MR. JOHNSON: Yes.

9 MS. EASTMAN: Let's hear what Jim needs
10 to say.

11 CHAIRMAN VOLZ: That's all I want to say
12 about that, and the other one just to keep in
13 mind on the issue of paying for intervenor
14 funding or even other areas as well, as far as
15 funding ANR and the Department and the Board
16 the utilities pay gross receipts tax. The
17 developers -- independent developers don't pay
18 that and so they are not contributing. We
19 talked about licensing fees.

20 MS. EASTMAN: Oh thank you. Let's put
21 that on the record.

22 CHAIRMAN VOLZ: And they are using a ton
23 of resources. Our work load has shifted from
24 rate cases that utilities pay for to Section
25 248 reviews that are not being paid for.

1 COMMISSIONER RECCHIA: I'm seeing my
2 public advocate nodding his head too. This is
3 a different world than when there were three
4 generation sources and one or two utilities
5 regulated paying for the Department and the
6 Board to do this.

7 MS. EASTMAN: Right. Great. What a
8 great thing to end with. Seriously. Thank
9 you very much.

10 (Whereupon, the proceeding was
11 adjourned at 4 p.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5 I, JoAnn Q. Carson, do hereby certify that
6 I recorded by stenographic means the meeting re: Energy
7 Generation Siting Policy Commission, at the Pavilion
8 Auditorium, State Street, Montpelier, Vermont, on January
9 11, 2013, 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 299 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 18th day
19 of January, 2013.

20 _____

21
22 JoAnn Q. Carson
23 Registered Merit Reporter
24 Certified Real Time Reporter
25