

STATE OF VERMONT
ENERGY GENERATING SITING POLICY COMMISSION

Deliberative Session #3

February 5, 2013 - 9 a.m.
Calvin Coolidge Conference Room, National Life
Montpelier, Vermont

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1 CHAIRMAN EASTMAN: So let's see, so good
2 morning. My name is Jan Eastman, I'm
3 actually Chair of the Energy Generation
4 Siting Policy Commission. This is our
5 third, according to my now new handy dandy
6 list, our third deliberative session. We
7 hoped we would be into talking to each
8 other, but we keep figuring out how much
9 there is to learn. So today we are here all
10 day with a couple of breaks.

11 This morning we are going to hear from a
12 few people about some of the issues that we
13 still think we need information on, then
14 really inform our discussions as we move
15 forward. We have got Mark Milhaly, the Dean
16 of the Law School. Thank you so much for
17 coming --

18 MR. MILHALY: My pleasure.

19 CHAIRMAN EASTMAN: -- who is going to
20 help us think a little bit about intervenor
21 funding. We have got Asa Hopkins from the
22 Public Service Department on the
23 Comprehensive Energy Plan and projected
24 energy needs because we felt we really ought
25 to get a sense what do we think the world's

1 going to look like and sort of scenario
2 planning we are thinking.

3 After we talk with them we thought we
4 would take a brief break, and then we
5 haven't heard a lot on the aesthetic issues
6 yet. We have heard a lot on them but not
7 from people who might be able to guide our
8 thinking and help our thinking with a little
9 more specificity.

10 So we have Michael Buscher, I think
11 David Raphael is going to be here, and Jean
12 Vissering. And thanks for all the stuff we
13 got in advance. It really is useful. We
14 are not doing cumulative impact?

15 MS. MCGINNIS: Yeah, Billy is just going
16 to give a quick overview of that.

17 MR. COSTER: Yes.

18 CHAIRMAN EASTMAN: Okay. And then last
19 before lunch we are going to have a few
20 people who participate on local or, you
21 know, Town Energy Committees. People who at
22 a local level are thinking about how to do
23 this, you know, what actually needs to be
24 done in their communities and what are the
25 possibilities there.

1 So then we will have lunch, and then
2 this afternoon Rich Sedano is going to call
3 in. He's now part of the Regulatory
4 Assistance Project, but he's done 248s for a
5 long time, about his observations on the 248
6 process. We weren't able to get him during
7 the previous meeting when we had those
8 conversations.

9 And then June Tierney who is the
10 attorney for the Public Service Board is
11 going to talk to us just for a few minutes,
12 I think, about her observations on the
13 recent ANR recommendations. As we said,
14 remember when the Chair of the Board was
15 here, Jim Volz, when we were at the meeting
16 at the Public Service Department some
17 sessions ago, we did ask them if they would
18 keep looking at what the proposals were and
19 just let us know. We could have this, you
20 know, feedback loop about how they thought
21 it would impact what they are actually
22 doing.

23 And then we really want to spend most of
24 our afternoon discussing the first draft of
25 what we have got as an options paper. This

1 is a paper that's just a way to sort of put
2 -- sort of to categorize the kinds of things
3 that people have been talking to us about
4 into -- well, into the areas that we have
5 been asked to address. And although it's
6 not everything that people have specifically
7 said, we have tried to put the ideas around
8 to be possible options.

9 And when we start looking at that this
10 afternoon, we will have enough here for all
11 of you to see, and as we go through this
12 process, we will keep updating it. It is
13 totally true that there can be things in
14 there that are totally contradictory because
15 people, of course, have suggested totally
16 contradictory things. It's not that we
17 don't understand they are totally
18 contradictory, but we wanted to put
19 everything out there or as many ideas out
20 there as we have heard as we go through what
21 we are hoping is a very transparent process.

22 This will be the first time that we have
23 actually talked about any of these things as
24 a group, so that's what we are hoping to get
25 done this afternoon. And so that's our day.

1 Okay? Thanks.

2 MR. JOHNSTONE: Deep sigh.

3 CHAIRMAN EASTMAN: No. It's just my
4 brain's exploding, that's all. So Dean
5 Milhaly.

6 DEAN MILHALY: Thank you. It's a
7 pleasure to be here. Thanks a lot. Jan, 10
8 minutes, five minutes?

9 CHAIRMAN EASTMAN: Yeah. Just --

10 DEAN MILHALY: Quick. Right. Okay.

11 CHAIRMAN EASTMAN: Yeah.

12 DEAN MILHALY: All right. So let me
13 just cut to the chase. Before I became a
14 Vermonter, I spent 25 years or 35 years in
15 California, and in 1980 I started a law
16 firm, kind of quasi-public-interest law firm
17 trying to represent citizens and citizens'
18 groups, community groups, and cities in
19 environmental matters. And that's what I
20 did for 25 years.

21 When I left the firm was 25. It's still
22 there, a happy firm, doing its job, and I
23 learned a lot, a great deal about empowering
24 citizens in conflicts, environmental
25 matters, and environmental matters tend to

1 be complex. The problem is -- because I've
2 also been on commissions, everybody gives
3 lip service to citizen participation and how
4 essential it is to democracy, but most
5 people who sit on public bodies know that
6 it's very boring to listen to, and much of
7 the time you don't hear any -- most of the
8 time you hear nothing that is going to
9 change your decision. And so it tends to be
10 a process-oriented process, and people, you
11 know, everybody in the room knows it's
12 process. They know that it tends not to be
13 substantive.

14 And so we specialized in trying to break
15 that chain. How do you actually make a
16 difference? Really, really, and the answer
17 is sophistication. There is no way around
18 it. You just have to present really
19 sophisticated testimony.

20 So let me just give you a story. I'll
21 pick one case, it was a transmission line.
22 And it was a proposed transmission line on
23 Valley Rainbow, about 150 million dollar
24 line, a 500 Kv line, in 2000 in California
25 when we were having rolling brownouts and

1 blackouts. So when a bunch of middle class
2 citizens in a northern San Diego county area
3 approached me and said, you know, this is
4 going to cut our valley -- right through our
5 valley, it's going to take out our only
6 remaining site for a high school, it's going
7 to blah-blah-blah. I basically said to
8 them, I think this is an else -- maybe we
9 can move it around, but I have a feeling we
10 can't stop it. I mean the then democratic
11 Governor was making a point to appear at the
12 ground breaking of every single facility
13 related to the power grid. So I just didn't
14 see our Public Utilities Commission, which I
15 know the scale is different, thank God,
16 that's why I'm glad I'm in Vermont. But the
17 Public Utilities Commission was appointed by
18 the Governor, it's a very political body in
19 many ways. And I just knew we weren't going
20 to make a case against the line. It was a
21 question of maybe changing its impact.

22 My clients, thank goodness, said to me
23 we are not interested. We are not
24 interested for two reasons. We don't want
25 to pit one part of our valley against

1 another, and number two, we are all
2 businessmen and people who work in this
3 area, and if this line is really needed, we
4 will live with it. But is it really needed.
5 So I set out to try to find experts, and I
6 will tell you that the club of electrical
7 engineers who are transmission experts is a
8 very small club. And, of course, none of
9 them would even dream of testifying for a
10 ratty citizens group opposing something that
11 both the utility and the transmission
12 operator -- system operator strongly
13 favored. So it was hard for me to find
14 experts. Luckily for me, the -- hi Deb.

15 (Ms. Markowitz arrived.)

16 DEAN MILHALY: Luckily for me, the guy
17 who had designed the southern California
18 Edison transmission grid had just retired
19 and was doing private sort of consulting,
20 and I went to him and said, I want to know
21 if this line is necessary. He said I will
22 tell you, but I won't testify. So I gave
23 him all the stuff. Thirty days later he
24 comes back to my office and says, I don't
25 get it. This is a terrible line. It's a

1 bad public investment.

2 So it's important to remember right
3 there, this was a line that the Independent
4 System Operator and the utility strongly
5 favored. And here is a transmission expert
6 who never would have seen the light of day
7 saying this is a stupid public investment.
8 It's -- so I knew that we were never going
9 to be -- I didn't want to even try to
10 present a case on electromagnetic radiation
11 or, you know, route. I knew we had to
12 present a case that was based on reliability
13 and need. And so we did.

14 And two years and two million dollars
15 later the line was unanimously rejected by
16 the Public Utilities Commission, two years,
17 \$2 million. And I was charging 75 to \$125
18 an hour for my time. The experts were
19 incredibly expensive. I had three or four
20 major experts. I had -- I spent \$250,000 on
21 a public relations consultant. That's
22 California. That's the way it works. The
23 utility was spending a lot more than that on
24 that project, on promoting that project.

25 We were just able to kind of really --

1 really, not nominally, but really even the
2 scales. And what's so hard to face up to is
3 that there is only one way to even the
4 scales; money. I would never -- how did I
5 raise that money? Well a lot of it, believe
6 it or not, a lot of bake sales, and a lot of
7 dances and a lot of things like that. Plus
8 a couple of cities joined us. And then
9 thank God, an Indian tribe that had gaming,
10 and we were one way or another able to
11 scrape, and we had two years to do it. But
12 I never could have raised the initial money
13 that I did, maybe half a million dollars, I
14 never could have raised it. I could never
15 have paid that guy Wayne Smoosh (phoenetic)
16 the expert, if I didn't know that there was
17 some chance that I would get intervener
18 compensation.

19 The program in California -- the
20 intervener compensation program in
21 California basically says that if you make a
22 substantial difference in the proceeding,
23 and if you're denominated at the beginning,
24 in the pretrial conference, as you're
25 denominated as a legitimate representative

1 of an interest, you are eligible, there is
2 an eligibility determination right at the
3 start. You're eligible, you won't
4 necessarily get the award. You still carry
5 the risk.

6 Then at the end of the proceeding you
7 don't have to prevail, but you have to have
8 made a substantial contribution, and that's
9 up to the judge to decide, the
10 Administrative Law Judge, and ultimately the
11 Commission. Then you can get intervener
12 compensation. And this is really important,
13 the intervener compensation is at market
14 rate. Now it wasn't so important to me that
15 it was at market rate. What was important
16 was the experts, you know, these people cost
17 money. So I got \$800,000, an \$800,000 award
18 of which half a million dollars, or no, I
19 guess less, \$300,000 went back to my clients
20 at the end. Because that's how I raised the
21 money. I said there is some chance we might
22 get intervener compensation, you might get
23 some of your money back. But at any rate
24 that's detail.

25 I just wanted to show you by this story

1 that that whole thing never would have
2 happened, and that 150 million dollar
3 project would have been being paid for. We
4 won because -- honestly we won because we
5 had the better case. We won because it
6 wasn't necessary for reliability. I mean I
7 had to get into N minus one ad nauseam and
8 start talking about reliability issues. But
9 you know, financial -- we did financial
10 modeling, we did, you know, all kinds of
11 sophisticated work and just put on the
12 better case.

13 Now there is in California, like here, a
14 body that's part of the Commission. Well
15 there it's part of the Commission. Here
16 it's the Public Service Department that
17 represents the public. And they actually --
18 this body is a different body. It joined us
19 actually, and we were on the same side sort
20 of. But one of the things that I've learned
21 is it's amazing how many different interests
22 there are in almost any of these proceedings
23 and it's amazing how different things are.
24 So even if you have a really good Department
25 here, which I think it is, the Department's

1 great, and it does represent the public
2 interest, I think that no matter what the
3 private interest, if it is armed with
4 sophistication, the entire level of debate
5 will be much higher. You know, it's not as
6 if by taking somebody who you don't agree
7 with and letting them put on a really good
8 case, it's not as if that means that things
9 will be worse. That, you know, you'll be
10 wasting more of your time, oh my God, I'm
11 going to have to listen to the lawyers for
12 some idiot as opposed to just the idiot.
13 It's bad enough to listen to the idiot, do I
14 have to listen to the lawyers for the idiot?
15 It doesn't work that way. The way it works
16 is that when the citizen really has to
17 confront privately the reality of what an
18 expert is telling them, it just pushes the
19 whole level of the case up. How is that?

20 CHAIRMAN EASTMAN: Okay. So is there
21 intervener funding in that matter -- in all
22 matters? All, you know, transmission
23 generation, all sizes?

24 DEAN MILHALY: Anything before the
25 Public Utilities Commission.

1 CHAIRMAN EASTMAN: Do you know are they
2 reviewing every project?

3 DEAN MILHALY: The public utilities --

4 CHAIRMAN EASTMAN: What I'm just trying
5 to get at, Mark, here is just at what size.
6 We talk about scale, you know.

7 DEAN MILHALY: I don't -- okay, first of
8 all --

9 CHAIRMAN EASTMAN: Is it every matter
10 before the --

11 DEAN MILHALY: I believe so, but you
12 know what, I think I have in my file all the
13 statutes and some stuff, and I can provide
14 it to you. But I don't think there is a de
15 minimis -- I think in many cases it's the
16 smaller cases where there is intervener
17 compensation. This is one of the biggest
18 intervener compensation cases. But there is
19 no reason you couldn't put a floor on it.
20 You could decide, for example, that you
21 think that, you know, in most matters the
22 Public Service Department is going to do it,
23 and that's fine and let it be that way.
24 There was in California one attribute which
25 I don't agree with, and I don't -- and that

1 is in California, you were not eligible
2 except if you were private citizen or a
3 group of private citizens. So cities and
4 towns --

5 CHAIRMAN EASTMAN: Municipalities.

6 DEAN MILHALY: -- are not eligible. And
7 I don't agree with that, because I think
8 that municipalities, particularly true in
9 Vermont, it's not like they are swimming in
10 money either. And they are just as, in some
11 ways, even more constrained in terms of the
12 kind of money that they can devote to
13 something which is important to their
14 citizens, but not so central like police and
15 fire that they can be spending money.

16 MR. BODETT: This intervener judge who
17 decides at the end if there has been --

18 DEAN MILHALY: It is the Administrative
19 Law Judge assigned to the case.

20 CHAIRMAN EASTMAN: So it would be the
21 Hearing Officer of the Public Service Board.

22 DEAN MILHALY: One of the things the
23 Hearing Officer does in addition to
24 recommending to the Public Utilities
25 Commission a decision is they decide, did

1 you make a substantial contribution to the
2 case. And if so, what's the recommended
3 award.

4 MR. BODETT: And they answer to the
5 Commission itself.

6 DEAN MILHALY: Then it goes up to the
7 Commission. In any matter like this it just
8 automatically goes to the Commission. They
9 hear it, and then they decide the same
10 thing.

11 CHAIRMAN EASTMAN: So and the source of
12 funds that pays?

13 DEAN MILHALY: The utility. The utility
14 ratepayers, just like the lawyers for the
15 utility are paid for by the --

16 CHAIRMAN EASTMAN: I understand what --
17 I'm saying is it a fund or it's an extra
18 charge for that case?

19 DEAN MILHALY: It's an extra charge for
20 that case.

21 CHAIRMAN EASTMAN: So they don't develop
22 a fund.

23 DEAN MILHALY: No.

24 CHAIRMAN EASTMAN: In fact, it's a cross
25 between a fund and bill back.

1 DEAN MILHALY: Yes. Absolutely. We
2 got, interestingly enough, the check that I
3 received was an -- it was a San Diego Gas
4 and Electric check.

5 CHAIRMAN EASTMAN: Yeah. Yeah. When I
6 have been thinking about this, and we have
7 been talking about intervener funding, we do
8 -- Public Service Board has used bill back.
9 It's been expanded in the past few years,
10 and I've, you know, just been thinking if
11 there is a way here to, you know, to just,
12 you know, assess that a little bit
13 differently in certain cases.

14 DEAN MILHALY: I think it's a cost,
15 essentially. It's, you know, it's a cost.
16 The utility can charge forward its costs,
17 and the lawyers -- the lawyers who were
18 sitting next to me for the utility were
19 being paid for by the ratepayers.

20 One other thing that's really important,
21 remember that it's one of the great tools
22 you have is the Commission authority and the
23 ALJ's authority, in that -- the Hearing
24 Officer. The Hearing Officer can decide as
25 part of their prehearing efforts who is

1 going to speak for whom. In other words,
2 yes, they have to let everyone in the room
3 in. But at the end of the proceeding I was
4 representing all opponents to the project by
5 order of the Commission.

6 In other words, they consolidated --
7 they consolidated -- the judge took a look
8 at the issues we were speaking to, asked all
9 the parties how many of them wanted to speak
10 to those issues, asked them to consent to my
11 representing them and I did. Yeah.

12 MR. JOHNSTONE: I'm curious. I'm
13 sitting here thinking so the funding source
14 model, if in the end the decision is that
15 the utility brought forward a bad project --

16 DEAN MILHALY: Right.

17 MR. JOHNSTONE: -- and they are going to
18 pay, an award is intervener funding, and it
19 goes on their rates, how do they deal with
20 prudence? The utility brings forward a bad
21 project, how do the ratepayers bear the
22 cost?

23 DEAN MILHALY: Well there is two answers
24 to that. One is the same way they deal with
25 their own attorneys and their own internal

1 costs for the project which is in most
2 cases, in my experience, I don't know enough
3 to answer here, in my experience if a
4 project moves forward as a legitimate
5 project and it's turned down, the utility
6 still is able to charge forward to its -- it
7 puts in its rate base the cost of that -- of
8 that effort.

9 If that goes on continually, well then
10 there is going to be -- the Commission's
11 going to look into it. And so that's how
12 it's dealt with. And in terms of, you know,
13 better kill the line to start --

14 MR. JOHNSTONE: I get the outcome. I'm
15 trying to trail it backwards, you know. I
16 would think the utilities would be scared to
17 death they are going to get pinned on the
18 back end of that, and it may be appropriate
19 to do so. I'm not trying to judge.

20 DEAN MILHALY: Conceivably you could
21 stick the stockholders of the utility.

22 CHAIRMAN EASTMAN: There's been lots of
23 discussions when the stockholders get stuff
24 as opposed to the ratepayers. The issue
25 here, of course, is the world has changed a

1 little bit, and not everything is a utility
2 process.

3 Sorry, Gaye.

4 MS. SYMINGTON: That was my question.
5 If the project doesn't go forward, there is
6 nothing to bill.

7 CHAIRMAN EASTMAN: And maybe if it's a
8 big enough project, and we think this is
9 important enough, then that's a risk that
10 they take, and they still have to pay.

11 DEAN MILHALY: Do they pay. They pay
12 something to the Public Service Department
13 for a process.

14 CHAIRMAN EASTMAN: Not yet. We don't
15 have a fee for merchant facilities because
16 right now the process is all covered through
17 the -- through our tax. The ratepayers are
18 all paying for this right now.

19 MR. JOHNSTONE: I suspect we'll
20 deliberate on that at some point.

21 MR. HOPKINS: We do believe we have bill
22 back authority to bill them back, we just
23 haven't been. We have been using the gross
24 receipts tax dollars that come from
25 ratepayers.

1 CHAIRMAN EASTMAN: So the ratepayers
2 would pay for the reviews whether it's a
3 merchant or a utility project.

4 MR. BUSCHER: Can I add sort of a
5 question/comment into this? I know I worked
6 on a project for an opposition group in New
7 York. And it was under the, I think DEC, or
8 DEP, as well as the public utilities and it
9 was a private developer. And we were funded
10 through something similar to an intervener
11 compensation fund.

12 Are you familiar with New York's?

13 DEAN MILHALY: New York is one of about
14 half a dozen states that have intervener
15 compensation.

16 CHAIRMAN EASTMAN: And there is a fund.
17 That's why we are saying they create a fund.
18 They actually charge, you know, you have to
19 -- the developer has to pay into a fund.

20 MS. MCGINNIS: On a formula basis per
21 megawatt.

22 CHAIRMAN EASTMAN: Like California does.

23 DEAN MILHALY: One of the things -- I
24 know you just mentioned that the thought of
25 a panel of experts --

1 CHAIRMAN EASTMAN: That has been
2 discussed.

3 DEAN MILHALY: The only thing I would
4 say about it is I think in some ways there
5 are terrific advantages to that. Because
6 supposing I hadn't found Wayne Smoosh. It's
7 very possible that I wouldn't have. And of
8 course, in every area there are people --
9 there is not in every area someone like Jean
10 who will in fact testify. There are a lot
11 of people who make their living testifying
12 on behalf of one side and they won't go
13 over. So that has a lot to say for it.

14 But on the other hand, I feel like you
15 need -- you need an agent for the citizens
16 group, whether it's a lawyer or not a
17 lawyer, I'll call it an agent. Someone who
18 really is organizing and presenting the
19 case. So that is why, you know, somehow
20 you've got to -- you've got to deal with it.

21 CHAIRMAN EASTMAN: Okay. So I've got
22 it. So it's the eligibility determination
23 at the beginning. And at the end you made a
24 substantial difference.

25 DEAN MILHALY: Yes. There is a problem

1 which I have never been able to figure a way
2 out of, so I just lived with it, which is
3 it's a terrible risk for the attorney
4 involved. I mean I sort of was paid for my
5 time at about half my rate, low, low, pretty
6 low really, for awhile, but then we were on
7 our own. And we were not set up that way as
8 an office. We always were paid as we went.
9 So the business took an enormous risk. I
10 don't know a way around that. I think in a
11 very long case you could have an
12 intermediate determination perhaps. But
13 that's a very long proceeding.

14 CHAIRMAN EASTMAN: Yeah. I look at all
15 the -- yeah.

16 MS. SYMINGTON: And it cost 2 million,
17 and the funding was 800,000. Is that
18 because they decided that you spent too much
19 money or they just acknowledged they weren't
20 going to pay back the whole thing?

21 DEAN MILHALY: I acknowledged it was
22 paid for by governmental entities and they
23 weren't eligible. Period. We got
24 everything we asked for. We asked for
25 800,000. They gave us 800,000. But, of

1 course, we didn't ask for anything -- I mean
2 we were pretty conservative.

3 MS. MCGINNIS: And the total project was
4 150 million?

5 DEAN MILHALY: About 150. Yeah. It
6 wasn't actually -- it wasn't that long. It
7 was like a hundred miles long.

8 MS. MCCARREN: What was the name of the
9 line?

10 DEAN MILHALY: Valley Rainbow. We, of
11 course, became the poster child. It was
12 valley because of the valley substation to
13 the rainbow substation. Of course, we then
14 became the poster child for why you should
15 never allow states to decide where
16 transmission goes.

17 CHAIRMAN EASTMAN: Okay. Any other
18 questions for Mark?

19 DEAN MILHALY: A pleasure. Thank you.

20 CHAIRMAN EASTMAN: Thanks so much.

21 DEAN MILHALY: I'll sit and watch for
22 just a minute.

23 CHAIRMAN EASTMAN: Yeah. So Asa.

24 MR. HOPKINS: Sure. Thanks for having
25 me. The topics I guess that folks had

1 raised that it seems like I might be able to
2 contribute something about are two in --
3 which are related. One is the Comprehensive
4 Energy Plan and the process that went into
5 developing that plan. And, you know, big
6 picture outcomes of that, you know, probably
7 familiar with it, but might be nice to have
8 a little bit of a refresher on that.

9 And then sort of related to that is the
10 question of well then what would it actually
11 take to achieve some of the goals that are
12 in the plan. Both -- I have a cheat sheet
13 which I'll pass around when I get to that
14 point giving a sense of scale of what it is
15 to think about something that contributes
16 substantially to meeting Vermonters' energy
17 needs, electric generation wise.

18 So first on the Comprehensive Energy
19 Plan, I should admit that I'm talking a
20 little bit about stuff that I didn't
21 actually personally experience. The process
22 for the CEP basically kicked off when
23 Governor Shumlin came in and Liz Miller
24 became our Commissioner. He said; wait a
25 minute. We haven't actually had an official

1 Comprehensive Energy Plan since the late
2 '90s. We should get going on that. So Liz
3 with basically an awful lot of help from my
4 division and mostly coordinated by Kelly
5 Launder as my assistant director, ran a sort
6 of pedal to the metal 8 to 10-month process
7 to put out a Comprehensive Energy Plan,
8 kicking it off in about March, and
9 publishing it for real finally in December.

10 So the first step in that process was to
11 try to get a big picture sense of where we
12 are. We looked at a draft that had been
13 prepared in 2008 but never finalized, so
14 circulated that. Got public feedback on
15 that, talked with every stakeholder under
16 the sun that we could find, I believe, and
17 started to narrow in on some big picture
18 goals and ways of structuring the final
19 document, et cetera.

20 I think, you know, the big conversation,
21 that all happened before my time,
22 unfortunately, so I can't tell you exactly
23 how it played out, but was coming up through
24 all of this with the one sort of big bottom
25 line target for the CEP, which was to aim

1 for 90 percent renewables across all sectors
2 by 2050. It happens nicely that that is
3 about equivalent to what you need to do in
4 the energy sector in order to hit the
5 state's 2050 greenhouse gas emission
6 reduction targets.

7 So if you intend to do that using mostly
8 renewables, and so that really then forms
9 and shapes thinking about how the plan needs
10 to come to fruition. That target is both
11 giant and far away. And the plan does not
12 really lay out a lot of intermediates along
13 the way of exactly what the path is from
14 here to there. I think the level of
15 analysis necessary to be able to answer the
16 question of, well okay, then where do you
17 need to be in 2041, where do you need to be
18 in 2032, along the way, you know, we knew
19 broadly speaking the answers to those
20 directionally, but not, you know, is it best
21 to go on a linear path, or can you go slowly
22 and build something, and then go more
23 parabolically or exponentially, and what
24 pacing do you need to do on different
25 things.

1 So answering questions like that is
2 actually something that we are tackling now
3 at the legislature's request over the course
4 of this coming year for a report due at the
5 end of this year to put a little bit more
6 meat on those bones. The legislature
7 basically -- this is probably a little bit
8 glib language -- but called our bluff, so
9 you set this target, now tell us how we make
10 it. At the same time they are calling their
11 own bluff because they set their own
12 greenhouse gas targets that now they want to
13 know how to make those also.

14 MS. McCARREN: I hate to interrupt you.
15 The greenhouse gas targets are in the
16 statute.

17 MR. HOPKINS: Correct. The CEP target
18 is an administrative document. It is -- the
19 need to have a plan and the approval of that
20 plan is in statute but the -- but what that
21 plan is for is not. Like the particular
22 goals and such, establishing the plan do not
23 have the weight of statute.

24 MS. McCARREN: Right. But did the
25 legislature --

1 MR. HOPKINS: The legislature does not
2 approve the plan.

3 MS. McCARREN: Okay, great.

4 MR. HOPKINS: But the plan is intended
5 to be consistent with all of the state
6 energy policies that are established in
7 statute including the greenhouse gas
8 targets, but also including the need for a
9 sustainability, and you know, least cost
10 including economic, environmental costs, and
11 all these guidance -- all this guidance
12 that's built into Title 30. Trying to build
13 a comprehensive picture from that and say if
14 you try to actually take all of that for
15 what it says, make it happen, what does that
16 actually look like for energy? So that's
17 the overriding structure for the
18 Comprehensive Energy Plan.

19 Process wise, there were two big rounds
20 of public engagement. VCAN and VNRC helped
21 organize a series of workshops around the
22 state. There was a draft document, and
23 there was a lot of public comment on that
24 draft. And then a final draft document and
25 another round of public hearings and

1 meetings that basically it was the CEP road
2 show. People from the Department go out
3 around the state, try to spread the word,
4 and get, you know, 50 or a hundred folks in
5 a room and say what do you think. You know,
6 here's big picture where we are. Here's
7 where we are trying to go. Give us your
8 feedback.

9 Over the course in addition to the folks
10 that showed up in person at the meetings we
11 got 9,000 public comments. To be fair many
12 of those were identical on various
13 particular topics. But many of them were
14 not. There is a really fascinating pair of
15 public engagement reports our staff put
16 together that are, you know, summaries of we
17 got here are all the different topics that
18 came up, and here are the different takes
19 that different folks had about the different
20 aspects. And not every member of the team
21 read every comment, but one person on the
22 team read every comment and directed the
23 comments to the people who were the point
24 people on each section to make sure if you
25 were writing the section on biomass you

1 literally got every public comment that came
2 in that had to do with biomass, so you could
3 incorporate all of those into your thinking
4 about how to craft that text.

5 So I guess that's sort of the summary of
6 the CEP and the process. If you have
7 particular questions on that, otherwise I
8 can share with you my weekend scratch paper
9 about what does it take to do some of this.

10 CHAIRMAN EASTMAN: Is that what we want
11 to know? What does it actually take?

12 MR. HOPKINS: All right. I may have
13 slightly over-sold this. But pass -- so the
14 way I set about thinking about this was not,
15 you know, obviously meeting the CEP targets
16 involves a lot of things that are outside
17 the scope of this Commission. It involves
18 biofuels, electrification, advanced hybrids,
19 home weatherization, it involves bio-heat,
20 you know, pellets, all sorts of things that
21 are not electric generation. But you know,
22 obviously electricity has to contribute to
23 that.

24 So what I thought I would -- the way
25 I've structured this was to say well what

1 would it actually take generation wise from
2 different technologies to generate five
3 percent of the energy that the state uses.
4 It's a concrete chunk, you know, roughly
5 speaking, you know, you need -- for electric
6 -- roughly electric use in the state you
7 need seven such chunks to meet -- the
8 electricity is about a third of the state's
9 energy use. Where does that come from?
10 What are the options? What would it look
11 like if you tried to do it all with each
12 given thing?

13 For a scale, before I would go into
14 these particular details, my -- very roughly
15 the SPEED statute that the state has, which
16 involves renewable energy of all sorts and
17 scales, but built since 2005, so it includes
18 the wind -- large wind generators, it
19 includes the standard offer for solar,
20 includes the upgrade on McNeil, et cetera.
21 All of the things that utilities have signed
22 contracts for in the last 10 years or so or
23 built themselves is about equivalent to that
24 five percent level.

25 So just to say what the state has done

1 over the last eight years or so in terms of
2 contracts for new renewables, including the
3 out-of-state Granite Reliable Wind, so it's
4 not all just the stuff that's in Vermont, is
5 roughly equivalent to this size chunk as
6 well. But if you want to think about what
7 it would take to generate five percent -- I
8 should say five percent of all the energy is
9 about 14 percent of the electricity.

10 Because we use so much energy that's not --
11 that's not electricity. But I wanted to
12 make sure that I thought in the energy
13 context because I wanted to be able to bring
14 in CHP into the conversation where all of a
15 sudden you're not just looking at
16 electricity any more, you're branching out
17 into other --

18 MS. McCARREN: Could you do that again?
19 So five -- 14.

20 MR. HOPKINS: Five percent of all the
21 energy in the state, well is equivalent to
22 14 percent of the electricity in the state.

23 MS. McCARREN: And all the energy, that
24 would include transportation.

25 MR. HOPKINS: It includes

1 transportation, home buildings, industrial
2 processes.

3 MS. McCAREN: So 14 percent of the
4 electricity equals five percent of the
5 energy.

6 MR. HOPKINS: Yes.

7 MS. McCAREN: Great. Thank you.

8 MS. SYMINGTON: And just another level
9 of repetition, sorry. What we have approved
10 for new renewables over the last 10 years
11 including what's imported from out of state
12 is five percent of all our electricity or
13 five percent of all our energy?

14 MR. HOPKINS: Five percent of all our
15 energy. It's about the same as each of
16 these chunks I'm going to describe.

17 MR. JOHNSTONE: You're just describing
18 an increment for us.

19 MR. HOPKINS: I'm just describing an
20 increment. We can think about what does it
21 take to make one wedge, one block.

22 MR. JOHNSTONE: Got it.

23 MR. HOPKINS: That's not a block that's
24 so huge to be crazy unreasonable, maybe, but
25 not so small as to not be contributing. So

1 also a side note, Scott may be familiar
2 with, roughly speaking this is also about
3 the size of about as much energy as
4 Efficiency Vermont has saved over the course
5 of its existence. So similarly, you know, a
6 block sized within, you know, a third or
7 something like that.

8 But so what if you wanted to try to do
9 all of this with wind? Large-scale wind.
10 You would need about 288 megawatts of large
11 scale wind. It would be 96 full-scale
12 modern turbines. For comparison that's
13 about four and-a-half times the size of the
14 Lowell Kingdom Community Wind Project.

15 MS. McCARREN: Large wind. I'm sorry
16 could you define it, what is --

17 MR. HOPKINS: I mean utility --

18 MS. McCARREN: Utility scale.

19 MR. HOPKINS: Utility scale three
20 megawatt kind of turbine. For a small wind
21 that's going to have a lower capacity
22 factor, you're going to need that many more
23 turbines, even just than scaling the size of
24 the turbine, because each one doesn't
25 generate as much energy. So I don't know

1 exactly how much to discount the capacity
2 factor for something like a Northland one
3 hundred-scale turbine, like the one that's
4 at Dyna Power, the one in Vergennes, but
5 roughly speaking the same amount of energy
6 you would need more than 3,000 and maybe
7 4,000 or so such turbines around the state,
8 or somewhere.

9 If you wanted to think about generating
10 that block of energy with solar PV, you're
11 thinking, you know, 550 to 600 megawatts,
12 that's 5 and-a-half square miles of solar
13 facility. That's half the size of the City
14 of Burlington or one and a third the size of
15 Barre City. Another way to think about it
16 is it's about 262, 250-ish, sort of large
17 standard offer, the size of the South
18 Burlington solar farm, solar facility, if
19 you think of it as one of those in every
20 town, city and gore in Vermont. It's that
21 kind of pervasiveness and scale of, you
22 know, five plus square miles of solar PV.

23 Also roughly speaking that is two
24 kilowatts for every household in Vermont.
25 So it is possible that you could get a lot

1 of that on to roofs, but not all roofs face
2 south, there is trees, et cetera, et cetera.
3 So some of that really does have to go, and
4 for scale, you know, you're going to pay a
5 lot less if you can build it in big blocks
6 than if you're doing it piecemeal, custom
7 pieces across the way.

8 I purposely didn't include cost here
9 because I only know ball park cost estimates
10 for some of these things, and I didn't want
11 to put cost on some and not on others. I'm
12 happy to share my ball park cost senses on
13 these, but what I don't know, I don't need
14 to admit my own ignorance.

15 If you were to try to get this block
16 using small hydro run-of-river type hydro
17 powering existing dams, basically you would
18 need about 170 or so megawatts of that.
19 When the department did an analysis five
20 years ago of the potential for powering
21 unpowered dams in the state, we came up with
22 a number of about 90 megawatts. That was
23 taking the 300 most obvious dams in the
24 state out of 1,200 existing dams and
25 powering them. The scale of thinking about

1 going through the FERC hydro licensing
2 process hundreds of times is daunting for
3 those who are thinking about that process.
4 But just to say that that is there, and
5 folks are working one by one, and you know,
6 Anne is actually helping the department and
7 ANR and SHPO think about how to facilitate
8 that work to enable that kind of powering to
9 happen. But you know, each one is, you
10 know, half a megawatt here and a few hundred
11 kilowatts there, and they add up.

12 CHAIRMAN EASTMAN: And locally we lost
13 stuff in the storms last year.

14 MR. HOPKINS: Right.

15 CHAIRMAN EASTMAN: Depending upon what
16 happens with Mother Nature. We lost them.
17 It's gone.

18 MR. HOPKINS: There are some amount of
19 upgrading and, you know, there is a -- there
20 is some hydro facilities that are running
21 that are owned by the utilities that could
22 be upgraded to generate a little bit more
23 power, so you can get some of that back but
24 --

25 MS. MARKOWITZ: Let me just add in. A

1 lot of these hydro facilities were or hydro
2 dams were put in before the Clean Water Act.
3 Generational licensing. So when they are
4 relicensing or upgrading there is a whole
5 layer of Clean Water Act requirements that
6 really change the cost factors.

7 And so, you know, not only is the FERC
8 process really challenging, but to be
9 honest, the fact that we have a Clean Water
10 Act applying is another layer of complexity
11 which means that, you know, as you were
12 saying, you know, you look at 90, well in
13 reality are there really 90 that will pass
14 that kind of muster? I don't know.

15 MR. HOPKINS: Just senses of scale. So
16 if one wanted to use a biomass electric
17 generator akin to McNeil to generate one
18 chunk or, you know, one or more than one,
19 you would need about 139 megawatts, so it's
20 a little less than three McNeils. That
21 would -- state currently uses about one
22 and-a-half million tons of wood, woody
23 biomass for all purposes, for electric
24 generation and home heating, pellets, all of
25 that altogether now. This would be another

1 1.1 million on top of that. I leave it to
2 forest experts to say whether that can be
3 done sustainably and how, how you would do
4 it in order to do it sustainably. This is
5 where we get --

6 MS. SYMINGTON: That's if you're using
7 it all for electricity only.

8 MR. HOPKINS: Right. Right. So this is
9 where we get to say, well, what if you
10 actually were to use CHP with that biomass.

11 MR. COSTER: Just for context, I think
12 that the moderate projection for the
13 available low-grade wood is about 900,000
14 tons, so it's less than what would annually
15 be needed for that goal.

16 MR. HOPKINS: If you can use -- and this
17 is a pretty technologically aggressive
18 number, if you could use half of the waste
19 heat from a biomass generator for, you know,
20 to displace other heating, then you could
21 get to that same five percent chunk. It's
22 just that some of it is --

23 CHAIRMAN EASTMAN: Heat.

24 MR. HOPKINS: Heat and some of it's
25 electricity, but you're thinking energy at

1 large. With only about 90 megawatts worth
2 of plant and using about three quarters of a
3 million tons of wood per year.

4 So you get a sense of why people are
5 interested then in trying to make sure that
6 CHP gets its fair shake in the calculations
7 to make sure that we can really use -- you
8 know, you really can get that much more bang
9 for your cord of wood.

10 CHAIRMAN EASTMAN: So I have to ask. So
11 McNeil we are losing what 25 megawatts a
12 year right now? Of energy? Or however I do
13 that.

14 MR. HOPKINS: Yeah. But yeah, there is
15 a lot of --

16 MS. SYMINGTON: With electricity you
17 throw away three pieces of wood for every
18 four you take out of forest.

19 CHAIRMAN EASTMAN: I understand, but
20 right now we have got a plant that's
21 operating, and we have got stuff that's not
22 being used because they can't make an
23 agreement to use it. And to replace that, I
24 can't imagine what it would cost to build to
25 replace it, so I just can't see this is the

1 kind of thing that, you know -- my father
2 would be telling me turn off the lights or
3 turn off, you know, or lower the heat. That
4 we can't, you know --

5 MS. SYMINGTON: It's ridiculous.

6 CHAIRMAN EASTMAN: It's ridiculous. So
7 when they make us the divas --

8 MS. MCGINNIS: Or the equivalent of two
9 Georgias, you know, that's what you're not
10 using right now.

11 MS. SYMINGTON: You're throwing it away.

12 CHAIRMAN EASTMAN: You're throwing it
13 away.

14 MR. HOPKINS: For purposes of
15 comparison, at the end here I included two
16 other pieces. One would be what if you
17 wanted to generate five percent of all the
18 energy in the state with an efficient normal
19 gas combined-cycle plant which obviously
20 would not help the state meet its 90 percent
21 renewable goal, but just so you would know
22 what -- in effect what you would be avoiding
23 by doing these other things. It's about a
24 hundred megawatt plant. Base load plant,
25 combined cycle, reasonably efficient would

1 use five billion cubic feet of natural gas
2 per year. For reference VGS, Vermont Gas,
3 uses about eight and-a-half or nine billion
4 cubic feet. Obviously that will grow with
5 their expansion depending on the pace at
6 which that might proceed.

7 You know, one of the things you get with
8 that is nearly a third of a million tons of
9 CO2 emissions per year that you don't
10 necessarily get with any -- in the other
11 direction. So that is an indication of what
12 you're not doing when you go with the
13 renewable direction. If you were to be able
14 to --

15 DEAN MILHALY: Those -- that's a result
16 of direct emissions.

17 MR. HOPKINS: Yeah. That's direct
18 emissions.

19 MS. SYMINGTON: There is other emissions
20 too.

21 MR. HOPKINS: Right. Full life cycle
22 and, you know --

23 DEAN MILHALY: None of these are life
24 cycle.

25 MR. HOPKINS: I didn't try to put a CO2

1 number on the biomass piece. That's a whole
2 separate piece that's outside --

3 MR. JOHNSTONE: Right.

4 MR. HOPKINS: It's the subject of active
5 study and outside my particular areas of
6 expertise. If you were to be able to do CHP
7 on that natural gas combined cycle, you
8 know, it's efficient enough to begin with
9 that you don't gain as much by using the
10 waste heat. But you could get by with, you
11 know, an 80-megawatt plant and only a
12 quarter million tons of CO2 per year if you
13 were able to use the waste heat, combined
14 cycle plant, so it's already effectively
15 using its own waste heat a second time to
16 generate more electricity. And that's sort
17 of the heat that comes out the far end is
18 that much less.

19 And then to give an indication of why --
20 from a rhetorical sense -- why it's so easy
21 to just run a pipe to somewhere else. If
22 you just took the new HQ contract, the
23 utilities have a 16-hour-a-day contract and
24 made it back into a 24-hour-a-day contract.
25 I think it's 24 hours a day today. It's the

1 case of different contracts end and such,
2 but if you were to think about the 2016 and
3 on time frame bumping that contract back up
4 to 24 hours a day, that's four percent of
5 state energy use right there. So just
6 indication of why it has been so easy to
7 think that when your options are a slightly
8 fatter pipe to somewhere else or one of the
9 options on the top part of the sheet, it's
10 an indication of why that ends up being a
11 challenge.

12 MS. SYMINGTON: And then the other one
13 is you said we could do again, tell him to
14 go do it again.

15 MR. HOPKINS: Right.

16 MR. JOHNSTONE: Sure.

17 MR. HOPKINS: You know, there is a lot
18 of room for efficiency, particularly on the
19 thermal side and the transportation side. A
20 lot of it -- there is several wedges worth
21 of this that go just from vehicle efficiency
22 doubling, that's two or three of these, over
23 time; cutting home building, thermal heating
24 energy use in half, I think is one
25 and-a-half or two wedges.

1 CHAIRMAN EASTMAN: Each one of these is
2 five percent so we need 20.

3 MR. HOPKINS: We don't necessarily need
4 20. We are currently at 20 percent. 10 or
5 11 percent in-state plus Hydro-Quebec. That
6 gets us to about 20. The goal is 90 over
7 the next 30 something years, so you need 70.
8 So you need 14 of such things. You know,
9 and so the answer that I've come to in
10 thinking about this is you can't say, well,
11 we will only do X because there is not
12 enough of X, well except maybe importing.
13 But you know, there is efficiency,
14 efficiency, efficiency across all these
15 sectors. There is taking advantage of the
16 resources that we have in-state to the
17 extent that we can, and there is importing
18 stuff from elsewhere. And those are really
19 the options on the table.

20 MS. McCARREN: Just -- Hydro-Quebec
21 contract, does it allow for winter delivery?
22 Or is that just off-peak winter delivery?
23 Right? Because Hydro-Quebec uses most of
24 that electricity during the winter.

25 MR. HOPKINS: I believe that the

1 contract is a straight up 7 by 16, 12 months
2 a year deal.

3 MS. McCARREN: Okay.

4 MR. BODETT: So Asa, this five percent
5 chunk is like current efficiencies and all
6 that in terms of home heating.

7 MR. HOPKINS: Right.

8 MR. BODETT: Are there any projections
9 as this goes out to 2050 that one assumes
10 there is going to be more demand as Vermont
11 develops somewhat, and there would also be
12 more efficiency if Efficiency Vermont
13 continues and that gets better?

14 MR. HOPKINS: The projection on the
15 electrical piece, to concentrate on that
16 chunk of this, roughly speaking when we take
17 the forecast of growth and demand and the
18 forecast of how much the Public Service
19 Board has approved to spend on efficiency,
20 and you look at what, you know, any of the
21 given utilities what they forecast, they
22 forecast the same number of kilowatthour
23 sales in 2030 as they do today. Basically
24 keeping, you know --

25 CHAIRMAN EASTMAN: So if it grows --

1 MR. HOPKINS: Growth basically gets
2 matched by efficiency. You know, if you're
3 doing a particularly good job on efficiency,
4 you can have it decline slightly. If on the
5 other hand, electric vehicles, heat pumps,
6 other things take off more -- faster than
7 the forecasts would estimate, then maybe you
8 have it bending up, but then you're --

9 MR. BODETT: Would that affect this
10 number? Because if you convert -- this has
11 all been converted to megawatts which
12 includes home heating and fossil fuel
13 vehicles, transportation; correct?

14 MR. HOPKINS: Yeah. So I actually did
15 all this -- these are converted to
16 megawatts, but I did everything in BTU space
17 thinking about thermal load and how much
18 energy is in the raw gasoline and fuel oil,
19 and whatever things that's used at that end.
20 But yeah, any one of these things you could
21 think it's five percent today, but maybe if
22 we are lucky is seven or eight percent in
23 the future, if we are able to take the total
24 size of the pie and shrink it by enough,
25 that something that's five percent of the

1 state's total energy use today may be a six
2 and seven and then eight percent of the
3 total energy use as you go forward. That
4 requires being pretty aggressive on the
5 efficiency side.

6 MS. MCGINNIS: Does the underlying
7 assumption also have projection of how much
8 transition to electric vehicles there will
9 be?

10 MR. HOPKINS: This was just, you know,
11 to give a sense of scale for today. But
12 just to go another sense of scale, if you
13 transfer to -- transition basically all the
14 light-duty fleet to at least sort of short
15 day-to-day kind of driving, 40 miles a day
16 kind of driving to electricity, it would
17 take the state electric use up by about a
18 third. So but that -- obviously that
19 happens very gradually over the course of a
20 long period of time. And other things
21 happen along that trajectory that are harder
22 to project.

23 MR. JOHNSTONE: I think most folks think
24 in the mix electricity is going to grow.

25 MR. HOPKINS: Right.

1 MR. JOHNSTONE: And the other sources
2 are going to decline, whether it's
3 transportation or the technology coming on,
4 the heat pumps, electric heat pumps now is
5 coming fast and furious and getting pretty
6 good. And so I think most folks think that
7 we are actually going to electrify more of
8 our energy needs, not less. So my guess is
9 all of these numbers get bigger, the needs
10 get bigger, to get there on the electric
11 side.

12 MR. HOPKINS: Yeah. The overall energy
13 pie actually shrinks with that switch.

14 MR. JOHNSTONE: Right, but the electric
15 sector --

16 CHAIRMAN EASTMAN: The electric sector
17 within that, and even in absolute terms
18 likely grows, as we put more and more into
19 electric.

20 MS. McCAREN: Can I ask you a question
21 that's been troubling me, but it's really
22 kind of off the topic here. Electric cars
23 they don't produce any heat. Right? So how
24 do you -- if you're driving at eight degrees
25 this morning, how do you heat the car?

1 MR. HOPKINS: I don't know that great
2 details. That -- I've puzzled with that one
3 too.

4 MS. McCARREN: I was thinking of that
5 this morning.

6 MR. HOPKINS: Bringing the electricity
7 out of the batteries actually does create
8 heat. So whether someone has done a good
9 job of designing cold weather electric cars
10 to actually capture that heat and use it to
11 heat the passenger cabin --

12 MR. BODETT: The Volts, they have
13 heaters in them.

14 MR. JOHNSTONE: There is two sorts of
15 models out there. I don't think the
16 industry has decided. I think everyone
17 wants to end up with heating them, and some
18 of the manufacturers are thinking we are
19 going to have a very small fuel source,
20 separate fuel source just for the purpose of
21 heat to deal with the comfort of the car.
22 And I think from a practicable path forward
23 I think they are going to end up not wanting
24 to mix fuels and deal with two fuel systems
25 and everything that goes with that and

1 consolidate two in the electric source.

2 MR. HOPKINS: If you have a Volt or a
3 plug-in Prius or a car -- vehicle that does
4 actually have a plug-in hybrid that has a
5 gasoline source in it already, and is
6 actually a dual-fuel vehicle, they may well
7 be designed to use that for passenger heat.
8 But yeah, you know, all these car designers
9 live in California.

10 CHAIRMAN EASTMAN: There is some cold in
11 California.

12 MR. JOHNSTONE: One thing I will tell
13 you they are doing with most electric cars
14 coming out now though is because they
15 realized it takes longer for the car to heat
16 up, they put electric seats in all of them.
17 There is a way to make people to feel more
18 comfortable before the car warms up. It
19 seems like a luxury in most cars. Electric
20 cars they are putting in standard.

21 MR. HOPKINS: That's electric resistance
22 heat which we know is relatively inefficient
23 and will drain your battery. Somewhat off
24 topic.

25 CHAIRMAN EASTMAN: Incenting people to

1 buy --

2 MR. HOPKINS: I hope this general scale
3 is helpful. The thing to note in this, you
4 know, the efficiency and capacity factor of
5 technologies matter a lot. You know, we
6 need megawatt-wise one chunk is twice as
7 much solar as wind because you can -- well-
8 sited wind can capture a much larger, you
9 know, can run much closer to its full
10 capacity a larger fraction of the time.
11 It's not sunny overnight at all.

12 And so thinking about what -- some of
13 these have real implications. If you tried
14 to really do a whole wedge of one thing,
15 which might have to do for some of these,
16 the grid implications are not trivial either
17 in the sense of trying to think about what
18 does VELCO and ISO do in terms of managing
19 the grid when there is 500 megawatts of
20 solar that are -- a line of clouds comes
21 through and the whole generation mix on --

22 CHAIRMAN EASTMAN: Goes down.

23 MR. HOPKINS: So thinking about what
24 that means in terms of additional
25 infrastructure that may need to get built,

1 why, you know, more of a network of
2 transmission and distribution lines,
3 different capacitors, condensers,
4 transformers. You know, the system may need
5 to be built differently to handle some of
6 these than others. But it's all kind of
7 stuff that we are --

8 MR. BODETT: Will you be working those
9 kind of estimated costs into this report
10 you're giving to the legislature?

11 MR. HOPKINS: Depends on how far we can
12 get on whether -- how confident we feel
13 about being able to start attaching costs to
14 stuff. It would probably be a lot easier to
15 come up with a list of costs that we haven't
16 included, which is potentially savings that
17 we haven't included also.

18 So but the big picture for this
19 legislative study is really to focus on not
20 even necessarily like which kinds of
21 renewable electricity generation, because
22 that's actually a pretty, you know, that's
23 only one piece of this bigger puzzle.
24 That's more about thermal efficiency and
25 transportation demand management and

1 electrification of transportation and
2 biofuels. Big, you know, there is a lot of
3 big pieces and, by renewable electricity is
4 just one of those pieces. Obviously it's an
5 important one, but in terms of actually then
6 diving down into that and saying all right,
7 well within that renewable electricity mix,
8 you know, this particular mix of wind versus
9 solar versus hydro versus biomass is somehow
10 better than another, maybe waits for a next
11 level dive -- deeper dive, once we get a big
12 sense of big picture, how do you hit 90
13 percent across all, I think the limiting
14 thing really is the statutory 50 percent GHG
15 reductions by 2028, which is only 15 years
16 from now.

17 And that's a pretty sharp transition and
18 efficiency is going to have to play a pretty
19 big role into that.

20 MS. SYMINGTON: You seemed like you
21 could rattle off, I don't want to send you
22 off to do a lot of extra work, but it seemed
23 like you had examples, you know, that just
24 weren't here about your equivalent five
25 percent chunk in different efficiency

1 options. And that would be, I think, a
2 really useful -- I think it's always
3 important to include efficiency for
4 comparison purposes to remind ourselves that
5 it's like generation. And then you used --
6 just used -- sort of tossed away an
7 adjective which sort of does relate to our
8 work, which is if well sited, having to do
9 with wind.

10 MR. HOPKINS: Right.

11 MS. SYMINGTON: What did you mean by
12 that? Were you using the efficiency of --

13 MR. HOPKINS: I used a 30 percent
14 capacity factor.

15 MS. SYMINGTON: So the Kingdom Wind
16 equivalent.

17 MR. HOPKINS: Roughly.

18 MS. SYMINGTON: So mountain, ridgeline
19 wind.

20 MR. HOPKINS: Right. But small wind,
21 you know, I had this more than in there,
22 because as soon as you're not on top of a
23 very tall tower, and sort of in generic
24 siting, capacity factor would come way down.

25 MS. MCGINNIS: To around what? Sort of

1 what's the range of small wind capacity
2 factor?

3 MR. HOPKINS: Comparable to solar, in
4 the sort of 15 percent range. But someone
5 from Northern Power could probably give you
6 a better sense of what they are actually
7 seeing at that scale. And then, you know,
8 there is the little 10 KW, 3 KW household
9 size ones as well. I don't know what
10 typical capacity factors are there. But
11 they are definitely not the capacity factors
12 that you would see on the wide open plains
13 of southern Quebec or on the top of a ridge
14 in Vermont.

15 CHAIRMAN EASTMAN: So Asa, you talked
16 about how much we have gotten from the SPEED
17 program. You know, so far like five
18 percent, but what about -- how are all those
19 little net metering things going? I mean
20 are people getting out there and doing those
21 things? Is that going to --

22 MR. HOPKINS: For scale most of the net
23 metering is solar. So if you want to think
24 about looking at -- the number to compare
25 with is this 550, 600. There are 20

1 megawatts of net-metered solar.

2 CHAIRMAN EASTMAN: In Vermont right now.

3 MR. HOPKINS: In Vermont. So 1/30 of
4 one chunk.

5 MS. McCARREN: So existing 20 megawatts.

6 MR. HOPKINS: Existing 20 megawatts.
7 And rising at about five megawatts a year.

8 MS. MCGINNIS: By how many?

9 MR. HOPKINS: About five.

10 MS. McCARREN: Big.

11 CHAIRMAN EASTMAN: Yeah.

12 MR. HOPKINS: But it takes a long time
13 to get to hundreds.

14 CHAIRMAN EASTMAN: I know you said some
15 of this could be roofs, but any idea, I mean
16 I just look at public buildings, I look at
17 things like that, and I think what's the
18 capacity that we actually have to get some
19 low hanging fruit here?

20 MR. HOPKINS: I guess the question is
21 whether there are five square miles of
22 public buildings with flat roofs in Vermont.
23 I don't know.

24 MR. JOHNSTONE: I wouldn't even say
25 public buildings. If you think about all

1 the shopping complexes, that's what's
2 happening across the U.S., and every parking
3 garage. They are already places with the
4 impact.

5 MR. HOPKINS: I guess it's a question of
6 whether there is, you know, five plus miles
7 of such things.

8 MR. JOHNSTONE: Sure. I know the
9 answer, that it's not too tough in today's
10 world to get a picture of with GIS
11 technology. And then the question is what's
12 the rational win factor, w-i-n, no D, win
13 factor of getting deals to actually do it on
14 existing properties and other structural
15 permits. And there is all sorts of issues,
16 I understand that, but we could do a
17 projection on that.

18 CHAIRMAN EASTMAN: Yeah.

19 MR. BODETT: And greenhouse gas, this
20 statutory goal of 50 percent reduction, how
21 does that compare to the states around us
22 since we are all kind of living in the same
23 cloud here?

24 MR. HOPKINS: I'm not actually sure. I
25 know that the origins of that piece going

1 into the statute was that it was a set of
2 targets that the New England governors and
3 perhaps New England governors and Canadian
4 premiers had all signed on to as targets.

5 Now the question is to what extent
6 different folks are committed and actually
7 acting on that. Massachusetts Global
8 Warming Solutions Act, and you know, they
9 are charging ahead, and the RPS is a part of
10 that. But exactly what their particular
11 targets, particular dates are, I'm not sure.

12 CHAIRMAN EASTMAN: Louise.

13 MS. MCCARREN: I'm going to ask you a
14 question about RECs, but if the Chair says
15 to take it off line, I'm fine with that too.
16 I thought I understood how RECs worked, but
17 I'm now convinced I don't.

18 Can you give us a couple of paragraphs
19 of how it works in Vermont, in New England?
20 And if not, if I need to just take this off
21 line, Jan.

22 CHAIRMAN EASTMAN: No. I'd just rather
23 have it out there and get it done and then
24 it's here.

25 MR. BODETT: I would like to hear it

1 too.

2 CHAIRMAN EASTMAN: If it plays into what
3 we have to do, it does, it's here.

4 MR. HOPKINS: I'll try to give the REC
5 primer.

6 MS. McCARREN: Thank you.

7 MR. HOPKINS: As I understand it, so for
8 states that have renewable portfolio
9 standards --

10 CHAIRMAN EASTMAN: Which by the -- which
11 are all the other New England states.

12 MS. McCARREN: But not us.

13 CHAIRMAN EASTMAN: But not us.

14 MR. HOPKINS: New York does also, but
15 theirs is structured differently, so just
16 thinking about New England. The requirement
17 is on a utility. A utility serves say a
18 thousand megawatthours of electricity in a
19 given year. The requirement is that they
20 must -- say 20 percent of it has to be
21 renewable, so they have a requirement just
22 to prove that they had 20 -- 200
23 megawatthours worth of renewable
24 electricity.

25 They could have gotten that by directly

1 acquiring power coupled with its
2 renewableness from a wind farm or solar
3 facility or whatever, or there exist these
4 tradable commodities called RECs that are --
5 that someone could have -- you know, in
6 theory a merchant plant could develop to
7 build a solar farm or wind farm or whatever.
8 They are registered, they take their output,
9 and that output, you know, they can sell the
10 energy, and they can sell the capacity, and
11 they can sell the RECs that correspond to
12 that.

13 So people who have obligations go out
14 and buy RECs from folks. So in a --
15 particularly in the Vermont context, since
16 we don't have an RPS, each of the utilities
17 that acquires renewable electricity either
18 through PPA or through ownership PPA with
19 Sheffield, for example, or ownership of
20 Lowell or through the structure of the
21 standard offer program or BED, for example
22 is --

23 CHAIRMAN EASTMAN: Operating.

24 MR. HOPKINS: -- a large, you know, they
25 run McNeil, and you know, they get RECs from

1 each of the renewable megawatthours that get
2 generated there.

3 Essentially our utilities end up
4 basically being, you know, net suppliers of
5 this commodity in New England. And they
6 turn around and sell those certificates, the
7 rights to claim that power as renewable to
8 folks who have those obligations, whether
9 they are Massachusetts, Connecticut, New
10 Hampshire, Maine, Rhode Island utilities who
11 then keep hold of that, go to their
12 regulators and say, see, I have this, you
13 don't have to --

14 MR. BODETT: Do the generators then
15 still claim their power as renewable?

16 MR. HOPKINS: No.

17 MR. BODETT: They don't.

18 CHAIRMAN EASTMAN: You can't.

19 MR. HOPKINS: They are not supposed to.
20 If you listen carefully to the way that our
21 utilities commonly talk about their
22 generation, they will talk about how they --
23 like how they generate solar power, which
24 they do, but then they turn around and
25 actually sell the solar to somebody else,

1 and what they serve to their ratepayers here
2 in Vermont is undifferentiated generic power
3 after they have sold the renewable to
4 someone else.

5 MR. JOHNSTONE: There is always a work
6 around which lets you have the best of both
7 worlds which I personally think is kind of
8 intellectually dishonest, but it's done in
9 Vermont. So you create these RECs. They
10 can be worth as much as 40 or 50 bucks.

11 CHAIRMAN EASTMAN: Fifty bucks. That's
12 what the BED guy said.

13 MS. McCARREN: Per megawatthour.

14 MR. HOPKINS: Per megawatthour, which is
15 like four or five cents.

16 MR. JOHNSTONE: There is different
17 classes of RECs. You can create high-grade
18 RECs and sell them. And turn the dollars,
19 which actually the ratepayers love,
20 essentially you get the improvements made
21 for free, somebody else is really paying for
22 your improvements, and then you can buy
23 class 2 RECs for 50 cents.

24 MS. MCGINNIS: Which is what McNeil
25 does.

1 MR. HOPKINS: Or Burlington does.

2 MR. JOHNSTONE: Which allows you to
3 claim your energy sources are renewable
4 again. So there is a circular logic way to
5 claim that you're renewable. Frankly when I
6 was on the Electric Commission I argued
7 against that and said I would rather just
8 tell the public in Burlington that frankly
9 we have got a great deal for you. We are
10 going to get your Nox and Sox stuff put on
11 McNeil, and it's going to get paid for this
12 way, and for five years we can't claim the
13 renewable piece. It's still a good deal for
14 the ratepayers. Let's just tell them that.
15 I lost that argument, but that's okay.

16 MS. McCARREN: So if Vermont had an RPS
17 standard, then the distribution companies
18 could go buy RECs from Texas or North
19 Dakota.

20 MR. HOPKINS: Well usually the rules are
21 written the power -- it has to be possible
22 to have delivered the power to the customers
23 as well, so you can't have necessarily gone
24 too far afield.

25 MS. McCARREN: They are all on the

1 eastern interconnection in theory.

2 MR. HOPKINS: In theory.

3 MS. McCARREN: Well in fact --

4 MR. HOPKINS: Well in practice the way
5 that -- the generator in order to get
6 counted in the other states' RPSs has to be
7 registered in the NEPOOL GIS. So that, you
8 know, that's basically generated. They are
9 in New England plus some small amount of
10 imports from upstate New York or something.
11 You know, the chances that you're a wind
12 farm in Iowa and is going to register in the
13 NEPOOL GIS is -- so if there were an RPS in
14 Vermont, it might still happen that our
15 utilities have a lot more RECs than they are
16 required to have under a given RPS. They
17 might then turn around and they will sell
18 their excess, but they would be required to
19 retain some smaller fraction.

20 CHAIRMAN EASTMAN: They would be
21 required to maintain something which now
22 they are not.

23 MR. HOPKINS: Right.

24 MS. SMITH: I just have a clarifying
25 question. Isn't it true that the

1 legislative statute, whatever, allows for
2 the utilities to claim renewables to meet
3 the SPEED goals? So while they are selling
4 the RECs, they are still able to use those
5 -- that to meet the goals.

6 MR. HOPKINS: Yeah. The SPEED program
7 is structured, the way it's structured and
8 the way it's set up, in the legislature's
9 wisdom, is that if it started out as
10 renewable it gets to be claimed as SPEED.
11 Whether you retain the ability to call it
12 renewable or not.

13 MS. SMITH: So that's what some people
14 refer to as double dipping.

15 MR. HOPKINS: Depending on how you're
16 talking about it.

17 CHAIRMAN EASTMAN: Here's the other
18 thing. I guess that I don't know. So RECs
19 may be outside the purview.

20 The other thing is we have got goals
21 like this. Right? You're trying to meet
22 them. And we have to pay for them.

23 MR. HOPKINS: Right.

24 CHAIRMAN EASTMAN: And that's the issue.
25 I mean all these things, to encourage all

1 these things, have power -- rates that if
2 the ratepayers were paying the full freight
3 of that rate, we wouldn't be doing any of
4 these things at all.

5 And I know all the theory and all the
6 reality about subsidizing every source of
7 power that we have in this country, and what
8 happens, you know, through tax codes and
9 things like that. You know, but that's the
10 point here.

11 And so my concern is that when we
12 actually are successful, okay, we -- when
13 Vermont is actually successful, there will
14 come a time when the rates start to creep
15 up, and they will creep up, and you know,
16 what's going to happen then? But then, of
17 course, I'm a believer that our utility
18 costs are -- versus our cost of living are
19 really a small percentage based upon what
20 they were when I was growing up. So --

21 MR. HOPKINS: Electric rates in Vermont
22 have managed to stay basically flat in real
23 terms for more than a decade.

24 CHAIRMAN EASTMAN: Yeah.

25 MR. HOPKINS: And you know, yes. At

1 some point there will be potentially,
2 depending on how it plays out, real net
3 costs to acquiring power from these sources
4 and not selling RECs and retiring them
5 instead, well that's straight cash in effect
6 at this point. But that you are actually
7 getting something for your money.

8 It's a question of whether people feel
9 like that that's a cost that they are
10 willing to pay. Other things will happen
11 and shape rates over time. What we need to
12 do to reinforce the grid to maintain
13 reliability in the face of annual
14 hurricanes, or you know, these are all
15 things that will drive costs.

16 CHAIRMAN EASTMAN: I understand. We
17 will be paying for this. It's just are we
18 paying it in our rates, are we paying it in
19 a tax, in a fee? We will pay and at what
20 level.

21 MS. McCARREN: I might as well say it
22 because you've all heard me say this before
23 my theory is, and I was proven right in the
24 '80s on something like this. This is what
25 caused divestiture or reorganization rather

1 of the electric industry is that if you --
2 if the retail price stays significantly
3 above the production cost for a period of
4 time, the ability of a regulator or even a
5 government to force people to buy
6 electricity at a price that remains
7 substantially above the production cost is
8 really problematic.

9 CHAIRMAN EASTMAN: As we say, the issue
10 is what is the real production cost. And
11 that's --

12 MS. McCARREN: Understood.

13 CHAIRMAN EASTMAN: That is so convoluted
14 because it is what the real production cost
15 is with everything else, and so currently
16 some of the production costs aren't being
17 borne by a ratepayer. They are being borne
18 by us as a taxpayer. So -- I appreciate
19 that. We are going to take a break.

20 MR. JOHNSTONE: We also have to figure
21 out where and how the costs associated with
22 each choice are. Because when we do
23 distributed generation, we can ameliorate
24 some of the transmission costs which
25 everything I hear from utilities and folks

1 in positions like yours says, Asa, disagree,
2 feel free, is that most of the projected
3 rate increases that are coming at Vermonters
4 in the future years are coming from the
5 transmission cost upgrades throughout the
6 whole region. And if we continue to go from
7 far away sources, that only exacerbates the
8 problem long term and the need to do more of
9 that.

10 So there is an -- it gets more
11 complicated. As you think about these costs
12 you've got to include the whole system to
13 really, and I don't pretend to understand it
14 all, but you've got to include the whole
15 system.

16 MR. HOPKINS: My sense, just quick
17 response to that, is that but that's
18 overwhelmingly likely true starting from
19 where we are starting now. At this scale at
20 which distributed generation -- you know, if
21 this 500-odd megawatts really were scattered
22 across every --

23 CHAIRMAN EASTMAN: If we had a solar in
24 every town.

25 MR. HOPKINS: Right. At some point it

1 may well flip and start going the other way.
2 You end up having to do a lot of other work
3 on the grid in order to support that. But
4 the question is --

5 MR. JOHNSTONE: You've got to look at
6 the whole thing. That's the point.

7 MR. HOPKINS: Right. Starting from here
8 it's likely that distributed generation is
9 helping defer upgrades. Question is when
10 does it transition over. It may transition
11 over differently on a different circuit than
12 it does other places, recognizing at the
13 same time you've got electric vehicles, and
14 when are they charging, you've got heat
15 pumps, all these other different things show
16 up into the calculus sort of all happening
17 on top of each other. So it will be fun.

18 CHAIRMAN EASTMAN: Okay. Thanks.

19 MS. McCARREN: Thank you for letting me
20 ask that.

21 CHAIRMAN EASTMAN: We will start again
22 at 10:30.

23 (Recess.)

24 CHAIRMAN EASTMAN: I'll call us back to
25 order because we went later, but I know we

1 have got some time because we are not going
2 to have so much from ANR today on the
3 cumulative issues. We will have to save
4 that for another time.

5 Next up are aesthetics issues, and we
6 have Michael and David and Jean, and Jim
7 Palmer, right? Who is in Michael's office.
8 So let me just clarify what I think you have
9 been asked if you can help us by just making
10 brief presentations so that we can sort of
11 talk about this issue and get our arms
12 around it. I really do appreciate the stuff
13 in advance, I know we all do. We actually
14 read those things. So what are we saying,
15 are we saying five minutes for three people
16 or five minutes for four people? I mean
17 five minutes each for three people or five
18 minutes for four people, five times three.
19 Okay Michael, you go first.

20 MR. BUSCHER: So --

21 CHAIRMAN EASTMAN: I'm going to hold you
22 to the five minutes so we can have the
23 conversations. Thanks so much.

24 MR. BUSCHER: I can see the clock. So
25 I'm Michael Buscher, I'm a landscape

1 architect. I am the owner of T.J. Boyle
2 Associates. T.J. Boyle has worked with the
3 State of Vermont since the early '60s, a
4 little before my time at the office.

5 CHAIRMAN EASTMAN: Not before mine.

6 MS. McCARREN: Not before mine.

7 Careful.

8 CHAIRMAN EASTMAN: Sorry.

9 MR. BUSCHER: Working with the Public
10 Service Board from the siting of the Vernon
11 to Coolidge connector all the way through
12 the current projects today. Jim Palmer with
13 the office, he is part time at the office,
14 he's part time independent consultant. He's
15 a Professor Emeritus from ESF, is
16 nationally recognized for impact assessments
17 creating methodologies for the Army Corp.,
18 and other information that he could give you
19 more details on.

20 So siting in Vermont and some of our
21 assessment and overview. Visual impacts
22 assessed through the Quechee analysis. You
23 know, there tends to be some lack of clarity
24 with the Quechee analysis. Specifically
25 although the Board has weighed in on this a

1 little bit, but there is really not a clear
2 definition as to whether scenic impacts are
3 from private or public only. There has been
4 some language, and a lot of the Quechee is
5 sort of getting through, especially when
6 there is a new type of project before the
7 Board, is getting through a couple of
8 projects and then starting to rely on
9 precedence from Board decisions which I
10 would say is probably not the best way to do
11 things.

12 It would be nice to have a little bit
13 more clarity up front. There is definitely
14 some lack of definition to shocking and
15 offensive, and there is lack of definition
16 for what a typical viewer is. Those are all
17 things that are very subjective and has to
18 be argued for a varying degree on different
19 bases. Some of the things missing, and a
20 lot of this is through Jim and my
21 discussions, Jim does a lot of review for
22 State of Maine on projects that are proposed
23 up there. Some things that we can
24 concentrate on in Vermont is some decisions
25 at an executive level need to be made.

1 Global warming is real. Renewable energy
2 projects are necessary. They are going to
3 be visible, and people are going to get
4 upset about them. Providing some definition
5 on that review process would be helpful.
6 Unfortunately, to a certain degree people
7 can argue views from a dirt road that
8 accesses five residences has as much weight
9 as a nationally significant scenic site to a
10 certain degree.

11 So providing some weight or definition
12 whether or not the state moves forward and
13 says we need wind, providing definition on
14 the criteria and whether we are really
15 concentrating on state and national
16 recognized areas of importance would be very
17 important, and what the weighting of -- and
18 weighting of community-recognized areas at
19 scenic locations are important.

20 Viewshed. Vermont uses a 10-mile
21 viewshed for wind siting. My belief is this
22 should be more based on a methodology to try
23 to figure out a viewshed. If it's a
24 smaller, one-hundred kilowatt turbine, there
25 is no way there is going to be significant

1 impact 10 miles out. That seems to -- if
2 that's applied to a small turbine like that,
3 it seems to be an undue burden on the
4 applicant.

5 We have worked in visual acuity to try
6 to define where the limit of reasonable
7 effect would end. And we tend to use the
8 Snelling eye chart. And in Maine it's our
9 understanding that it was determined a
10 maximum cord length which sub tends at one
11 minute arc in a direction is somewhat the
12 limitation. That's how they came up with
13 the eight-mile viewshed radius up in Maine.
14 That tends to be a limitation on where
15 regional impact is determined. And that
16 according to the Snelling eye chart at 20/20
17 that's -- an object needs to sub tend at one
18 minute arc by five minute to be
19 recognizable, not to say it's not going to
20 be visible. To be visible according to
21 20/20 vision an object has to have a half
22 minute arc to be detectable in the
23 landscape.

24 But other things that are not
25 incorporated into Quechee is if there is an

1 impact, what's the effect of that. How does
2 that affect enjoyment of, the experience of,
3 the significant resource, and how does that
4 affect use of that resource. Or does it not
5 affect use of that resource at all.

6 A lot of that can be found through
7 surveys, and surveys done to date tend to
8 find that wind from a scenic impact is
9 usually much, much higher than you see on
10 other scales of items, if you would compare
11 it to solar, if you were to compare it to
12 biomass, just because of the visual
13 prominence of it.

14 But better guidance and better
15 predictability for developers in our opinion
16 would be something that should be a goal for
17 Vermont as it moves forward in putting
18 together guidance for energy siting
19 projects.

20 MS. VISSERING: Okay. Jean Vissering.
21 I think I sent my resume so I'm not going to
22 go into my background. But I want to talk a
23 little more generally, first of all some
24 terminology. And both of these I think are
25 important, there is some talk, I sort of

1 read through your little preliminary
2 findings, the difference between siting
3 guidelines and best practice guidelines.
4 And I think there is a really important
5 difference, siting is where you put the
6 project. And that gets into the fundamental
7 question, is this a good site, or let's say
8 a wind or a solar project. And that I think
9 is a level that needs some clarity.

10 Best practice guidelines are those
11 things, and they could apply to the kinds of
12 things that Mike was talking about. They
13 can apply to public involvement, they can
14 apply to the application standards, the
15 assessment standards, they can apply to
16 project mitigation, the kind of things that
17 involve things like setbacks, lighting,
18 noise, those kinds of things, that are
19 somewhat out there, I think, you know, we
20 are getting case history with most of these
21 and beginning to build those things up, but
22 they are not written down anywhere. I think
23 they would be very fairly easy to come up
24 with.

25 They could also involve construction

1 standards. So just sort of looking at those
2 two things from the aesthetics point of
3 view, the siting is more complicated
4 obviously. And it is something that is a
5 kind of planning level, and I wanted to
6 distinguish between planning. Public
7 Service Board reacts to a particular case,
8 it does not do planning. And planning has
9 to happen separate from the person who is
10 making the decision, who is part of the
11 approval process obviously, so I assume is
12 the department, as the planning
13 representative of the public.

14 And so a couple of processes that have
15 happened in the past that could serve as
16 models for kind of -- sort of -- and when we
17 talk about siting, you had mentioned the
18 idea of zoning. I think zoning has worked
19 in Maine for particular characteristics of
20 Maine and also kind of the resources they
21 have, but I don't think it's going to work
22 in Vermont. I think to go to more a set of
23 sort of perhaps performance criteria, and
24 that -- but we might be able to identify the
25 kinds of things that would trigger a red

1 flag, that doesn't mean that you don't site
2 a project there. But it means that this
3 might be an area where you're going to have
4 to really prove your case. For example, I
5 think of the Green Mountain ridgeline or
6 something, something like that for wind
7 projects, because of the Long Trail. So you
8 know, that's obviously an area that would
9 raise some red flags.

10 And certain, for example, highly valued
11 natural areas would be another highly, what
12 I would call a very high sensitivity level
13 that would sort of say, okay, it may be
14 appropriate here, and with aesthetics one of
15 the things is that you don't know until
16 you're on the ground what the impact -- you
17 cannot map it. You really have no idea how
18 visible the project is going to be and how
19 it's going to be experienced until you're
20 there on the ground.

21 So but nevertheless I think there are
22 things that we could identify that are going
23 to raise some red flags. Back in 2002, the
24 department sponsored a meeting with various
25 stakeholders where we kind of discussed, at

1 that point it was a little more general, but
2 came up with some general considerations
3 which are now quite outdated. But that kind
4 of process that involves people who are -- I
5 mean obviously you have to have siting
6 standards that would -- ANR is kind of going
7 through its own sort of process, I think,
8 but for aesthetics it definitely could, I
9 think, in -- I think David and I did a
10 similar thing at the Agency of Natural
11 Resources at one point where they were
12 trying to identify the kinds of projects
13 they were going to become involved with
14 after that -- they never came up with any.
15 But nevertheless there were a set of
16 criteria that we felt which would trigger
17 the kind of response that -- where there
18 would be concerns.

19 And I think a similar kind of process
20 could happen with the best practice
21 standards. Those are out there. So the
22 planning level versus the regulatory level
23 generally.

24 MS. McCARREN: Can I ask you a question?
25 Sorry, about what you said about zoning.

1 One of the things that we heard about New
2 Hampshire was that below a certain
3 threshold, and I believe it was 30
4 megawatts, it's actually -- the siting is
5 actually done at a local level. And that
6 was very interesting to me, and I just want
7 to make sure I understood what you said
8 about zoning.

9 What would be your view if a town looked
10 at the topic and had thought through zoning
11 industrial applications? I mean -- I want
12 to make sure I understand what you're
13 saying.

14 MS. VISSERING: No, when I was talking
15 about zoning I was thinking in Maine they
16 identified areas which were --

17 MS. McCARREN: On a statewide basis.

18 MR. RAPHAEL: You mean expedited wind
19 areas.

20 MS. VISSERING: Expedited wind areas.
21 It doesn't mean they can't be located
22 somewhere else. It's going to be much more
23 difficult.

24 MS. McCARREN: Got it.

25 MS. VISSERING: And in New Hampshire the

1 local process -- my time is pretty much up,
2 but the local process, I think, is very
3 difficult for energy siting for a whole
4 bunch of reasons. These are projects that
5 people don't want necessarily in their
6 backyard. But I think there has to be some
7 mechanisms for local, much better mechanisms
8 for local and regional involvement, for
9 example, really providing assistance to
10 towns and regions to help identify the sites
11 and the rationale for places where the
12 projects are appropriate or not appropriate
13 and why.

14 Okay. There is much more I could say,
15 but I'll let David go.

16 CHAIRMAN EASTMAN: We are going to be
17 asking you a lot about it. David.

18 MR. RAPHAEL: Sure. I better take my
19 watch off, make sure I can do this in 5
20 minutes. You've got to understand, I'm the
21 kind of person who lies awake at night
22 thinking about those things. I have been
23 involved with this actually since graduate
24 school and the incipience of GIS, and I was
25 asked to locate as part of a team,

1 transmission line through eastern
2 Massachusetts in the late '70s. And since
3 that, for some of you who don't know me, I
4 was involved on behalf of the Department of
5 Public Service in the first wind energy
6 project at Searsburg. Have worked on
7 transmission lines, biomass projects, solar
8 projects, wind projects, in New York,
9 Vermont, New Hampshire, Maine,
10 Massachusetts, so this is something, you
11 know, I spend a lot of time thinking about.

12 And I guess I want to summarize it with
13 three key points that have always resonated
14 with me. One is, you know, the importance
15 of planning. Number two, is seeking the
16 truth. And number three is making the
17 choices that we have to make. And I want to
18 start with I happen to have been fortunate
19 to take a course in graduate school with a
20 gentleman by the name of JB Jackson. His
21 heir is a gentleman by the name of John
22 Stilgo (phoenetic) who is a landscape
23 theorist and historian who wrote many
24 wonderful books, he said and I quote:
25 During the next three decades the American's

1 vernacular landscape will change and change,
2 again ceaselessly reflecting the
3 unprecedented technology, so it's not a
4 question of if, but where and what in terms
5 of the changes that we face. And I think as
6 Vermonters, it's very difficult for us to
7 assimilate change, and I think that's part
8 of the issue we are facing. It's more of an
9 emotional and political issue. I don't know
10 if that's ever going to go away. I don't
11 know if this Commission or anybody can solve
12 that.

13 Fifteen or 20 years ago we were fighting
14 about shopping malls and ski areas. 10
15 years ago it was cell towers. Now it's wind
16 energy and solar energy. So time marches
17 on, and the challenges still remain.

18 I would also say unequivocally that
19 while I have incredible sympathy, and I know
20 that people are impacted by energy
21 development, you know, the notion of zoning
22 and towns having complete control over the
23 review and approval of projects, I don't
24 think is a -- I think is a non starter.
25 Because nine out of 10 towns would choose

1 not to have a cell tower, have a grid scale
2 wind project. Clearly in places like
3 Charlotte there is divided opinions, and
4 very strong on each side, of even a small
5 scale or reasonably scaled solar project.

6 So I think it needs to stay with the PSB
7 and, yes, as Michael has suggested, and Jean
8 also, you know, we need to make changes.

9 So in terms of some of the issues, I
10 think, and key considerations again, I think
11 planning is absolutely critical. And that
12 quote is taken from a presentation I've now
13 made in a number of communities and before
14 the Northern New England Chapter of the
15 American Planning Association about energy
16 aesthetics and community character. And I
17 will definitely send you this presentation,
18 and really the gist of this is to basically
19 get people talking and, you know, discussing
20 the process. And also understanding the
21 pros and cons and what we mean by a visual
22 simulation and how aesthetic experts or
23 communities go about understanding and
24 planning for the future and protecting those
25 things they hold dear. So I think planning

1 is very, very important.

2 I do think having just briefly looked at
3 some of the recommendations that the
4 Commission is considering, that a very good
5 place for that planning is with the Regional
6 Planning Commissions, and I think that they
7 can step up to the plate and take a very
8 important role in this process. And they
9 can help facilitate the large-scale
10 landscape planning using mapping and other
11 criteria.

12 I mean the state -- ANR has now come out
13 with biodiversity mapping. We have scenic
14 mapping on a town-by-town basis. I think
15 those things can be integrated and combined
16 to create places maybe where we can accept
17 and accommodate large scale projects,
18 whether it's wind, whether it's biomass,
19 whether it's even solar.

20 I do think, however, that the
21 likelihood, you know, the notion of
22 moratorium I don't think is useful at this
23 point. John Zimmerman may have a different
24 opinion, but I would wager to say there
25 aren't a whole lot of developers lining up

1 right now to start new wind projects for
2 Vermont. And I base that on my experience
3 and understanding of the challenges that
4 those folks face, not the least of which,
5 you know, the long drawn out process, which
6 you know, in fairness to the communities
7 needs to happen in order for neighbors,
8 property owners, communities to get their
9 hands around these projects.

10 In terms of other kinds of planning
11 issues, you know, I really do believe we
12 have to work a lot more on the mitigation
13 measures that we consider and how those
14 work. And in terms of the truth, seeking
15 the truth, you know, one of the biggest
16 issues I feel in this dialogue whether it's
17 somebody saying, you know, solar panels, you
18 know, what are the health impacts to me,
19 what are the property impacts to me, and the
20 same for wind. We need to really have an
21 objective non-partisan unbiased authority
22 establish the truth on does this affect
23 property values, does this impact tourism.

24 I mean thus far the verdict is out, but
25 it certainly says that wind projects aren't

1 forcing people not to recreate, you know,
2 aren't affecting tourism to any great
3 degree, but it may be too soon to really
4 determine that. All I know is that this
5 last summer my son went to a world heritage
6 site in Spain that was highly popular and
7 filled with people and right above that
8 world heritage site was a huge wind farm.
9 So clearly in Europe they have gotten their
10 arms around it.

11 Again, I think that has to do with this
12 notion of change. As a faculty member at
13 UVM I know that my students who I query
14 every year don't have the kind of problems
15 that some of the older folks and the
16 babyboomers like myself who have been here
17 in Vermont most of our lives have with
18 change. That's very difficult for us to
19 accommodate, but not so for them.

20 I think in terms of a mitigation piece,
21 the more again we can educate people about
22 the benefits and what these projects mean,
23 the better, with interpretation, education,
24 programs, I think the notion, for example,
25 that Green Mountain Power facilitated with

1 Lowell Mountain and Kingdom Community of
2 good neighbor funds, of conservation set
3 asides, have to continue. I think maybe we
4 need to take an approach like we do with
5 Burlington airport. And actually consider
6 having to buy properties that are directly
7 and substantially impacted by noise while at
8 the same time looking to ways in which to
9 better mitigate noise, not only from an
10 engineering perspective, but from a
11 landscape perspective.

12 I think maybe there are ways to start to
13 really look at how we limit the footprints
14 of, you know, mountaintop developments or
15 ridgetop developments and how that can be
16 done from a landscape perspective. And
17 perhaps the decommissioning funds really
18 need to be more specific. I mean I know
19 that probably -- I'm almost done, probably
20 we will be living with Vermont Yankee for
21 the next, you know, generations and
22 generations to come. That plant I don't
23 think will ever be, you know, will ever
24 leave the landscape.

25 At any rate, I'm bringing to closure,

1 you know, again seeking the truth, good
2 planning. One of the things I'm trying to
3 do with communities around the state is
4 developing plans like this so that they can
5 better anticipate utility development and
6 change this, and have the specific standards
7 in their town plans to better participate in
8 PSB and Act 250 processes, and finally the
9 choice. As I said at the outset, you know,
10 I don't think we have that choice. I think
11 it's a question as we have heard earlier
12 today of trying to site, locate, consider
13 all these different energy sources in our
14 state.

15 I love what the Governor said. I feel
16 we have been living a lie for most of our
17 lives because we are getting coal-powered
18 energy from elsewhere. We need to look at
19 these things. We need to understand the
20 consequences of our lifestyle and accept
21 that and accommodate that for better or for
22 worse.

23 Thank you. I'll submit my comments and
24 more detailed recommendations to you.

25 CHAIRMAN EASTMAN: Well actually I would

1 love -- I know you can't do it -- having you
2 guys send in the detailed recommendations,
3 the things that you're talking about about
4 best practices. Are there some things
5 relative to siting that should be written
6 down on some of these issues that aren't
7 written down at this point?

8 MR. RAPHAEL: I think so. Absolutely.

9 CHAIRMAN EASTMAN: Some of the stuff
10 that you've all learned, should we just have
11 a little bit more of that on some of these
12 things?

13 MR. RAPHAEL: I think one example, this
14 is not necessarily a best practice, but it's
15 a process and a procedure, is for all of us
16 to accept a standard methodology for
17 assessing visual and community impacts,
18 because I think most of us around the table
19 can agree with this processes, instead of
20 people criticizing methodologies and
21 quibbling about the techniques, let's
22 establish those as best practices, and then
23 move on to really the fit. Does this fit
24 here, does it belong. And what are the
25 impacts.

1 MR. BODETT: I have a question. You
2 mentioned the seeking the truth. And it's
3 one of the things that's struck me the most
4 since I've become involved with this, is
5 everyone seems to have their own facts. And
6 we have talked in our -- some of our options
7 is having basically approved technical
8 experts that might be available to
9 interveners and applicants. I don't know if
10 that's a way to go or not, but what I'm -- I
11 guess what I'm asking is, this is all data
12 base. I mean there is a truth, does it
13 affect property values or not? There is a
14 lot of wind all around the world. Does it?
15 And where is that data, and where can we
16 find peer-reviewed data that everyone can
17 accept?

18 MR. RAPHAEL: Well I think some of that
19 is out there. Some of it's in process. I
20 think Jim will tell you that he's working
21 diligently to try and further understand
22 how, you know, the data, the data drives our
23 decision-making process. I will say with
24 all due respect to Jim, he knows this is my
25 opinion, that all the data in the world is

1 incredibly valuable, but ultimately, you
2 know, as a professional, my judgment and my
3 experience and I think those are the folks
4 who are either going to be impacted or
5 approve this project inevitably weigh into
6 the decision-making process. That's why the
7 more information that is unbiased that we
8 have before us the better it is.

9 We joke about maybe it's like that
10 statement of pornography, the more you know,
11 you know it when you see it, and it may be
12 that an undue or an unreasonable impact is
13 such that you know it when you see it. But
14 --

15 MR. BODETT: Jim, what are your
16 thoughts?

17 MR. PALMER: About what?

18 MR. BODETT: What is the truth, sir?

19 MR. RAPHAEL: Enlighten us Jim, please.

20 (Laughter.)

21 MR. PALMER: Well as David's comment
22 suggested I'm much more on the data side,
23 and the data analysis side. And the reason
24 there isn't information about property
25 values, affected property values, is because

1 nobody has done the study. It takes money
2 to do the study. So it's just a matter of
3 going out and finding those things.

4 We are -- the data David is particularly
5 talking about is in Maine. They are doing
6 intercept studies of people recreating and
7 then they are evaluating simulations to
8 understand that effect. It's pretty clear
9 that the ratings people give are different
10 when they are actually on-site, engaged in
11 hiking Appalachian trail or paddling on a
12 lake than three months later when they are
13 at home, and recreation researchers have
14 known this for years, for decades, since I
15 did my graduate work on the Appalachian
16 trail.

17 So I mean the procedures would need to
18 change, need to ask people engaged in an
19 activity how it's going to affect them.
20 Understanding that that's the user group
21 that you're interested in. You need to ask
22 neighbors how it's going to affect them,
23 understanding that they are a different
24 group, that they are a special group. And
25 then these decision -- as decision makers

1 you have to decide how to weigh those
2 different groups. And why. And why you're
3 doing that. Make that clear to people.

4 Very quickly, the things that are really
5 strong about the procedure in Maine are that
6 they identified the places that can be
7 scenically impacted. Somebody's backyard
8 some found resource will never pop up or
9 very rarely, it's almost impossible. So a
10 developer up front knows whether they should
11 be investing a million dollars in
12 preliminary studies because they can go
13 look. They can say; we are not supposed to
14 be next to this national park kind of place.
15 Those places are all listed by statute.

16 So we don't have those lists. So one of
17 the things I would say is we should start
18 developing those lists. That's what a good,
19 you know, planning office of Act 250 had it
20 really been fully implemented would have
21 done for us. We would know those places.

22 And then the next thing would be that we
23 need to more clearly articulate the
24 standards that we use to identify whether
25 something is unduly adverse or not, whether

1 it's just adverse, and that's a procedure
2 that David -- I mean all three of us use a
3 very -- four of us, but very similar
4 procedure, it comes really down to some
5 thresholds for us. But there is other
6 people that don't. And that procedure may
7 not be comfortable to particularly a lot of
8 neighbors because it doesn't always come out
9 in their favor. Typically it doesn't.
10 Those two things are really were very
11 important in Maine.

12 MR. RAPHAEL: Can I just make one quick
13 comment?

14 CHAIRMAN EASTMAN: Can you wait just a
15 second? I think Jean had something she
16 wanted to say.

17 MS. VISSERING: I just wanted to mention
18 that one of the things that Jim did with the
19 Searsburg project, I think you're probably
20 all aware of it, it is a post-construction
21 study on people's attitudes. And when I was
22 looking in your list of things and there
23 were sort of post-construction monitoring,
24 but that's different.

25 One of the things we need to be able to

1 do is learn from the projects that we build
2 and what are the real reactions that we get.
3 And that kind of study is in a way probably
4 more useful to find out what really -- how
5 it's really affecting people after the fact.
6 I mean that does obviously take some money.
7 But that was done. It was sent out through
8 the ratepayers' bills so everybody in that
9 area received a copy of the survey. And I
10 don't know what the return was. But that's
11 -- so that's one thing. And --

12 MS. MCGINNIS: Excuse me just quickly.
13 How long after construction was it sent out?

14 MR. PALMER: It was a year. There was a
15 study before construction started. And then
16 just after operation and VERA actually was
17 the conduit for that study. I was a
18 subcontractor to them.

19 CHAIRMAN EASTMAN: You had another
20 thought.

21 MS. VISSERING: Well this is just kind
22 of a little aside from the topic. But I
23 wasn't sure if I understood in here there
24 was some recommendation of having sort of
25 experts available to people. One of the

1 things I just want to point out is that as
2 an aesthetic expert, I'm not an advocate for
3 people. I make it -- I look at a site and I
4 decide these are the impacts. And it's
5 going to be -- so I cannot -- as an expert
6 obviously I can't advocate for people.

7 So you know, an advocate has to take a
8 slightly different role. It would have to
9 be somebody who is more like legal -- a
10 legal advocate. And of course there are
11 people who do have, you know, probably a
12 different -- would come out -- obviously
13 would come out with different conclusions,
14 all of us on the projects. So it does not
15 necessarily mean that there wouldn't be
16 somebody available, and it would be nice to
17 have a larger group of people available than
18 the four of us who are most of the usual,
19 what you call the usual suspects, I guess.

20 And I think there are some people coming
21 up through the ranks, but having those
22 standards for, you know, how to do a
23 legitimate assessment would be good. Not
24 that we will all come out with the same
25 conclusions, but we have to defend our

1 conclusions, which is good.

2 CHAIRMAN EASTMAN: So there was the
3 conversation about planning, I mean, from a
4 few of you. And we did -- we had some
5 thought into the fact that you've got a set
6 of goals here and a plan, a Department plan
7 that still has goals, and then you've got an
8 applicant -- then you've got, you know, a
9 siting, you know, then you've got a
10 regulatory process for a particular site.

11 And so one of the things that we had
12 talked about a little bit is actually put
13 some more effort perhaps maybe into the
14 regional planning, you know, process. Do it
15 at that level as opposed to the state level
16 and not -- I agree the municipal level, but
17 do that kind of work so that some of those,
18 and I don't know, Jim, it seems like some of
19 the things you were talking about might be
20 identified as part of that kind of process.

21 MR. PALMER: But you would want to have
22 consistency across the state.

23 MR. RAPHAEL: Another point, you might
24 be interested to know that the Regional
25 Planning Commissions right now are getting

1 together to try and facilitate consistency
2 from region to region among their plans and
3 specifically trying to address how their
4 plans live and breathe within the Act 250
5 and Section 248 process. So they are really
6 trying to address that issue, and I think
7 the region is the best place to do that.

8 MR. JOHNSTONE: One other thing you
9 thought might be necessary, I'm interested
10 in your reaction to this since we are part
11 of a region and have a need to have energy
12 on a statewide basis, that actually the
13 rigor that the regions would have to meet is
14 an even higher test in consistency. We have
15 got to keep the lights on, so you can't just
16 opt out.

17 MR. RAPHAEL: Right.

18 MR. JOHNSTONE: So there would be a role
19 for the Department in this or somebody like
20 the Department. I don't think we have
21 gotten all the way there, of you know, this
22 is where the increased needs are, this is
23 the types, you know, and so within the kind
24 of constraints of a box that get created,
25 and hand it to them, you can now do a really

1 good public engagement process of what is
2 acceptable in the region and how do you
3 bring that forward. And perhaps it has some
4 standing.

5 MR. RAPHAEL: With the caveat that
6 informs the historic zoning decision in Mt.
7 Laurel which said every community has to
8 take its fair share of housing in their
9 community. So community or region may have
10 to take its fair share of energy development
11 in order to keep the lights on as you say.

12 MR. BUSCHER: It would be a complete
13 reversal to what regional plans have today,
14 which are pretty much encouragement for the
15 local communities to go ahead and do this.
16 If you look at the Chittenden County
17 Regional Planning, there is almost no
18 reference to scenic or aesthetic impacts in
19 that entire plan. It vaguely references
20 them mainly upon forestry practices and
21 water quality. But otherwise, there is
22 nothing. So there is a huge change in the
23 way that the regional plans are drafted.

24 MS. VISSERING: It would be a change,
25 but one of the reasons that it would make

1 sense is a lot of these projects, less so
2 solar, but although solar has a kind of
3 collective kind of potential for, you know,
4 certainly needing to be addressed, but it's
5 much simpler than like wind energy clearly
6 is regional in its impacts. And so it
7 really does need to be sort of something
8 that is looked down at at that scale.

9 And some of the resources that -- the
10 natural resources are ones that are
11 relevant, I mean looking at wildlife
12 corridors, unfragmented habitat that extends
13 beyond town boundaries. So that would make
14 some sense.

15 CHAIRMAN EASTMAN: Gaye, you had --

16 MS. SYMINGTON: I wondered if Asa could
17 talk to that or think about it and come back
18 to us. But I'm curious how that,
19 relationship, you know, so it took us a year
20 to get a CEP, and now we are talking about
21 breaking that CEP, Comprehensive Energy
22 Plan, down by region. That isn't going to
23 be by edict either. That's going to be by
24 some kind of consensus process, so I guess I
25 would like to --

1 CHAIRMAN EASTMAN: Can I say --

2 MS. SYMINGTON: I'm forever struggling
3 -- this is a learning disability on my part
4 which is coming very much to the fore in
5 this Commission in the context, because I
6 understand big things from the granularity,
7 and so I'm having a really hard time until
8 we get -- without talking about how would
9 this work, I'm having a hard time feeling
10 like it's real. And so --

11 CHAIRMAN EASTMAN: Here's my concern.
12 And I don't know if this will help you or
13 not. But it is the fact that you have a
14 policy, you know, adopted by the
15 legislature. And you have a plan that has
16 policies in it, and then you go from there
17 to an actual site to a project. Thank you.
18 That was the word I was looking for. And
19 what should be in between.

20 And a lot of states do things in between
21 public processes, a lot of states like New
22 York has a public engagement process, but
23 again before a project kind of thing. And
24 so it is -- that is in Vermont we have had
25 regional planning for a number of years.

1 Regional plans are not all equal. But there
2 are some that have done an incredible job
3 around energy planning where they saw it
4 coming or have had more, you know, have had
5 more impacts. And we did exactly the Mt.
6 Laurel case in Vermont relative to
7 affordable housing, right? Back in the
8 '90s.

9 MR. RAPHAEL: Absolutely.

10 CHAIRMAN EASTMAN: We said there was an
11 affordable housing need, and we divided it
12 up, and we did it through our regions, and
13 when we needed to do transportation planning
14 in the State of Vermont and there was
15 federal money available, we put it out and
16 we did it at the regional level.

17 So it's not that things necessarily have
18 to wait, it's that some plans will be in
19 better shape than others. It's not about
20 saying no, but it is about thinking about
21 are there any of these issues that should be
22 discussed when it's in a planning stage
23 versus a project stage. How to make a
24 process that people can engage in and know
25 that something is happening.

1 You know, we heard from some communities
2 we know so late about something. Well this
3 would mean that they would have to be able
4 to participate someplace, maybe to have a
5 little bit more, you know, earlier on -- I'm
6 thinking. Now yeah, it would mean that, you
7 know, I've thought about this, that, you
8 know, utility companies or people who are
9 playing might even have to participate or
10 provide some, you know, information out.

11 Well you look at what the transmission
12 process is that VELCO does. They are out
13 going to every Regional Planning Commission
14 using that structure as a way to get out to
15 the public. So it's just I don't know
16 exactly, you know, how, but I think at least
17 it's not made up totally out of the air.
18 It's something that we might be able to
19 visualize.

20 MR. RAPHAEL: I think Vermonters are
21 committed to planning, and I think just as
22 you said, with this issue being so topical
23 right now and on everybody's radar, I think
24 there is an opportunity to bring people
25 together and really try to do some heavy

1 lifting around this with some information in
2 front of them and with the participation of
3 all different parties. Folks who, you know,
4 are dead set against seeing ridgeline wind
5 or people who think it's beautiful. You
6 know, folks who want large-scale solar or
7 not, those kind of things.

8 MR. BUSCHER: There needs to be
9 standards and guidelines. You see certain
10 communities right now that are completely
11 opposed to something going out and just
12 changing their town plan.

13 MR. RAPHAEL: Reactionary.

14 MR. BUSCHER: Reactionary in a very
15 negative manner. And I think that's the
16 wrong way to go.

17 MS. McCARREN: I really have to push
18 back a little bit with you guys on that. I
19 just would say as a sort of a straw, we
20 would certainly not say to a community you
21 can't zone an industrial application,
22 whether it's a meat rendering plant or
23 whatever. And we would not say that to a
24 community, you are forbidden to zone a
25 commercial, industrial applications.

1 So I'm a little confused why we would
2 say to a community you are forbidden to zone
3 an industrial application of energy.

4 MR. RAPHAEL: Well can I throw that
5 right back at you; why did we say to
6 communities that you are forbidden to zone
7 out cell towers?

8 MS. McCARREN: I will tell you why.
9 That's different. Cell towers are an
10 integrated network. You can't have a hole
11 in your --

12 MR. RAPHAEL: Couldn't you say the same
13 thing about energy supply and distribution?

14 MS. McCARREN: No, you can't.

15 MS. MARKOWITZ: We should pull up the
16 statute. There is actually a whole list of
17 things.

18 CHAIRMAN EASTMAN: It's already in
19 there; isn't it?

20 MS. MARKOWITZ: That states -- towns
21 can't zone for. Except insofar as their
22 regulating setbacks.

23 MS. SYMINGTON: When you say that, you
24 mean they can't exclude it?

25 MS. MARKOWITZ: They can't exclude it.

1 That's right. You can't exclude it, which
2 is I think what you're getting at.

3 MS. McCARREN: What I'm saying, I'm just
4 confused on the notion that if the town
5 wanted to zone an industrial application you
6 could get your long list of what you think
7 that industrial application might be. And
8 say, all right, here's the area where we
9 encourage and support industrial
10 applications. And again I'm -- really
11 whether it's a manufacturing plant or
12 whatever, or a distributed generation, I
13 don't understand why that is not a good
14 result. Because I'm just trying to
15 understand from you guys why you think
16 that's a bad idea.

17 MR. BUSCHER: My response to that which
18 goes a little bit outside of reviewing
19 scenic impact, is the state recognizes we
20 need so much renewable energy in the state
21 produced locally. And to say we have so
22 much amount required and then allow certain
23 towns to say, yeah, we need that, but we
24 don't want it here. That puts undue burden
25 on the remaining towns.

1 MS. McCARREN: Let me just say that if
2 -- if it's -- I understand the wind issue,
3 because you can't put wind everywhere, well
4 you could, but it's not very effective. But
5 the -- let's take solar as an example, which
6 is the one I'm really chewing over and
7 trying to understand what you guys are
8 saying.

9 There are probably many, many, many
10 solar sites in this state. I'm going to use
11 that as opposed to wind. So if you broke it
12 down and said in solar -- I don't understand
13 why we wouldn't say to a town sure, you, you
14 know, you're going to zone for industrial
15 use or commercial use or whatever, every
16 town probably has four, five, six sites for
17 solar that are adequate. Because I'm not
18 buying what you guys are saying. And I'm --
19 just so I'm trying to understand -- I want
20 to understand why I'm wrong.

21 MS. SYMINGTON: My problem is I don't
22 understand what you're not buying. I
23 understand -- I'm lost.

24 MS. McCARREN: Then our boss here will
25 tell us to be quiet.

1 MS. SYMINGTON: I don't understand what
2 the issue is.

3 CHAIRMAN EASTMAN: The issue is just is
4 a municipality able to through their plan or
5 their zoning say no to something.

6 MS. McCARREN: No, no. Not say no. Say
7 we are going to treat a few solar as an
8 industrial use, and here's where we as a
9 town have put industrial uses.

10 CHAIRMAN EASTMAN: Well fine.

11 MS. MARKOWITZ: Okay. So it seems to me
12 that they probably can do that. Just
13 putting on my old hat. And so you can
14 define -- so I can go in and find the
15 definition of the industrial use if they
16 have one. But let me give you the bigger
17 sense, because I know we have talked around
18 this a little in 24 V.S.A. section 4413.

19 MS. McCARREN: Let me write that down.

20 MS. MARKOWITZ: 24 V.S.A. 4413. And
21 I'll give you another statute after this
22 one. It says the following.

23 MS. McCARREN: You being the Secretary.

24 MS. MARKOWITZ: For so long I know. And
25 I'm out of practice. It took me awhile to

1 find this. "The following uses may be
2 regulated only with respect to location,
3 size, height, building bulk, yards, courts,
4 setbacks, density of buildings, off-street
5 parking, loading facilities, traffic, noise,
6 lighting, landscaping and screening
7 requirements."

8 So note that I was a little bit mistaken
9 in my memory, so you could in your plan say
10 this is where you can't have it. So long as
11 you allow it to happen somewhere.

12 MR. RAPHAEL: Elsewhere.

13 MS. MARKOWITZ: That's right. But only
14 to the extent that the regulations do not
15 have the effect of interfering with the
16 intended functional use. So you couldn't
17 say, you know, that all of the sunny spots
18 are exempt, you know, you can't put them in
19 the sunny spots.

20 So that's the theory. And then the list
21 are state or community-owned and operated
22 institutions and facilities; public and
23 private schools and other educational
24 institutions certified by the Department of
25 Ed; churches and other places of worship;

1 convents, parish houses; regional solid
2 waste management facilities that are
3 certified by us, hazardous waste management
4 facilities for which a notice of intent to
5 construct has been received. So those are
6 things that people don't want in their
7 backyard, but we can't all not want them
8 because we need them, or we can't all not
9 have them.

10 And then "A bylaw under this chapter
11 shall not regulate public utility power
12 generating plants and transmission
13 facilities regulated under the Public
14 Service Department." So I'll send this out
15 to you. You can read it. And it talks
16 about farm structures and other agricultural
17 exemptions, things that by policy the
18 legislature has already said, town, even if
19 you don't want any of them, we are all -- we
20 all -- you only have a limited ability to
21 regulate. There is a -- some specifics here
22 for energy, so --

23 MS. SYMINGTON: So merchant generating
24 facilities aren't on there, but public
25 utility facilities are.

1 MS. MARKOWITZ: That's right. It says;
2 "Notwithstanding any provision of law to the
3 contrary, a bylaw under this chapter shall
4 not regulate the installation, operation and
5 maintenance on a flat roof of an otherwise
6 complying structure, of a solar energy
7 device that heats water, space or generates
8 electricity." So that's put in fairly
9 recently. "Or that prohibits or have the
10 effect of prohibiting the installation of
11 solar collectors not exempted from
12 regulation otherwise." This is long.

13 CHAIRMAN EASTMAN: Geoff, I'm just going
14 to -- someone may have --

15 MR. HAND: Just a point of clarification
16 to Gaye's question, public utility includes
17 merchant generating facilities under the
18 Public Service Board definition of that
19 term.

20 CHAIRMAN EASTMAN: Thank you.

21 MS. MARKOWITZ: So then in the same
22 context 24 V.S.A. 4412, is required
23 provisions and prohibited effects, and I
24 only use this to show that we have in policy
25 said, and by the way, you know, you must

1 have stuff too. And so in your law so, for
2 example, you can't discriminate against
3 mobile homes. So there is this equal
4 treatment of housing provision. There is an
5 accessory -- an accessory buildings,
6 accessory unit, so that you can have an in-
7 law apartment or a residential home for day
8 care or for elder care. You have to permit
9 it. And then there is a provision in here
10 that talks about the heights of renewable
11 energy resource structures.

12 MS. McCARREN: What are you --

13 CHAIRMAN EASTMAN: So already
14 municipalities get to say no and have to do
15 things -- get to say no in some respects,
16 but have to say yes in others.

17 A little bit more on this, and we are
18 going to move on for the day. Sorry. Jim,
19 you've got something you desperately need to
20 say?

21 MR. PALMER: It's not desperate, but
22 there is --

23 MR. JOHNSTONE: Say it anyway.

24 MR. PALMER: There is a big difference
25 between a solar project which tends not to

1 be very large so far in Vermont and probably
2 won't be, where we can have best practices
3 for mitigation, and we can have performance
4 standards, but almost by definition grid
5 scale wind projects are going to be visible.
6 That's the nature of the beast. And if we
7 say that visibility is the threshold of
8 unacceptable, then let's just say that up
9 front and tell the developers don't come
10 here.

11 But that again in the Maine law, in the
12 law it says that's insufficient. We know
13 they are going to be visible. We know that
14 it's going to be multi-town, unlike most of
15 the solar projects. Those are just the
16 facts of life, so this is the way we are
17 going to do it. We are going to do it
18 statewide. We are going to have a clearly
19 defined process because solar is different
20 than wind, wind is just -- it is out of
21 normal scale.

22 CHAIRMAN EASTMAN: Large, yeah.

23 MR. PALMER: You never would put -- you
24 would never zone a factory on top of a
25 ridgeline. It doesn't make sense. But

1 there are no other factories like wind
2 turbines. It's not comparable even though
3 it's an industrial -- it is an industrial
4 facility. I agree. But it's a different
5 kind of facility than anything else we deal
6 with.

7 MR. RAPHAEL: But you can mitigate some
8 impacts from wind. You can't change the
9 visibility, but you can address some of the
10 associated impacts. I think that's where we
11 need to spend more time and energy is seeing
12 what's worked, what hasn't. What are the
13 real issues as noise, and are there ways to,
14 you know, address that when we are building
15 grid-scale large-scale wind projects.

16 MR. BUSCHER: Admit it or not, one of
17 the major points of mitigation is financial
18 right now. Whether or not we include that
19 in our assessment or not. I mean --

20 MR. PALMER: And I might say again Maine
21 says no way.

22 MR. RAPHAEL: Just one quick thing I
23 want to just insert, you don't buy a
24 community.

25 MR. JOHNSTONE: Thank you. I didn't

1 understand that.

2 CHAIRMAN EASTMAN: Jean, you had
3 something I think you wanted to say.

4 MS. VISSERING: Just in terms of the
5 regional planning -- I really like the idea
6 of regional planning, but as Mike points
7 out, this is very different from what the
8 regional plans are right now, and this is
9 going to take time. And I think it's a
10 process that is really important to do as
11 one way to involve towns, regions, in a
12 meaningful way.

13 But I would -- for a shorter term
14 process I would really like to see something
15 that was -- I mentioned a few in my report
16 -- I would like what AOT did but way back
17 looking at road design, especially going
18 through and coming up with both the siting
19 -- some kind of siting and that would
20 involve the various players, the statewide
21 players which would include the Regional
22 Planning Commissions, but would include some
23 of the non-profits who have a vested
24 interest in these issues, some of the
25 probably related kinds of things. But so

1 some kind of process that would do that.
2 And then something that deals with best
3 practices which in my mind is a whole lot
4 easier than the siting issues.

5 CHAIRMAN EASTMAN: Okay. Thanks.

6 MR. RAPHAEL: Just one more comment
7 about your recommendation for, you know, how
8 to fund advocacy or support for communities
9 that feel left out or underrepresented. I
10 think that's really very important. You
11 know, when we work for the Department of
12 Public Service we are supposed to represent,
13 you know, the ratepayer, but in some
14 respects also the citizens of Vermont from a
15 statewide perspective. And sometimes we
16 can't advocate as effectively for the
17 individual communities, so they are faced
18 with having to hire experts.

19 I think to develop a framework for that
20 to occur right from the get-go, where, you
21 know, a consortium of communities or
22 interested parties have representation, it's
23 funded properly and not out of their own
24 personal pockets, may make sense. I think
25 you can find people who even as experts and

1 who are charged to provide an objective
2 analysis, who may have already concluded
3 that the project is not acceptable from an
4 aesthetic or community character
5 perspective, and that's something I have to
6 do when a developer approaches me or a
7 community approaches me. I have to say to
8 myself can I come up with a conclusion or
9 work with them to seek the solution or the
10 decision they want, and if I can't, then I
11 won't take that job.

12 CHAIRMAN EASTMAN: Thank you. When --
13 if you do have more specifics, you know, we
14 will welcome those.

15 The other thing is when you look at the
16 option, some of the options that we started
17 to discuss we actually -- in there there is
18 also some thought about different
19 thresholds. Okay. And if we could do
20 something like that so we apply different
21 processes, different participation levels,
22 different things, perhaps different
23 thresholds so that some things get done.
24 You may have some guidance to us from your
25 perspective. You know, it can be a size

1 issue, it can be a price issue, but it could
2 be an affected area issue kind of thing as
3 well.

4 MS. VISSERING: Isn't that sort of
5 happening right now to an extent?

6 CHAIRMAN EASTMAN: There are some.

7 MS. VISSERING: To the extent that when
8 there appears to be controversy, it goes for
9 a bigger process. And when --

10 CHAIRMAN EASTMAN: Well it's not that.

11 MS. VISSERING: Serious issues, I should
12 say.

13 CHAIRMAN EASTMAN: Then it's also the
14 fact of if that isn't delineated it can take
15 as long to make a determination of that as
16 it would to just be a -- start the process,
17 Jean.

18 MR. JOHNSTONE: Can I make a request of
19 them too? If you decide to send in
20 additional thoughts, the other thing that
21 fascinated me that none of you brought up,
22 at least I don't think I heard any of you
23 bring it up, is on the aesthetics front, the
24 issue of cumulative impact and how we might
25 think and dive into that. I know you're

1 going to talk some about that, but you guys
2 do this work. And it's, you know, and the
3 aesthetics piece in particular, it's an -- I
4 think a pretty important issue that we
5 haven't talked at all about.

6 MR. RAPHAEL: Jim and I were part of a
7 group that tried to address that for Maine.

8 MR. JOHNSTONE: If you could send that
9 along, I would love to read it.

10 CHAIRMAN EASTMAN: Return to that, have
11 you got Jim's work from Maine?

12 MR. JOHNSTONE: Maybe we are going to
13 hear about it now. I'm sorry.

14 CHAIRMAN EASTMAN: Thank you very much.
15 We are just now behind.

16 MR. COSTER: So I'm going to be very
17 brief, keep us on schedule. I have been
18 doing some research on cumulative effect.
19 There has been a lot of studies and actual
20 cumulative impact assessments done in the
21 past couple years on aesthetics, wildlife
22 habitat, recreation, things of that nature.
23 What we have heard is that there are some
24 bads to those studies. It's really how the
25 positive information is gathered, how it's

1 monitored, where the thresholds would be
2 set. We thought it would have been useful
3 for you to talk with some of the folks who
4 have been conducting some of those studies.
5 They weren't available today. We are going
6 to focus on this at another time when folks
7 are available to meet with you.

8 That's it for now. In the interim if
9 there is anything in particular like the
10 visual piece that you want us to speak to
11 when we get cumulative impacts, let Linda
12 know and I'll make sure we cover it.

13 MS. MCGINNIS: So it's known. That they
14 want that. Okay.

15 MR. JOHNSTONE: Wildlife impacts and
16 corridors are another one that I'm
17 interested in. Fragmentation, those sorts
18 of issues that come up with some of these
19 siting choices are ones that I'm personally
20 interested in understanding more about.

21 MR. COSTER: Great.

22 CHAIRMAN EASTMAN: Okay. Thanks. So we
23 have got some town energy folks. Thanks so
24 much for -- thanks so much for coming to
25 join us. And I know you were asked at the

1 last, you know, at the last --

2 MR. JONES: Second.

3 CHAIRMAN EASTMAN: -- at the last
4 second, but that doesn't mean we are not
5 going to want you around as we sort of try
6 and figure out what we might be doing. But
7 it became apparent that there were some, at
8 least in some communities, some real work
9 going on at the community level around, you
10 know, energy issues. And we thought that it
11 was only appropriate that we, you know, get
12 some advice, and here's what's going on, and
13 get your advice on how we get from goal to
14 implementation. So thanks.

15 MS. ERVIN: Sure. Dan, we were hoping
16 you would go first.

17 MR. JONES: Okay. After listening to
18 the discussion that was just going on here,
19 I'm feeling like oh, okay, have I got
20 anything really to contribute?

21 MR. JOHNSTONE: Yeah, you do.

22 MR. JONES: I'll try. You know, given
23 your unenviable task of sorting through the
24 emotions that come with my issues, I hope
25 myself and the other Chairs can help give a

1 balanced perspective on the flexible policy
2 of creating utility resources for our
3 collective future.

4 All of us have had input into the
5 State's Comprehensive Energy Plan, you know,
6 90 percent renewable by 2050. Others,
7 perhaps more of us in Montpelier than
8 elsewhere, because here in Montpelier as you
9 know, we have been spending the last couple
10 of years working on creating a challenging
11 district heat project.

12 And as you know, there was a lot of
13 suspicion and contention on that project.
14 It was going to be expensive, possibly
15 dirty, certainly disruptive. We on the
16 Energy Committee were committed to the
17 project and had to do a lot of work to sell
18 it in the city and to help nurture it
19 through many battles. We had to school
20 ourselves in not just the issues of cost but
21 the long-term benefits of modern burner and
22 scrubber technologies, which will make an
23 efficient use of the local renewable biomass
24 resources. We have to delicately create, we
25 will use that term, a unique local and state

1 partnership to produce a new utility product
2 of thermal energy and creating a local
3 business market for this product. Okay.
4 Nobody had really done that before. And
5 then create a local business market to help
6 subsidize what we were trying to do.

7 So and we assume that similar challenges
8 are going to face any community that's faced
9 with creating a viable energy future as they
10 attempt to move away from oil and nuclear
11 costs and pollution.

12 Now as you know, we all face an
13 unprecedented change where we have got to
14 concern ourselves with the deep issues of
15 long-term sustainability of our communities
16 and our lifestyles. Global warming, peak
17 oil and economic dislocation, means that our
18 towns will increasingly have to worry about
19 how their citizens insulate their homes,
20 moderate their demands for electricity, fuel
21 and transportation convenience.

22 So now we have to create this massive
23 embrace for thermal efficiency, terrible
24 name, and allocate some of our beautiful
25 landscape to new energy technologies. And

1 nobody likes doing that.

2 So in Montpelier we are looking at ways
3 of becoming more energy independent. But
4 there is a need to mobilize local and
5 regional resources which is not easy to do
6 in Vermont. Flexibility in siting options
7 would make that goal a whole lot easier.

8 We are conscious of a new energy reality
9 emerging which will confound the
10 traditionally accepted ways of viewing
11 utility functions, and I believe this is
12 crucial to your work. Electricity is
13 becoming networked rather than delivered
14 from a central plant. This will mean that
15 siting challenges become broader and more
16 elastic. We are going to need solar farms
17 and solar rooftops along with windmills, low
18 head hydro power, so we have got to stop
19 thinking of power as a central utility and
20 begin thinking of electricity and power as a
21 co-generated resource.

22 Traditional siting and zoning functions
23 were a way of controlling the public use of
24 private lands and resources. Now we have
25 got to start thinking about how to create

1 common resources which will include not just
2 location, but ownership structures,
3 long-term service models and long-term
4 moderation and conservation of demand.

5 Vermont towns and people have a history
6 of fierce independence and are highly
7 resistant to the growing needs for regional
8 structures for energy and economic
9 resiliency, so we are looking to you to help
10 us bridge that gap between the towns and
11 local interests that will provide a regional
12 energy network that will provide for the
13 reasonable needs of our communities using
14 all available technologies with due regard
15 to both our heritage and our future. Thank
16 you.

17 MR. FORWARD: So would you like us to go
18 in order and then you can ask questions?

19 CHAIRMAN EASTMAN: Sure.

20 MR. FORWARD: My name is Jeff Forward.

21 MS. McCARREN: Good to see you again.

22 MR. FORWARD: Back again. I thought
23 that was a very interesting hearing at UVM.
24 My background is I've got a community
25 planning degree from Woodbury College. I'm

1 an energy consultant, my inclination and
2 vocation is to deal with community projects.
3 I work a lot with schools, not just in
4 Vermont but around the country. I have been
5 the Town Energy Coordinator in Richmond
6 since 1992. And I'm the Chair of the
7 Richmond Climate Action Committee which is
8 our name for our Town Energy Committee.

9 I also did a group net-metered solar
10 project on my 200-year-old farm. 25
11 kilowatts. I actually have -- Joey and
12 others asked me to put together a case study
13 for the Renewable Energy Vermont conference,
14 and so I wrote it up. I gets lots of
15 questions. I had a kid yesterday, Bob
16 Northrup's grandson, stopped by my house
17 yesterday to ask me about my solar project.
18 I thought that was quite interesting. I
19 actually think whether I've chosen to or
20 not, I've become one of the experts in the
21 state on group net-metered systems; only
22 about three.

23 You know, so what I found is that, you
24 know, it was harder than I would have
25 thought. I have experience in this field,

1 and I figured that I could just do it, and
2 it was actually quite a bit harder than I
3 thought.

4 One of my purposes for doing it was to
5 learn what those barriers were and what the
6 incentives were. When I looked around my
7 farm, a 200-year-old rocky hillside farm, we
8 have got lots of them in the state. I'm on
9 VEC's service territory. They have got lots
10 in their service territory. One of the
11 assets that I have on my farm is a lot of
12 open space. It's mostly rocky, full of
13 burdock. It's not good a whole lot for
14 growing crops any more, but it is open and
15 it does have a transmission line going
16 through the backyard. It goes to a
17 substation.

18 So I recognized those assets, and I
19 thought one way to maybe take advantage of
20 those assets to help this farm such as it
21 is, remain open, is to develop a renewable
22 energy project, which is something I know
23 something about. So I did this little 25
24 kilowatt system. It's now -- it's grown
25 since that case study. I've doubled the

1 size of it, so its first phase was 13 KW,
2 now it's 25.

3 One of my premises when I started this
4 is that, you know, I'm in my very late 50s,
5 and my kids are grown, my mortgage is paid
6 off. I'm at my peak earning years, and I'm
7 trying to figure out what to do with my
8 money. It's not like I've got a lot of
9 money, but I've got some. And you know, I
10 don't know if you've noticed the savings
11 accounts, half of one percent maybe if
12 you're lucky. That's a good one. I could
13 probably sell that if I could come up with
14 it. If I put my money in the stock market I
15 usually lose money. I don't know. Other
16 people make money on it, but I never have.
17 And I hate it anyways, and I would much
18 rather invest in something that I know about
19 that is consistent with my values that I can
20 actually touch. And this fit all of those
21 criteria. It fit my land profile, and it
22 fit my income profile, and it fit my values.

23 The other thing I wanted to do, I don't
24 use a lot of electricity. I am an energy
25 consultant. I don't use a lot of energy in

1 my house. So doing just a residential
2 project didn't really work for me very well.
3 So doing it as a group net-metered system,
4 that worked, that fit my profile, and I
5 actually like the concept of creating a
6 community of my neighbors that are invested
7 in renewable energy. I think this is a
8 great idea. And I think there should be
9 more of these types of projects. Everybody
10 I talk to seems to think the same thing,
11 including remarkably enough, the Board of
12 Vermont Electric Co-op. Although they have
13 this resolution which I talk to all of my
14 Trustees about and chew them out on. They
15 all said you've got to put the exact kind of
16 projects that we would like to see happen.
17 And I said no you don't. You know, your
18 moratorium would kill it and these
19 moratoriums, this policy construct of a
20 moratorium to wait while we go forward, I've
21 got to tell you from a business perspective
22 it kills the industry. To say no and stop
23 and wait, you might as well just say no
24 period. Because it would kill the industry
25 for any renewable energy, for any industry.

1 Any industry, say no to dairy farming while
2 we figure out the impacts of Lake Champlain,
3 you wouldn't get it back.

4 So what I learned from this project is
5 that tax incentives were really important.
6 Not just state tax incentives, but frankly
7 the federal tax incentives were a much
8 bigger deal because I could group it
9 together. It would be a commercial project.
10 Not only could I take advantage of the tax
11 credits, I could also depreciate and deduct
12 from my income, which worked, because I'm a
13 small enough business, I could deduct it as
14 a one-year expense. And that really
15 counted.

16 And in my handout I go through how the
17 numbers work. But it worked pretty well. I
18 think it would work for other folks as well.
19 What I realized -- my conclusion is that
20 this was a good investment. You know, that
21 the numbers -- I have had it now for over a
22 year, and the numbers did pan out the way
23 that I had hoped that they would. It was
24 about a 10 percent return on my net
25 investment. You know, which I felt was

1 pretty good. I feel like it's good for the
2 grid to have a lot of these little systems,
3 to what you're saying, having a lot of these
4 little network systems is actually better
5 for the grid than having --

6 MS. McCARREN: May I ask you a question?

7 MR. FORWARD: Sure.

8 MS. McCARREN: What happens if the grid
9 power is unavailable to you? Can you take
10 all the output -- can you guys still take
11 the output to your residences?

12 MR. FORWARD: Everybody would love that.
13 No. It's a synchronist switch.

14 MS. McCARREN: You can't do a mini grid
15 isolation.

16 MR. FORWARD: No. Which is a safety
17 thing for the linemen.

18 MR. JOHNSTONE: Military is working on
19 that.

20 MS. McCARREN: I know.

21 MR. FORWARD: What -- you know, I think
22 it's good for the grid. I think there is a
23 lot of folks like me who are looking for
24 reasonable places to invest. So you know,
25 when we think -- oftentimes when we think of

1 a particular utility or energy investments
2 we are thinking big, and we are thinking,
3 you know, utility-scale returns on
4 investment or stock market types of
5 investment. You know, frankly I don't need
6 25 percent return. I don't need a 12
7 percent return. 10 percent I feel like I'm
8 almost getting away with something, although
9 I took a considerable amount of risk too.

10 So -- and I think that I get a lot of
11 people calling me about this, and I get a
12 lot of interest on it, and I think there is
13 a lot of interest in Vermont on these kinds
14 of issues. You know, I have been asked to
15 speak at Renewable Energy Vermont and VCAN
16 conference. I get a lot of people coming up
17 to me. We have a lot of interest in energy.
18 You guys hear a lot of controversy, and you
19 hear a lot of opposition to it. There is a
20 flip side. You know, we have over 100
21 energy committees in the state. That's
22 remarkable. It's the only place in the
23 country. And it's because Vermonters who
24 are engaged with their town are interested
25 in these issues. They believe, you know,

1 the things that Bill McKibben says. They
2 believe in the Comprehensive Energy Plan,
3 lots of comments about how we need to ramp
4 up. And all of the evidence of surveys
5 around the state is that there is many more
6 of those folks than the folks that are
7 opposed to it. I think that is something to
8 take into consideration.

9 What I think could be helpful in
10 advancing things of this nature is that it
11 was significantly difficult to figure this
12 out. I had to do it all on my own. There
13 is a so-called Renewable Energy Resource
14 Center, which I love, and they are great
15 folks, but they don't put any investment in
16 renewable energy resource. It really is
17 just an incentive process. That's all they
18 do. And it's intended that way because they
19 don't have any money. The money is, you
20 know, --

21 MR. JOHNSTONE: We have run into that.

22 MR. FORWARD: I'm not trying to insult
23 you.

24 MR. JOHNSTONE: We are hired to process
25 incentives.

1 MS. SYMINGTON: Plus the incentives now
2 aren't there. We just reduced them the day
3 before yesterday.

4 MR. JOHNSTONE: I'm just affirming what
5 you're saying, absolutely true.

6 MR. FORWARD: It's difficult. And I
7 understand it's difficult to come up with
8 the money for it, but it would be really
9 helpful if somebody at least understood what
10 some of the issues were. Some, you know,
11 like again no offense to VEIC who runs it,
12 but if I call them up and ask them about
13 taxes, they go, no, don't know anything
14 about taxes. If you look at how the
15 incentive is worked out on an \$85,000
16 system, I've got \$45,000 worth of federal
17 tax, tax incentives and \$10,000 worth to the
18 state, which is more than important to me.
19 It would be nice if somebody knew something
20 about that.

21 One of my suggestions would be to have
22 an ombudsman, a case worker or somebody who
23 knew something about this topic that could
24 help facilitate projects, maybe small and
25 large. I don't know. And maybe that might

1 be -- the money could come from fees. I
2 don't know. I think that would be helpful.
3 I think that this scale system is not
4 envisioned. My 25 kilowatt system is not
5 envisioned. There is a break -- there was a
6 break at five kilowatts, now it's 10. Well
7 there is a simplified registration process.
8 There is really not a lot of difference
9 between my 10 kilowatt and 25 kilowatt
10 except that --

11 CHAIRMAN EASTMAN: That goes for a
12 threshold issue, Jeff.

13 MR. FORWARD: 25. I don't know where
14 that threshold should be. But mine's a
15 ground-mounted system. It's not on the
16 roof. It's going to be a pretty big roof to
17 get a 10 kilowatt system on. If you extend
18 that to ground-mounted systems are similar
19 policy and similar implementation, a larger
20 threshold would be useful.

21 And I would also encourage you to think
22 about special projects. One of the things I
23 really like about Clean Energy Development
24 Fund is it did identify a special project
25 category that's community systems; schools,

1 municipalities, whatever. And what it
2 recognizes is that those projects don't get
3 federal taxes, a lot of times they don't pay
4 taxes, so if you're going to put your money
5 towards something, what it does is that it
6 helps those community projects, and
7 community projects are particularly valuable
8 in my mind because they give people
9 opportunities to invest in renewable energy.
10 It becomes more real when you have some skin
11 in the game. So I'll leave it there.

12 You know, one thing that I would point
13 out to you, if you look at solar, solar has
14 grown a lot in the last year. The cost of
15 solar has come down a lot. My second phase
16 project is a lot less expensive. There is a
17 lot of interest in solar out there. If
18 there is any place that is really going
19 quickly into community solar, individual
20 projects, it's Duxbury. I would encourage
21 you to listen.

22 MS. ERVIN: Thanks very much for this
23 opportunity. My name is Jamie Ervin. I'm
24 from Duxbury. I have 20 years of work in
25 conservation and combined 20 years of

1 service on local Planning Commissions,
2 Conservation Commissions, Land Trusts, and
3 now the Energy Committee for our town for
4 Waterbury and Duxbury. Got a PhD in land
5 use and natural resource planning in Vermont
6 from UVM, and my day job I worked for the
7 United Nations Development Programme, and
8 I'm here representing Waterbury LEAP, our
9 town's Energy Committee. Waterbury LEAP is
10 the only 501(C)(3) non-profit Town Energy
11 Committee in the state. It's one of the
12 more active ones. Every year we hold an
13 energy fair that draws between 6 and 700
14 people on a balmy Saturday in April. We get
15 that many people for a town of only 5,000
16 people.

17 We take the state's Comprehensive Energy
18 Plan very, very seriously. This is our play
19 book. And we are very grateful to
20 participate in that personally, and I am
21 thrilled every day to think about the goals
22 that we have for our state. It keeps me
23 awake thinking about how can Waterbury and
24 Duxbury contribute to this lofty goal of 90
25 percent by 2050. So we work on thermal

1 efficiency and transportation. Right now we
2 are obsessed with renewable energy and
3 solar. Last year we launched the Waterbury
4 Duxbury solar year in an effort to double
5 our residential solar capacity. I'm excited
6 to announce we are one rooftop away from
7 having achieved that goal. We will achieve
8 it, and we expect a press release with
9 Governor Shumlin and others in March to
10 celebrate that.

11 Waterbury is number five in the state in
12 per capita for solar installation. Duxbury
13 is number two. Duxbury is full of hills and
14 hollows, and think of what that
15 accomplishment means.

16 Before I get carried away in celebratory
17 revelry, let me put it in perspective.
18 Waterbury uses -- has installed 588
19 kilowatts of solar energy. It's a lot of
20 energy. It's a half a megawatt, serious
21 energy. Mostly on rooftops and on Green
22 Mountain Coffee, and most recently on Cold
23 Hollow Cider. We use 58,000 megawatts a
24 year. We are producing less than one
25 percent.

1 MS. McCARREN: Kilowatts.

2 MS. ERVIN: 58,000 megawatthours a year.
3 So essentially 58 megawatts.

4 MS. McCARREN: Megawatthours. I was
5 just thinking 58,000 megawatts, that's big.

6 MS. ERVIN: 58 megawatts. We have Green
7 Mountain Coffee, we have Ben & Jerry's, we
8 have Shaws, we have got a lot of --

9 MS. McCARREN: Alchemist.

10 MS. ERVIN: We have the Alchemist. We
11 have a lot of energy use. We are producing
12 less than one percent of our total required.
13 If a town like Waterbury which is one of the
14 most progressive in the state for town
15 energy commitments, it's doubled our
16 residential solar, close to doubling our
17 business solar, and if a town like Waterbury
18 can produce less than one percent, we are
19 really in trouble. Less than half the towns
20 in Vermont even have one single installed
21 solar panel. I just ran the analysis.

22 If we want to be realistic about
23 achieving Vermont's energy goals, and we
24 must be realistic, we must achieve them,
25 towns need to step up and identify how they

1 can contribute, what is their contribution
2 to the 90 percent by 2050.

3 And I want to share with you five short
4 vignettes to help articulate what I think
5 this committee might consider to help siting
6 issues. First, I should say nothing forces
7 you to be more realistic than serving on a
8 Town Energy Committee. You can spend hours
9 looking at tax maps and Google maps and
10 trying to figure out where the real estate
11 for solar is.

12 MR. JOHNSTONE: How's the pay?

13 MS. ERVIN: Pay's great.

14 (Laughter.)

15 MS. ERVIN: Yeah. So five vignettes.
16 First working on the town energy plan,
17 Waterbury's LEAP has been asked to develop
18 the town energy plan for Waterbury. It's
19 out of date. We are trying to achieve 10
20 percent for renewables by 2020, energy
21 percent of our production, not just our
22 consumption. That means about 300 acres of
23 land not including rooftops.

24 We know that there will be suboptimal
25 places where solar needs to go. Someone

1 will say this is not very pretty. Someone
2 will say I don't want to look out and see
3 this. Our goal is to identify where can and
4 should solar go, and where is a large
5 megawatt solar probably not appropriate.
6 And to help provide some guidance so when
7 like Charlotte, you have a developer, there
8 is a town plan to rely upon to give
9 guidance. We feel that every town should
10 and must -- sorry you looked --

11 MS. McCAREN: I'll take it off line.

12 MS. ERVIN: Okay. Well Charlotte had a
13 town plan and there was some kerfuffle about
14 where a solar installation should go.

15 MS. McCAREN: I live in Charlotte.
16 It's okay. Take it off line.

17 MS. ERVIN: Charlotte was number one in
18 residential solar. So the issue for town
19 energy plan is that there is very little
20 real estate for solar. We need to figure
21 out at least where should it go, where can
22 it go, if we are to have a hope of
23 contributing to the state's goals.

24 The second vignette is we have been
25 working very closely with the town select

1 board and the village trustees to help them
2 transition from fossil fuel to a hundred
3 percent renewables for their energy
4 consumption. They are willing, they have
5 just released a request for information to
6 solar companies. We have 12 in our local
7 area. And we use more than 500 kilowatts
8 annually for municipal use, mostly for water
9 filtration and sewer.

10 We looked at every site that was owned
11 by the town, by the town or by the village.
12 Looked at 30 sites. There are only three or
13 four potentially possible sites, really
14 there is only one. Sweet farm, that's a 20-
15 acre site, south facing, beautiful field.
16 The issue is it's at the very edge of a
17 three-phase line and Waterbury would have to
18 pay for the upgrade of that municipal line.
19 Should a municipality have to pay for the
20 updating of an outdated grid simply for the
21 public good for which we are trying to
22 achieve the state's goals.

23 Third vignette, we are working with our
24 schools, Foster Brook Middle School has a
25 14.2 kilowatt array. We wanted to achieve

1 100 percent solar. Thatcher Brook has tiny
2 areas of land. At most they could put a
3 200-kilowatt array on the hillside as long
4 as they avoid the sliding area kids are
5 really excited about, otherwise the rest
6 have to go on private, state or municipal
7 lands. There is no other option. We have
8 already maxed out rooftop. Where's it going
9 to go?

10 Third vignette, Paul Brown, owner of
11 Cold Hollow Cider Mill just installed a 149
12 kilowatt array. Was it 150? 250, no?
13 Because every installer said you really need
14 to keep under the 150 kilowatt, otherwise it
15 triggers Section 248. He's got the land and
16 the will and the room. He wants to go a
17 hundred percent solar, but that arbitrary
18 248 trigger means he can't put it in. He's
19 got the perfect locations. He's using it as
20 public education site.

21 Fifth and final vignette is a neighbor
22 of mine, like so many that Jeff knows as
23 well, has one of the few large, south-facing
24 roofs and open hard-scrabble farm.
25 Pre-retirement age, he would love to put on

1 25, 30 kilowatts. He would love to put up
2 this array. He can't. Because unless -- he
3 has to figure out, like Jeff has done, to
4 get his neighbors together, hire some
5 lawyers and figure out some complex system.
6 He should be able to sell it back to the
7 grid for like a modest but reliable profit
8 like Jeff does. Seven recommendations.

9 MS. McCARREN: Five vignettes and seven
10 recommendations. That's great. It's great.

11 MS. ERVIN: Okay. First recommendation,
12 reconsider the limit on 500 kilowatt. Our
13 town uses roughly 700 kilowatts a year. So
14 now we are trying to figure out can we do
15 300 here or 400 there. How can we split
16 this up. It's crazy. We should be able to
17 just put in a megawatt or two.

18 Second recommendation, streamline 150
19 kilowatt trigger and raise it, if
20 appropriate. Otherwise you are going to see
21 what we see with a lot of 10-acre spaghetti
22 lots. Everyone has 10 point 1 acre lots.
23 Everyone has got a 149.5 kilowatt array.

24 MS. McCARREN: That's a PSB rule.

25 CHAIRMAN EASTMAN: It's a rule.

1 MS. McCARREN: Okay.

2 MS. ERVIN: Third, consider how utility
3 lines get upgraded. Right now it's the onus
4 on the person installing, whether it's a
5 municipality or a school or non profit or an
6 investor company, they have to upgrade Green
7 Mountain Power's electric line. They
8 shouldn't have to pay for it. It's a public
9 good. I don't think they should.

10 MS. McCARREN: Did you mean -- I don't
11 mean to parse this with you, did you mean
12 upgrade the line or pay for the
13 interconnection tie?

14 MS. ERVIN: Upgrade the line. So if --

15 MS. McCARREN: -- they don't have the
16 capacity to take them.

17 MS. ERVIN: Spoke with Green Mountain
18 Power two or three days ago. I said this is
19 three-phase power line at Sweet Farm Road.
20 They said, yeah, we could never handle that
21 load. You would have to upgrade the entire
22 section.

23 MS. McCARREN: It's more than pay the
24 interconnection cost.

25 MS. ERVIN: Yes, it's upgrading an

1 outdated infrastructure. Why should a
2 single investor, if you have a homeowner who
3 has got 30 acres of open fields in the
4 middle of nowhere, they should be able to
5 provide that local grid in a distributed
6 way. They shouldn't have to bear the cost
7 of upgrading.

8 MS. McCARREN: Do you think there is a
9 size limit on that because --

10 MS. ERVIN: Yeah.

11 MS. McCARREN: You could have a huge
12 developer come in --

13 MS. ERVIN: That investor comes in, they
14 pay.

15 MS. McCARREN: I just wanted to see
16 whether she --

17 CHAIRMAN EASTMAN: Let's hear the
18 recommendations because I want to get
19 Jamie's stuff, and then we can talk about
20 that.

21 MS. ERVIN: Fourth is consider state
22 land and consider the residual land use
23 right now that it's got. In Waterbury,
24 there is a beautiful 30-acre south facing
25 field that's used for corn, and the corn is

1 fed to cows, and cows produce a lot of
2 methane, which produces a lot of carbon.
3 Corn field is not really the highest and
4 best use of the land which is right in
5 Waterbury, and there is a lot of other
6 suburban land that the state owns. That
7 particular corn field would supply 40
8 percent of the residential needs if in a
9 community solar farm.

10 Number 5 is strongly encourage town
11 plans to identify where energy siting is
12 appropriate, and where it's not appropriate.
13 Encourage the kinds of red, yellow, orange,
14 green districting that will help when it
15 comes time for Section 248 projects.

16 Six is consider a state ombudsman that
17 Jeff mentioned, for renewable energy siting
18 to do three things; to facilitate community
19 solar, it's hard work trying to develop one
20 in Waterbury and Duxbury. Not everybody
21 wants to look at it. We do. Community
22 solar is a real must if we are going to
23 avoid these mega sites.

24 Second thing is the ombudsman can do
25 this, help people figure out the tax

1 incentives. It's really a nightmare, and
2 it's really important, especially for
3 businesses. And to help towns that have not
4 updated their town energy plan to facilitate
5 participation for these large scale. We
6 don't want little tiny towns having to
7 invest their precious resources on hiring
8 lawyers to figure out how to deal with it.
9 There must be some kind of mechanism.

10 My last recommendation, I really think
11 this is the most important thing, a game
12 changer, allow customers to sell back more
13 than a hundred percent of what they produce
14 on to the grid, even if it's at wholesale
15 prices, 14 cents a kilowatt for GMP. That
16 means that every rooftop and every scrap of
17 backyard hard scrabble farm should be in
18 solar if there is no better and higher use
19 for it, and people will invest. Every
20 pre-retirement person is looking at these
21 numbers. I'm looking at my portfolio, and
22 it's certainly not 10 percent. It's more
23 like -- anyway.

24 So my last point again is that Waterbury
25 is number five in the state, Duxbury is

1 number two. We have doubled residential
2 solar. We are not even at close to one
3 percent of capacity for renewable energy.
4 If we are serious about our goals, we need
5 to figure out siting. If we get siting
6 right, if we take these recommendations, we
7 won't need 10 megawatt sites in the middle
8 of a high profile area. We need more
9 distributed local energy. That's it.

10 CHAIRMAN EASTMAN: Great.

11 MS. McCAREN: Excellent. Thank you.

12 CHAIRMAN EASTMAN: You did really well,
13 and really thank you. This is exactly the
14 kind of stuff where should we be incenting
15 things, should we be changing thresholds,
16 those kinds of things. What can we
17 encourage that is worthwhile.

18 And yes, we have got to know it's all
19 going to work out to really, you know, the
20 next. But --

21 MR. JOHNSTONE: May I?

22 CHAIRMAN EASTMAN: You may.

23 MR. JOHNSTONE: I'm curious, the Town
24 Energy Committees in all of their different
25 shapes, forms and processes, have kind of

1 just grown out of grass roots in Vermont
2 which has been wonderful and exciting, come
3 across the state in huge numbers as you
4 said, Jeff, compared to anywhere else.

5 As we have thought about the process of
6 the role of regions, the role of towns, I
7 have been kind of struggling in my head with
8 what's the role of the Town Energy Committee
9 in the process. On the one hand they have
10 all grown up out of grass roots, and I think
11 a piece of the allure of them have been they
12 have been kind of free to go where they need
13 and want to go, town by town, so putting
14 structure and responsibility on them feels
15 crazy to me on one hand.

16 On the other hand, you've got these
17 groups of people who are really fired up and
18 want to make a difference and could help
19 make change happen. And so that tells me,
20 boy, there could be a really useful
21 structured role for Town Energy Committees.
22 Since we have got three of them sitting
23 here, what do you think, because, as you can
24 tell, I can argue both sides on this one
25 really easily. I'm not quite sure what the

1 right answer is.

2 MR. JONES: I have been sitting here, a
3 501(C)(3)? That's interesting. That gives
4 you freedom to do things, because we are now
5 stuck in Montpelier with -- there is a lot
6 of stuff we would like to do, but there is
7 no structure to do it within. So that
8 becomes a way of saying, okay, maybe we can
9 create something that there could be an
10 ongoing area that maybe could have some
11 people that would do hand holding for the
12 thermal efficiency stuff, that could do the
13 kind of interface work that you're talking
14 about for figuring out the siting locally.

15 Because there is no good way of, you
16 know, you have a lot of energy people
17 recognize that this is what should be
18 happening. But you've got to be able to
19 help focus it. So I'm sitting here saying
20 oh, yeah. So thank you.

21 MR. FORWARD: There is a statutory
22 decision. You know, I'm appointed as a Town
23 Energy Board. It was Act 200. Everybody is
24 old enough to remember Act 200.

25 MR. JOHNSTONE: We would have a lot

1 fewer problems with this if we actually
2 implemented it.

3 MR. FORWARD: That would be interesting.

4 MR. JOHNSTONE: Personal opinion.

5 MR. FORWARD: I forget exactly what it
6 says, but it's, you know, the role is you're
7 supposed to advise the town officials on
8 energy issues, period. And it's, you know,
9 it's really -- for me it's a function of my
10 time. I think I'm also the coal layer and
11 --

12 MS. ERVIN: Dog catcher.

13 MR. FORWARD: Dog catcher. My personal
14 opinion is I like the independence from the
15 town. I would change it substantially if it
16 was an appointed position that, you know,
17 that would change it substantially. And I
18 was a founding member of the Richmond Land
19 Trust, and we very specifically did not want
20 to become an arm of town government because
21 we were like-minded people, you know, formed
22 a committee.

23 And if you have a town-appointed
24 committee, you're not necessarily like-
25 minded people.

1 MS. ERVIN: There is no shortage of
2 enthusiastic energy for town committees.
3 Town Energy Committees if you go to VCAN
4 conference every year it is really exciting
5 to see a hundred committees. New Hampshire
6 comes close, but let's face it, there is no
7 other state in the country that has jazzed
8 up people working on renewable energy,
9 transportation, energy efficiency. I don't
10 think a way to channel that energy is
11 through statutory means. I think it's
12 through better practices, better
13 information.

14 CHAIRMAN EASTMAN: And incenting things.

15 MS. ERVIN: Incentivizing things and
16 showing how it's done through case studies,
17 through examples, and providing prizes and
18 who knows.

19 MR. JOHNSTONE: I'm taking that, you
20 guys convinced me.

21 MR. FORWARD: We got great support
22 through VEIC and VNRC, that's really helped
23 a great deal.

24 MS. MARKOWITZ: Let me just note for
25 Scott that one of the things I observed and

1 Joey is here, maybe she can speak to it,
2 what really helped the Town Energy
3 Committees take off is when you all did a
4 project, which put money in the hands of
5 these committees actually doing work, and
6 having something concrete for communities to
7 then, you know, write a proposal around and
8 then implement. Means that we have had a
9 lot of really easy successes, not easy
10 successes, quick successes, which became
11 models for other towns who may not have
12 participated in that original RFP process.

13 MR. BODETT: I want to ask, I come from
14 Dummerston where we have a very active and
15 brilliant Energy Committee, and we went
16 through -- we adopted a new town plan two
17 years ago. And the Energy Committee wrote
18 again a brilliant chapter in that. And what
19 was missing was an integration between the
20 Energy Committee's recommendations, the
21 Planning Commission's actual land use
22 recommendations, and then the Select Board's
23 understanding of any of it.

24 And so my question is, you know, do you
25 work with your local Planning Commission on

1 these very siting issues and things, where
2 it should go, what kind of --

3 MS. ERVIN: Yes.

4 MR. BODETT: What kind of welcome do you
5 have?

6 MS. ERVIN: The Planning Commission
7 asked us to write the Town Energy Plan. We
8 are presenting it next Monday to the --

9 MR. BODETT: You mean the Town Planning
10 Commission or regional?

11 MS. ERVIN: Town Planning Commission.

12 MR. BODETT: That's what I was asking.

13 MS. ERVIN: It does very much get into
14 local land use planning.

15 MR. BODETT: So you worked in
16 conjunction with the Planning Commission
17 looking at land use designations?

18 MS. ERVIN: We are at a fairly early
19 phase. Planning Commission asked us to do a
20 first draft. We just completed a first
21 draft. It includes maps and siting and
22 recommendations. We are going to present
23 that Monday to town Select Board and
24 Planning Commission. There is often
25 disconnect between the theory saying the

1 goal is 10 percent and not tying it to where
2 is the real estate --

3 MR. BODETT: Often --

4 CHAIRMAN EASTMAN: Which is what's
5 happening here. We are you in effect.
6 That's what I'm beginning to feel. I think
7 they have got the goals and then they
8 haven't anything to tie it to, actually how
9 do you implement it other than --

10 MR. BODETT: It often gets overwhelmed
11 by other issues that come up during planning
12 and zoning that are far more emotional.
13 This kind of tree huggy stuff nobody wants
14 to spend any time with it because, by God,
15 we have got a gas station that we have got
16 to keep in commercial zoning, and you can
17 fill a room with that issue, you know.

18 MS. SYMINGTON: A vote today in Jericho
19 on that very issue.

20 CHAIRMAN EASTMAN: So --

21 MR. JONES: If I could make just one
22 plug again for this at least using your good
23 offices to work on trying to raise the
24 limits for the wattage on the solar farms,
25 because we had one group come in and

1 basically they are offering to build
2 sufficient capacity to run our water
3 treatment plant. You know, but it goes
4 above the allowable limits, so they sort of
5 backed away from it.

6 So you know, we are looking at this,
7 save us a whole lot of money, and we can't
8 do it.

9 MS. ERVIN: We did an analysis with
10 installers. We would save \$2 million in
11 Waterbury over 25 years simply by installing
12 a 500-kilowatt solar system. If GMP raises
13 the rates about 2 percent, we are looking at
14 about 7 million dollars.

15 CHAIRMAN EASTMAN: So we just need you
16 to tell us the numbers, where you want the
17 thresholds.

18 MR. JONES: Actually it should be --
19 it's got to be something that actually
20 networks the capacity, it has to be able to
21 rise to what's the available options,
22 because what you want is as much distributed
23 system as possible. Because, you know, some
24 days the sun's going to shine, you're going
25 to get more of that, and some days you are

1 going to get more of the windmills,
2 someday's you're going to be stuck with
3 something else.

4 Unless we have that capacity it's
5 always, you know, being stuck with what your
6 weak link is rather than your strong link.

7 MS. ERVIN: Could I add one more thing?
8 You could have a kind of checklist approach,
9 and the guiding philosophy that we are
10 taking with the town is if you're using
11 energy, you're responsible for producing
12 energy. We are looking at the village land,
13 village cost. Town land, town cost;
14 residential. If you've got a Green Mountain
15 Coffee or a Ben & Jerry's and they should be
16 allowed to offset their energy use in pretty
17 much not anyway they want, but they should
18 have better license to operate in order to
19 install renewables locally, rather than --
20 there should be some kind of checklist that
21 says following these principles is
22 facilitating permitting process.

23 CHAIRMAN EASTMAN: Thanks. Thank you
24 very much. So can we do lunch in 45
25 minutes? We should try so we are back here

1 at 1.

2 (Recess was taken.)

3 CHAIRMAN EASTMAN: Let's get started.
4 Thanks so much.

5 MR. SEDANO: You're welcome.

6 CHAIRMAN EASTMAN: We thought you could
7 tell us what we should be doing, and we
8 could move this process along more rapidly.

9 MR. SEDANO: Okay. So are you ready?

10 CHAIRMAN EASTMAN: I'm ready for you.

11 MR. JOHNSTONE: If you can send that
12 along to us in bullet form so we could just
13 include that, that would be great.

14 MS. SYMINGTON: Speak slowly and in
15 English.

16 MR. SEDANO: Very good. I'm sure you
17 all have pencils. So I'll just start
18 talking about a few observations about what
19 you're doing. And Anne has been kind enough
20 to send me the options document that you're
21 working on, but I have not focused on it
22 because she asked me to focus more on the
23 bigger picture purposes of the 248 process
24 and the public good and Certificate of
25 Public Good and all generation, so not just

1 wind.

2 So my overall sense about how 248 worked
3 while I was in government and since is that
4 actually it was quite a good statute because
5 it is clear, it leaves professional
6 regulators to figure out issues as they come
7 along, and recognizes perhaps intentionally,
8 that the issues continue to evolve. And
9 that having a good general practice for
10 managing these kinds of important
11 opportunities that are going to have impact
12 are going to come managed in their own
13 distinct ways.

14 I think for a network industry like the
15 power industry that demands that some
16 facilities have to go some places and create
17 local impacts and benefits to everyone, that
18 a statute like this is apparently permissive
19 in some ways, supportive of state and
20 utility plans, that recognize that the
21 general economic benefit is important, not
22 just the benefit to utility ratepayers, but
23 the general economy, but is also, I think,
24 quite protective of important resources and
25 interests. All of those things together are

1 what I see in the 248 process.

2 One thing about generation is that some
3 generation is built to address reliability
4 problems. Some generation is built for
5 other reasons. But once a generator is
6 built, it has a reliability benefit. The
7 system operator, the local operators, rely
8 on the fabric of the system including all of
9 the generators once they are built for
10 reliability purposes. And so I think that
11 that big picture sense of purpose for
12 generators once they have the CPG is
13 important, whether or not they were
14 specifically built to address the
15 reliability problem.

16 248 doesn't have time limits. This is
17 certainly a constant question whether it
18 should or whether siting statutes generally
19 should, and I think as you've learned, some
20 states have siting statutes that have time
21 limits, and I think the time limits are an
22 interesting part of the gain that siting
23 statute sets up. And ultimately I think
24 relative generous time limits that don't
25 rush to judgment can, along with a

1 commission that is disciplined, can work.
2 And of course we have rate case time limits
3 which I think are good solutions in Vermont
4 and good for the balance of interest in
5 Vermont.

6 I think the same sort of philosophy can
7 apply, but one thing about the way the rate
8 cases work in Vermont is that there is
9 discipline at the regulator level and
10 participants are prepared for that. And one
11 thing you have to at least consider is that
12 in generation where maybe not everybody is
13 as familiar with the process as they tend to
14 be in rate cases, there can be more of a
15 challenge to maintain discipline. And so I
16 think that has to be considered when I think
17 about whether the time limits are
18 appropriate. I do think that when you go
19 back over the history of the Public Service
20 Board it has been very diligent about trying
21 to run a disciplined process. I think in
22 that way Vermont has had some good stories
23 to tell compared to other states that
24 sometimes have trouble with discipline in
25 regulation. And so for anyone who is

1 worried about the time limit -- a generous
2 time limit would tend to become what always
3 gets taken, I don't think that would likely
4 happen, although I think it's a risk that
5 you have to think about. In other words, if
6 you created a time limit of 18 months for
7 something, I don't think every proceeding
8 would take 18 months because of the
9 tradition that Vermont has. But of course,
10 tradition changes with two appointments, and
11 all of a sudden you can be in a different
12 situation. But fortunately I think Vermont
13 has been pretty responsible in time limits
14 for siting.

15 One thing that Jan Eastman: might
16 remember, perhaps not, but I do is that at
17 some point while we were both in government
18 we worked on an energy plan in which we
19 actually talked about identifying areas
20 which perhaps should not have generation on
21 them. And that there could be a process to
22 identify those, people would then know about
23 them, and people would be able to focus
24 elsewhere because it was some effort to
25 identify places and purposes that now and

1 for always would be unlikely to support a
2 generation project. And I think I use the
3 word unlikely intentionally. It's sometimes
4 hard to be sure that you can put someplace
5 off limits. But I think that there are some
6 places which are highly likely to be off
7 limits. Any of you have seen Dr.
8 Zimmerman's presentation about wind. I
9 think he includes things like that in his
10 presentation. And so I think that one could
11 identify places that are off limits, and I
12 think this could be for wind or other
13 generation purposes. And we use whatever is
14 left, and probably would be quite a lot of
15 places that are potentially suitable for
16 generation. That might create some comfort.
17 We didn't do that at the time. We wrote it
18 out in the 20-year-electric plan, we didn't
19 actually go through and do that. Probably
20 because it was hard, given the expense,
21 there are other things to do, and you may
22 find that even if you fancy that as an
23 interesting idea, you might end up with the
24 same result of saying that's interesting but
25 not actually something that we are going to

1 do.

2 Public engagement is always a critical
3 part of any siting question. There was a
4 point in time that some of the people here
5 will remember when the Champlain pipeline
6 was being proposed where there were people
7 who recognized that such a large network
8 facility was really -- was best evaluated by
9 including the public, and so Regional
10 Planning Commissions were actively brought
11 into the conversation, funding was given to
12 Regional Planning Commissions to help them
13 do their part to help the state get to the
14 right answer. And of course that project
15 was pulled eventually for other reasons.

16 But I do think that for some projects
17 that thinking more broadly about advance
18 work and engagement with local people who
19 have an important insight, it's a public
20 interest insight, and therefore to me makes
21 it a little bit more -- a little more
22 compelling to ensure it's said as compared
23 to some of the commercial insights that are
24 also important but are driven by different
25 purposes.

1 So some things that I've thought about
2 in this regard are whether the 45-day notice
3 should be longer and whether other things
4 aside from what is listed in the statute
5 today should be included. And I don't know
6 that I feel terribly strongly about this.
7 But I do think that since there is always a
8 lot of development work going on long before
9 the 45-day time frame, I do entertain the
10 idea that a developer could open up the
11 window to their project earlier than 45 days
12 before the Board's formal process starts,
13 and can do so in ways that can be very
14 engaging and helpful to the public.

15 In thinking about this, I don't think
16 it's doing things like that are actually
17 going to help assuage the concerns of the
18 people most locally affected because their
19 concerns are likely to be their concerns
20 perhaps no matter what anybody says or does,
21 but I'm not sure about that. And I think
22 it's an interesting question to sort out
23 what a more inclusive and thorough public
24 engagement process ahead of time would do.

25 Again thinking about the Champlain

1 process and the number of opportunities to
2 engage the public in places where the
3 project is going to affect them, I think
4 that there is something to that. And that
5 also leads me to point out that it is so
6 important for commissions to think about
7 having hearings, and not just public
8 hearings, but technical hearings in places
9 that are affected by these projects. And I
10 know it's inconvenient and expensive to do
11 that. But I think that there is a certain
12 level of respect that that shows, and I
13 think in Vermont where respect is perhaps
14 valued higher in the process than some other
15 places for the local engagement on the
16 networked system, we can think about that in
17 a way that perhaps other states, bigger
18 states, are less inclined to do that.

19 So I'm going to just stop there, and
20 those are the things I knew I wanted to tell
21 you. And be happy to talk with you for the
22 rest of the time that you want to about
23 whatever you would like.

24 CHAIRMAN EASTMAN: So questions for
25 Rich?

1 MS. McCARREN: Can I ask a question?

2 CHAIRMAN EASTMAN: Louise.

3 MS. McCARREN: Rich, I'm just doing this
4 as a favor because I don't want everyone to
5 just have dead silence, you know, for you.
6 I'm just kidding.

7 Rich, do you think -- do you think there
8 is really any fundamental difference between
9 when you and I were doing this work, in
10 large central station projects, and today
11 where what we have is a pretty -- what
12 appears to be or what appears will be pretty
13 dispersed small -- smaller or small
14 projects? Do you think that fundamentally
15 changes the way we look at siting?

16 MR. SEDANO: I think we already -- I
17 think Vermont already has a lot of dispersed
18 projects, and the Public Service Board has
19 gone through siting processes for those that
20 it has jurisdiction over and has taken
21 interest in the hydro projects to the extent
22 that it can on economic grounds. And it has
23 struck me, I guess, that the evolution of
24 economic wind projects is a distinctly
25 different scale, except maybe a little bit

1 larger than projects that have at least been
2 typically seen in Vermont, and I guess it's
3 in part for that kind of reason that I'm not
4 -- I'm not thinking that there needs to be a
5 whole lot of change.

6 Perhaps there are some environmental
7 qualities relating to wind projects that
8 were not anticipated when Act 250 was
9 created that need to be considered, although
10 frankly from what I've seen in the projects
11 that have been both permitted and turned
12 down or questioned until they were
13 withdrawn, that the issues that seemed to be
14 driven by wind projects seemed to be
15 captured by the net, imported Act 250
16 criteria already have a net.

17 But I think the short answer, Louise, to
18 your question is, no, I don't think there is
19 a significant difference in scale or
20 character, enough to make me feel like there
21 is a gap between what the statute says and
22 what's needed to deal with those projects.

23 MS. McCARREN: I guess specifically what
24 would your view be on a higher threshold
25 over which the PSB had jurisdiction? That's

1 very awkward way to say that. But --

2 MR. SEDANO: Okay. No, I understand
3 what you're saying. I saw the materials,
4 and I note in the past there have been
5 efforts to look at 248 and try to identify
6 the matters below full regulatory concern.
7 One could argue that the whole net metering
8 statute has created a family of generators
9 that are below regulatory concern, and we
10 manage those and seems to be fairly
11 successful.

12 And I think there is a simplified 248
13 process already if I'm not mistaken. So I
14 think that it's sensible where you can look
15 at certain kinds of projects that have
16 simple -- simplified elements to them, and
17 if you can sort of create a generalized
18 simplified process for them, that's good
19 government to not put up any more regulation
20 than you have to. You can deal with
21 people's business.

22 I think a wind project that's 20 or 30
23 or 40 turbines and the road that goes up to
24 them, and the power line that brings the
25 power out, it all sounds like a pretty good

1 project to me, and not unlike some of the
2 big projects that we have used 248 for in
3 Vermont.

4 MS. McCARREN: Thank you.

5 CHAIRMAN EASTMAN: Rich, those were
6 questions about renewables. Do you have any
7 -- we actually went to New Hampshire for a
8 site visit to go to the gas plant there
9 because we didn't have any sort of
10 traditional sources.

11 Is there anything we need to hold in our
12 minds if we are talking about, you know,
13 siting electric generation? Something we
14 want to be careful to remember that we
15 either need to be sure to include or don't
16 mess up regarding more traditional sources?

17 MR. SEDANO: Well in looking at your
18 option menu I have to say I think you're all
19 thinking of all the stuff in a nice
20 systematic way. And I think system is a
21 good word to think about here. Every
22 generator has a system of effects in the way
23 that it deals with its surroundings, whether
24 it's the air or the roads or the flora or
25 the fauna. They are all -- there are all

1 sorts of ways that it affects the system.

2 And McNeil certainly had this and
3 introduced the interesting aspect of rail
4 which doesn't usually come up. And the
5 distinct aspects of just about every
6 generator, and I think one of the marks of a
7 good statute is one that's generally enough
8 actually to deal with all of these things.
9 There certainly are statutes around the U.S.
10 that get kind of specific about different
11 things, about time limits, about all kinds
12 of more specific dates, and I think many of
13 those tend to produce holes potentially when
14 you encounter something unusual.

15 One thing though that I think is
16 important when thinking about the statute is
17 is there anything that the administrative
18 agency can do to make the statute more
19 usable. So some states do create guidelines
20 or some sort of a user's guide to try to
21 create steps through the process. This is,
22 I think, different from perhaps historical
23 checklist, but does -- and it is potentially
24 in some cases going to be not sufficient.
25 But a set of guidelines that's written in

1 plain English to take you through, and
2 Wisconsin that takes you through, you know,
3 reviewing this, here's why we are doing
4 this, here's what it looks like, and so it
5 has some nice guidelines on siting that I've
6 seen I think other states do too. And that
7 can be a useful way of dealing with a
8 process that inherently has such a
9 significant public element to it in addition
10 to helping the developers navigate what's
11 expected of them.

12 CHAIRMAN EASTMAN: Other questions?

13 Gaye.

14 MS. SYMINGTON: I have some questions
15 that come from a meeting where I had to
16 leave early, and so I only know I'm only
17 reading -- I'm only reading the comments. I
18 didn't participate. So but there was a
19 conversation when Michael Dworkin was with
20 us and Kerrick Johnson from VELCO talking
21 about the one thing that's really shifting
22 over time is the need -- it used to be that
23 it was just IBM that lost millions of
24 dollars, you know, if they lost power for
25 five seconds. They have -- their standard

1 of reliability is so much higher than
2 everybody else's. And now the rest of us
3 are maybe not at that level, but we are
4 approaching the higher need for reliability
5 because, you know, we have so much data
6 that's in the cloud or whatever.

7 And I'm wondering if you see -- if you
8 agree that that's a shift, and do you see
9 that affecting how we address these siting
10 issues, and -- that's one question.

11 MR. SEDANO: Thank you for your
12 question, and nice to hear your voice.
13 First of all, I'll just say from the
14 perspective of a Public Service Commissioner
15 I didn't only think about IBM that way.
16 When people like Mack Molding which has a
17 heat sensitive process was concerned about
18 reliability, you know, there were other
19 manufacturers in Vermont that had actually
20 similar concerns to IBM, maybe not as large,
21 but I could look at it that way.

22 I do think though what you're saying is
23 that this has become more of a populous
24 issue because we all rely on technology so
25 much in our daily lives, more than perhaps

1 we did, and I think that there is -- this is
2 a social question that may be beyond me to
3 really be very articulate about.

4 In terms of where we are in terms of --
5 you'll recognize the term basic service,
6 where we are in terms of dealing -- like we
7 always have to have our computers on to be
8 functional in the world, I don't know if we
9 are quite there yet. I mean it's nice; I
10 have my computer on right now. Of course it
11 has its battery, so it will last awhile. So
12 is the phone I'm talking on. But so I guess
13 I'm not going to say that I feel that a
14 hundred percent reliability is important
15 yet.

16 We now have I think the standard
17 reliability that is roughly 99.9 percent
18 reliable, maybe 99.99 percent reliable, when
19 you actually do the math. And that there
20 are some places that want more nines, six
21 nines, eight nines, and they are going to
22 have to pay for that in order to go beyond
23 what the standard level of reliability is.
24 But generally, I think the siting statute is
25 not terribly connected to that.

1 I think we have a system of reliability
2 in New England that is driven by a lot of
3 forces that you have some relationship to
4 the transmission system, not so much to
5 generation that's sited in Vermont. I think
6 we could have no generation in Vermont and
7 still have the level of reliability that we
8 would need. We would need more transmission
9 lines to do that, and we would have to go
10 through the process to build them, and I
11 think the 248 process would recognize if all
12 of a sudden the generation in Vermont were
13 gone, we would have to have transmission to
14 deal with that situation. I do think that
15 there is an issue related to distribution.
16 But siting -- the siting statute has nothing
17 to say to that because all of the
18 distribution lines are not subject to the
19 siting statute. And if you put any
20 regulation on them, that's Act 250.

21 When we have line extensions into new
22 areas, Act 250 can and does play a role in
23 that. But that's rare because that's
24 basically lines everywhere already, so when
25 you make them more powerful, you don't need

1 to ask anybody's permission usually. So I
2 guess generally, Gaye, I would say that
3 whether or not you feel that society has
4 changed so much that the average person
5 needs more reliability, and I actually don't
6 think we have quite made that case, I don't
7 know that there is a very direct connection
8 aside from even to make sure that we can
9 build the transmission that we need to
10 achieving that. And there are many other
11 things that are supporting us to make sure
12 we have that.

13 MS. SYMINGTON: And there was a
14 discussion about -- I haven't seen this in
15 other parts of our -- or heard it in other
16 testimony where Vermont -- for a project
17 built within the State of Vermont the Public
18 Service Board has to consider the
19 environmental effects both within and beyond
20 the state, and that Connecticut has even
21 more stringent requirements to that effect.
22 Is that something -- do you want to comment
23 on that? Do you feel like we need to spend
24 more -- pay more attention to sort of the
25 external costs of our -- and that that could

1 be reflected?

2 MR. SEDANO: I'm happy to talk about --
3 probably was last intensely talked about
4 during the Hydro-Quebec contract approval in
5 the late '80s. But it is, I think, always
6 relevant because of generally the societal
7 nature of Vermont's scope in thinking about
8 everything, energy efficiency is reviewed
9 with the societal test. I think that as a
10 general sense, that flows through the
11 statute and Public Service Board orders,
12 that what happens outside of Vermont is
13 relevant to decisions that Vermont makes.

14 I will say that this is not universal,
15 I'm not sure that I've done an analysis, but
16 I'm willing to say that I'm not even sure
17 there is a majority of states that would
18 take on that burden of considering effects
19 outside the state, pro and con, in reviewing
20 the things that they review. But I do think
21 that there is a very clear message in
22 Vermont law and cases that all relevant and
23 -- relevant and measurable, and not
24 everything is easily measurable, effects are
25 -- aren't fair game to be considered.

1 And I know that in the Hydro-Quebec
2 case, I think you should go back and look at
3 it, there was a lot of questions about that.
4 And I actually don't know that the Board at
5 that point decided to consider the out-of-
6 state effects, but I think they could have.
7 And you all can interpret what the words say
8 if you want. But I see the opportunity to
9 consider all of these things if you want to.
10 And --

11 MS. McCAREN: Kim Hayden has got her
12 hand raised. My memory is that, I was
13 involved in that case, was that it was
14 limited to the migratory birds.

15 MS. HAYDEN: The standard was and
16 Michael Dworkin wrote an order that was
17 appealed up to the Supreme Court, and what
18 the court held was that impacts outside of
19 the state can be considered to the extent
20 there is a material impact within the state,
21 so in that case it was limited to the
22 migratory bird issue. You can apply that in
23 different ways. Buying wind from a project
24 in New Hampshire, for example, if you're
25 impacting the bat population, applying that

1 construct, you know, you could possibly look
2 at impacts within the state.

3 MR. SEDANO: Right. I mean there is --
4 Vermont is, I think, more interested in
5 those kinds of societal matters than others,
6 than many other states are. And I think one
7 especially to the extent that there is
8 interactivity among all kinds of areas in
9 the environment with the surroundings one
10 can spin an argument that at least has a
11 chance of working. I think generally the
12 societal aspects of this are network
13 industries have been certainly relevant in
14 the Vermont -- in the Vermont regulatory
15 process for a long time, and I guess it
16 remains to be seen in what ways is that
17 played out in wind.

18 MS. SYMINGTON: One more question?

19 CHAIRMAN EASTMAN: Okay. One more.
20 Then we will move on. Then we have got to
21 move on to June.

22 MS. SYMINGTON: So I had a question of
23 are we just -- are -- what are we not
24 thinking about? As we think about, I mean
25 in terms of types of generation, we are

1 fixated right now on, you know, renewables,
2 but for example, advances in storing energy
3 or and using -- using power that's available
4 in an intermittent time frame, to then, you
5 know, pump water uphill that it can be
6 stored and then or -- if we were to have
7 more advances. Is there something coming
8 that we should be thinking about siting
9 issues for that we just aren't thinking
10 about? And I think of storage and not just
11 in terms of traditional batteries, but you
12 know, using intermittent power to move
13 something that then later can be used to
14 generate power.

15 Is that going to create siting issues
16 that we should be aware of, or are there
17 other things that will create siting issues
18 that we should be thinking about that we
19 just don't see yet?

20 MR. SEDANO: A lot of land mass could be
21 covered with solar panels, but you're
22 already seeing that in Vermont. So could be
23 scaled, and at some point become offensive
24 or at least more controversial than it's
25 been so far.

1 I think one goes back to the early '80s
2 for a concept that I think VPPSA was
3 thinking about to actually do a pump storage
4 project in northern Vermont. And I think
5 saner heads prevailed on that probably, but
6 I don't think anybody at the time was
7 thinking that the siting statute was the
8 reason not to do it. I think -- I don't
9 think there was a question about whether the
10 siting statute was prepared to handle that.
11 It was more about whether the whole concept
12 was a good idea. I don't know that the
13 compressed air -- compressed air energy
14 storage is viable in any of the quarries, in
15 other places in Vermont.

16 But again, I don't know that there is
17 any reason to think that the siting statute
18 presents any barriers to that. It certainly
19 presents some new issues as each form of
20 generation can. I don't know that
21 significant arrays of batteries would
22 present any issues that would be challenging
23 for the statute, although there might be
24 some new issues in terms of what if there
25 was a problem with the contacts of the

1 batteries and things like that.

2 So I guess I'm thinking about all of the
3 energy storage that people are thinking
4 about, and I'm not really coming up with any
5 showstoppers.

6 I think the other thing, the other
7 general concern about intermittent or
8 variable resources is developing
9 flexibility, and flexibility comes chiefly
10 from a demand response which is something
11 entirely outside of the statute, and gas
12 facilities that are designed to be flexible.
13 And since the big gas plains are elsewhere,
14 the most likely places for what I would call
15 a most modern gas unit maximizes flexibility
16 instead of cost of production as the
17 priority would most likely be elsewhere.
18 But even if it was, then we have certainly
19 had discussions about gas units in Rutland
20 or Bennington. Again there was no concern
21 that the siting statute wouldn't have been
22 up for that or other -- there were other
23 reasons people were concerned about those
24 projects, but not that the siting statute
25 was not prepared for them.

1 So I guess in searching my mind for
2 this, I think any solar coverage of the land
3 map is maybe the one interesting one that
4 you might want to think about. But all the
5 other examples I've thought about I really
6 don't think there is a problem at all.

7 MS. SYMINGTON: Generation from a stored
8 unit would still be covered under our siting
9 statutes; right?

10 MR. SEDANO: Oh I believe so. There was
11 a time when many nuclear plants were built
12 that pump storage, which is entirely for
13 storing nuclear energy at night and using it
14 during the day, were commonly combined with
15 nuclear power plants, and those -- had such
16 a thing been done in Vermont, it would have
17 been subject to the siting statute, and in
18 those places where it was done in
19 Massachusetts or New York, Pennsylvania,
20 that I know about and many others, those
21 were certainly run through their generating
22 siting statute.

23 MS. SYMINGTON: Thanks.

24 CHAIRMAN EASTMAN: Scott, you, and then
25 we are done with --

1 MR. JOHNSTONE: Hey Rich. I wanted to
2 pick up on your comments about the notion of
3 respect and public voice and that piece of
4 the process. And there is kind of two
5 pieces of that that we have been thinking a
6 lot about here.

7 One is the notion of intervener funding
8 and how if you're not resourced it's hard to
9 be -- participate meaningfully. So thought
10 you have on that of people that do that well
11 perhaps.

12 And then the second half is I think what
13 we have heard mostly in testimony from folks
14 is, you know, the fact that there is a
15 public hearing or even if you add the
16 technical hearing as you suggested, if it's
17 not part of the record and it's not
18 actionable, and it carries no weight, it
19 still isn't respectful. And yet on the
20 other hand when you hear about what other
21 states do, frankly it sounds on that front
22 like we are doing better than most anybody
23 else that we have talked to.

24 But surely there is some examples that
25 -- maybe there is some examples you could

1 offer. One of the things we have been
2 thinking about is as a way to give that
3 voice and some weight to a more local voice,
4 creating the box around which a regional
5 plan has to develop their energy plan so
6 that they share in the burden and be part of
7 the system. But if they do that within some
8 constraints that the department might put
9 together, that you know, that piece of
10 voice, the regional voice, if you will,
11 could have some standing. One thing we are
12 exploring on that.

13 So on any of those sort of paths they
14 all end up coming back to the question of
15 the opportunity for the public to
16 participate in a meaningful way, and if you
17 think everything is great today, that would
18 be fine too to hear from you. But I'll
19 leave it there and let you see where you go
20 with it.

21 MR. SEDANO: Thanks. So I sent Anne an
22 order in a California transmission case that
23 related to intervener funding, and then it
24 turned out that you probably already heard
25 from the major player in that, Mark Mihaly,

1 already perhaps about this. And so in the
2 Valley Rainbow case in California is a great
3 example of what there they call interveners
4 providing substantial contribution to
5 resolution of issues. And I think
6 intervener funding is -- I think a very
7 useful thing, potentially useful part of any
8 regulatory system.

9 I have been interested in this for some
10 time. I think it's reasonable to be
11 concerned about how easily money comes out
12 of the spigot for people who have -- who
13 just want to sound off and actually don't
14 want to make a substantial contribution to
15 the resolution of issues. But that standard
16 is used by the California PUC from their
17 statute on this, and the TURN organization,
18 I'm not going to remember what T-U-R-N
19 stands for -- utility ratepayer network, the
20 utility ratepayer network, they are regular
21 participants in California matters. I think
22 they have been motivated to have what I
23 would call professional intervention and
24 advocacy and routinely win awards after the
25 fact. And I think it's an interesting

1 dynamic that they have in California that
2 you go through all of this, you're motivated
3 to do -- to help the Commission make a
4 decision, and if you do a good job, you'll
5 get your costs covered.

6 And I think Mark perhaps told stories
7 about that from his experiences in
8 California for which the Valley Rainbow
9 project was maybe one of the larger ones
10 where he personally had a strong and
11 positive influence according to the
12 Commission's order, and my personal
13 conversations with the Chair at the time,
14 Loretta Lynch. So I think that that's
15 something that can be done. And California
16 managed that effectively, and I think it
17 could be managed effectively in Vermont.

18 As for the public hearing actually I
19 guess I think that it's a shame if the
20 public thinks -- it's a shame if it were
21 true that the public hearings have no
22 influence. Perhaps there is a concern about
23 when public hearings happen, when everybody
24 has already iced their positions, and then
25 the public hearings have come, and there is

1 no opportunity for the public's point of
2 view, it appears anyway, no opportunity for
3 the public's point of view to make a
4 difference in things.

5 My own experience in talking with Board
6 members is that they have found the public
7 hearing and the experiences to be valuable.
8 I'm not sure that every one of them has
9 found them as valuable as others, perhaps
10 some attention to instructing in statutes
11 how they should be valuable, and perhaps
12 locating them in time earlier in the process
13 when perhaps they could have more of an
14 influence on cross examination and rebuttal
15 might be worthwhile.

16 I think if you have a public hearing
17 after the record is closed, it doesn't seem
18 like they have as much an effect as if you
19 have them where they can influence cross
20 examination and rebuttal.

21 MS. McCARREN: Hey Rich, this is Louise.
22 Very quickly in California is my memory
23 wrong? I thought the California Energy
24 Commission sited gen and the DPUC sited
25 transmission. It's neither here nor there.

1 If we are going to follow that path about
2 intervener funding, that's something I would
3 check on.

4 MR. SEDANO: You're definitely right
5 about the generation and transmission divide
6 in California.

7 MS. McCAREN: Okay.

8 MR. SEDANO: And I don't know whether
9 the intervener funding applies to the Energy
10 Commission for generation the way it applies
11 to the Public Utility Commission for
12 transmission. I have to say I don't see a
13 material difference in application. If you
14 like the idea, and the standard that PUC
15 applies in transmission cases, I don't see a
16 whole lot of difference in the way it would
17 be applied by a commission in any kind of
18 siting situation. And it is -- it is --
19 actually I'm going to look it up, whether
20 the PUC has the same practice because it
21 would be odd if they didn't in the same
22 state, but that doesn't mean it won't be
23 true.

24 Now as for the Regional Planning
25 Commission, I do think that back when

1 something called Act 200 was created that
2 tried to encourage regional planning and
3 included energy among the things that
4 regional planning was supposed to do, and
5 there was actually some general funding, I
6 think, that was employed in order to bolster
7 the capabilities of the regional planning
8 authorities including thinking about energy.
9 The problem that you're asking about is very
10 difficult to solve. When a project hits the
11 desk, there has been no conversation in the
12 region or locally about energy-related
13 matters, and then all of a sudden a project
14 hits the desk and there are people for it,
15 people against it, people concerned about
16 it, focused on the particulars, with no
17 foundation for how to think and talk about
18 it. Then I think it's almost a miracle if
19 there is a nice, rational conversation about
20 it, whereas if there was preparation in
21 regional planning about energy-related
22 matters so that there is this foundation,
23 and then when something comes along that
24 becomes something that's part of a context,
25 there is at least a better likelihood that

1 people in that area will be prepared for it.

2 I do think that there are some projects,
3 and the Champlain pipeline was one, where
4 the RPCs can be immeasurably helpful to the
5 Board in making its decision. But I say
6 that very precisely, it's still the Board's
7 decision. And the RPCs can provide
8 important insight, and that should be
9 supported with funding. But it's not a
10 joint decision, it's the Board's decision.

11 MR. JOHNSTONE: Thanks.

12 CHAIRMAN EASTMAN: Thank you, Rich.

13 MR. SEDANO: Okay. Are we done?

14 CHAIRMAN EASTMAN: We are going to let
15 you go for today.

16 MR. SEDANO: Thank you.

17 CHAIRMAN EASTMAN: Thanks so much.

18 MR. SEDANO: Nice to talk to you all.

19 Bye bye.

20 CHAIRMAN EASTMAN: I think all this is
21 telling us is we have all aged. Yes.

22 MEMBER OF THE PUBLIC: I was just
23 wondering. I didn't see him on here. He is
24 a former chair of the --

25 CHAIRMAN EASTMAN: He's a former Public

1 Service Commissioner.

2 MEMBER OF THE PUBLIC: What does he do
3 now?

4 MS. McCARREN: Runs the Regulatory
5 Assistance Project which is a group of
6 former regulators who provide help and
7 assistance to other commissions throughout
8 the country. Right?

9 MS. HAYDEN: Yes. I think they provide
10 assistance to the Department of Public
11 Service from time to time. Yeah, I think it
12 is around the world.

13 CHAIRMAN EASTMAN: Okay. We do want to
14 get to talking, but June Tierney is here
15 from the Public Service Board. And when the
16 Chair was here, we said as we were doing
17 things we would give you the opportunity to
18 keep telling, you know, what do we need to
19 know. And so I want to give you a little
20 time.

21 MS. TIERNEY: Very, very kind. I'm not
22 really here. I am Jim Volz.

23 MR. JOHNSTONE: Welcome Jim.

24 MS. TIERNEY: Very unenviable position
25 because I'm following Rich Sedano, and I

1 have an extremely limited portfolio. I'm
2 here to tell you what Jim thought about the
3 memorandum that the ANR issued on January
4 13; the comments of Billy Coster.

5 Before I go into that I thought I would
6 set the table a little bit by conveying to
7 the Commission a transcript of a 248
8 workshop that the Public Service Board
9 convened on January 24. That is to say, Jim
10 was there and I moderated it, and we had a
11 full house over at the Pavilion. The
12 building across the street from us, the name
13 of which escapes me now.

14 I hasten to add that the Board convened
15 this workshop not with the knowledge of this
16 Siting Commission. In fact it predated
17 that, because we had a 248 case that
18 produced a 19-page letter from a certain law
19 firm, that was very instructive, and brought
20 home to us that perhaps it was time to have
21 a bench conference as to how our regulated
22 community is feeling about us. And so we
23 took this initiative ourselves. And then --
24 I think that was in July of last year, and
25 then you folks came along. So we would have

1 done it anyway.

2 But the point I would like to make on
3 that is that we did this workshop in
4 January, the idea was borne in late summer.
5 And the time lag is not a reflection of the
6 lack of priority that it represented for us.
7 The time lag is a reflection of what happens
8 when you've got lots of things on your
9 plate.

10 CHAIRMAN EASTMAN: Right.

11 MS. TIERNEY: This is a theme that
12 you'll hear throughout Jim's comments
13 related to me. In the end, decisions have
14 to be made about what you want the Public
15 Service Board to do. We're sort of in a
16 foxhole while this process has been
17 undergoing. And I'm the one who has been
18 designated to poke her head out of it today.

19 CHAIRMAN EASTMAN: Well it is February,
20 you know.

21 MS. TIERNEY: It is indeed. So I will
22 do my living best, but what was interesting
23 about this workshop was we had every
24 conceivable perspective I think in
25 attendance, and you'll see that in the

1 transcript. And everyone had valid points
2 of view. Everyone had things to convey to
3 us that we frankly had inferred from the
4 faces in our hearing rooms and at the public
5 hearings. And it brought home to us that,
6 gee, if everybody is equally unhappy with
7 this, we must be doing something right.

8 But please keep that in mind. It's a
9 balancing act. And the Public Service Board
10 is here to do the people's will and that
11 will is written in statute. We have some
12 rulemaking authority that is given to us.
13 We try to adopt rules that will effectuate
14 that will, but fundamentally we do what you
15 tell us to.

16 With that in mind, I turn to the
17 memorandum from the ANR, and I have this
18 cumbersome numbering mechanism that I'll be
19 using so forgive me if I screw it up. The
20 first issue was the point of formalized
21 scoping phases.

22 As I understand it basically the ANR is
23 suggesting that the Board should introduce
24 and mandate this process by which certain
25 scoping occurs in advance of a CPG petition

1 or proceeding getting underway. The
2 Chairman thinks that's a useful suggestion.
3 He does feel that the function itself ought
4 to be housed either with ANR or with the
5 Department, that these are things that could
6 be done pursuant to guidelines or rules that
7 either Agency is capable of adopting. If
8 you have the Board do it, it goes without
9 saying, the Board is going to need more
10 staff to do this. But the other point to be
11 made is that again, you have to conserve
12 from our point of view the decisions that
13 you want the Board to make as an
14 institution. And this is a process,
15 management initiative, that would be most
16 useful, but if you have the Board deciding
17 whether a prepetition process of outreach or
18 whatnot is adequate, those are decision
19 making resources that are being diverted
20 from other cases. And you really have to
21 ask yourself is the Hearing Officer or the
22 Board member sitting on the fourth floor of
23 Chittenden Bank building best suited to be
24 custom making or tailor these plans when you
25 have very, very capable staff in two

1 agencies; developers, Regional Commissions,
2 and most importantly citizens of their own
3 community, who probably would do a better
4 job shaping what the benchmarks should be
5 and whether they are adequate or not.

6 On point two, I am in the very reluctant
7 position of having to say I'm really not
8 quite sure that the Board has the authority
9 to require public outreach of a nature
10 that's described in this paragraph which
11 would be the fourth paragraph on page two.
12 The term environmental due diligence is one
13 that I love. Before I became a regulator I
14 was a corporate white-collar crime defender,
15 and you know, due diligence was always the
16 thing that we looked to first to see hey,
17 did the company do its homework or did the
18 company screw up, and that was a very
19 decisive factor in how we structured cases
20 in dealing with the U.S. Attorney and the
21 EPA and the SEC.

22 So without question, environmental due
23 diligence is a key thing to do, and it seems
24 to me since the environment belongs to the
25 people, reaching out to the public is

1 definitely the thing to do as well. But
2 whether you are able to say to an applicant
3 you may not petition your government for a
4 license until an agency of some kind is
5 satisfied that you've done sufficient
6 outreach or you've done due diligence, I
7 cannot sit here and tell you the answer to
8 that question. I would have to do more
9 research.

10 In any case if you're going to do it, it
11 would need to be --

12 CHAIRMAN EASTMAN: Didn't the Board --
13 it might need to be a statutory change, but
14 we have heard from VELCO about their process
15 which came out of both Board order and then
16 I think rule; right?

17 MS. TIERNEY: Absolutely. It's a
18 planning process, and it's a very good
19 process too. But the point I'm getting at,
20 Jan, is whether you can stop the clock and
21 prevent somebody from addressing themselves
22 to their government and petitioning before
23 they have met the goal. That's all.

24 One other thing to note too is we are
25 constantly hearing that our process is

1 lengthy, and of course will add more time to
2 this process, which is not necessarily a bad
3 thing. It's just -- it's a decision that
4 would need to be made consciously.

5 The third point I'm going to make is on
6 the fifth paragraph, I think where it's the
7 fourth paragraph, second page. My
8 apologies, ladies and gentlemen, it has to
9 do with developing the scoping phase
10 guidelines.

11 Again, we really think that the
12 expertise for this resides elsewhere,
13 particularly with ANR. So that would be our
14 recommendation.

15 The same thing on the next point with
16 respect to benchmarks. These are things
17 that again the Department and ANR can
18 develop, and I think this is a good time to
19 bring forward a concept that we have pointed
20 to briefly at the workshop we had. Having
21 listened to much of this discourse, I wonder
22 sometimes if the problem or one of the
23 problems that you are confronting has to do
24 more with mechanisms that have followed out
25 of disuse and are practically unknown any

1 more, and therefore have created this
2 vacuum, or the mechanisms haven't created
3 the vacuum, but a vacuum has ensued, so
4 there is a desire to fix it. But there are
5 mechanisms that exist already where I feel a
6 lot of this could be addressed, this is
7 through the rulemaking process and the
8 procedures process in the Administrative
9 Procedures Act. My reading of 3 V.S.A. 810,
10 et cetera, tells me that the ANR, members of
11 the public, anyone is free to ask to
12 petition for a rulemaking, and the
13 Department in particular has standing under
14 30 V.S.A. 220. So if there are things that
15 folks want the Board to be doing, that is a
16 mechanism that is available to them to
17 petition for a rulemaking.

18 The advantage of that is that rulemaking
19 itself is governed by rules of the road, if
20 you will, and they ensure at least in my
21 experience, that a healthy, robust outreach
22 is done to the potential stakeholders. And
23 that way you have avoided or at least
24 minimized the risk of having captive policy
25 made, meaning that one particular voice or

1 two particular voices are able to wrest the
2 microphone away and get rules or procedures
3 in place that suit that particular
4 perspective but may have been devised
5 without a full consideration of the
6 stakeholders.

7 So if somebody files a rulemaking
8 petition with us, we have to act on it
9 within 30 days. We have to get a process
10 going in 30 days. And then the added
11 advantage to that is that ultimately those
12 rules find their way over to the legislative
13 rule committee in the legislature. At the
14 risk of sounding pedantic, I have been
15 accused of that more than once in my career,
16 we are a creature of the legislature, so it
17 is well and good that our parent, if you
18 will, would be looking over our shoulder in
19 the rulemaking process and saying, hey, what
20 did we think of this? Do we want our
21 creature to be doing this? That is a good
22 mechanism, and it also again is an avenue by
23 which the public who ultimately owns all of
24 us is able to meet front and center and go
25 to these committees and let their views be

1 known whether through testifying in the
2 committees, but ultimately in the ballot
3 box.

4 This is civics stuff that is just not on
5 everybody's front burner for good reason.
6 This is a complicated world, and not
7 everybody has the time to be so well versed
8 in these procedures. But they were there
9 for a reason, and I would urge you strongly
10 as a creature of the law to give them due
11 consideration as well.

12 CHAIRMAN EASTMAN: Just interject here.

13 MS. TIERNEY: Please do.

14 CHAIRMAN EASTMAN: We have got some
15 options. ANR made some suggestions. We
16 hadn't gone through the options. We were
17 going to do that and ask Sheila to tell us
18 which would be rulemaking, which might
19 require legislation, or which were just, you
20 know, a different way of acting. We haven't
21 done that, and of course ANR suggestions are
22 just now intermingled with our options, you
23 know, with our overall options, now with
24 everything including the kitchen sink. We
25 were just at the beginning of talking about

1 it so --

2 MS. TIERNEY: So I will not beat that
3 horse any further.

4 CHAIRMAN EASTMAN: We get it. There is
5 rulemaking, there is guidelines, there is
6 legislation. Sometimes we have to get the
7 legislature to act.

8 MS. TIERNEY: Absolutely right. I think
9 the message that the Chairman would want me
10 to convey is we are open for business.

11 MR. COSTER: Would you prefer that we
12 institute that formal process compelling you
13 to explore rule making on these issues
14 versus just have an informal conversation at
15 the staff level?

16 MS. TIERNEY: You are Billy; right? You
17 are a wonderful writer.

18 MR. COSTER: Yeah.

19 MS. TIERNEY: You really did. And I
20 really shouldn't speak to what the
21 preferences are. The Chairman didn't
22 authorize me to do that, Billy, but as you
23 well know, we have had some meetings, and I
24 don't think I'm saying anything here that
25 wasn't already said in those meetings.

1 We don't view the rulemaking process as
2 compelling anyone to do anything. It is a
3 process that exists by law because wiser
4 people at another time thought this was a
5 good way to facilitate these kinds of
6 conversations. And we are an Agency that
7 does the people's will. And it was the
8 people's will to have these mechanisms in
9 place, so full if you avail yourself of that
10 freely and fairly, you're not compelling
11 anyone to do anything.

12 The push back on you, if you forgive me,
13 this isn't my moment in time to make an
14 argument, you have rulemaking authority
15 yourself as an Agency. You have the ability
16 to create standards that govern. When -- I
17 think this may be something I said to you in
18 one of those meetings we had, the ANR is a
19 statutory party in Board proceedings. That
20 tells the Board that the ANR is to be
21 considered very carefully, very soberly, and
22 so if the ANR comes into our hearing room
23 and says we don't think this thing is
24 complete for this, this, this reason, it
25 does not meet our rules, our standards, we

1 have certified it, if you will, as not
2 complete, that's a significant factor for
3 the Board to consider.

4 At the risk of taking more time than I'm
5 supposed to take, I'm going to move on.

6 CHAIRMAN EASTMAN: Yeah. Move on
7 because as I say, we asked -- I think the
8 Commission asked the Agency to provide us
9 with suggestions regarding the 248 process.
10 That's what we have been asked to do. And
11 --

12 MS. TIERNEY: You need to take back your
13 reasons. Absolutely.

14 I think I had you on paragraph five.
15 Very briefly, quite frankly, I hastily say
16 something that one regrets later. The Board
17 doesn't see many fatally flawed cases. This
18 is where I'm sticking my head out of the
19 foxhole. Perhaps there are fatally flawed
20 experiences that everybody else knows about.
21 We scratched our heads on this and said East
22 Haven comes to mind. East Haven there were
23 birds and bat studies that were not in the
24 project, and ultimately the Board, if I
25 remember correctly, decided not to approve

1 the project on the recommendation of ANR
2 because the studies were not there. That's
3 the only fatally flawed case in our memory.
4 So we appreciate it being flagged but we
5 don't think that's --

6 MS. McCARREN: Does that include cases
7 that were dismissed before they were heard?
8 Or the application wasn't accepted? I'm
9 just trying to remember.

10 MS. TIERNEY: Fair enough. Let me be
11 clear here. There is a distinction between
12 the application not being accepted,
13 dismissed, and an application being turned
14 around where a phone call or letters or
15 whatnot is being made to say it's not
16 complete.

17 MS. McCARREN: Sure.

18 MS. TIERNEY: I will tell you I'm not
19 aware of very many cases that have been
20 dismissed by the Board. The Board has bent
21 over backwards to bring the case in and
22 process it, but that back and forth, I think
23 it's called iterative, I learned that at the
24 workshop, that back and forth process of
25 looking at cases and saying, hey, you don't

1 have this, you don't have that, that is
2 definitely ongoing.

3 And I guess the bottom line of the
4 particular point is we don't think fatally
5 flawed issue is a big problem.

6 Turning to point six which is your
7 paragraph two on page three. The case
8 manager. This falls into the category of
9 what do you want the Board to be doing.
10 Case manager certainly sounds like a
11 sensible office to create, a function. But
12 does it necessarily belong at the Board?
13 And in our view it does not.

14 This is something again that ANR or the
15 Department could have, if necessary, you
16 give them whatever powers that perhaps don't
17 exist now. I have thought about this one
18 very carefully. And I just don't see how
19 you achieve the dream of having somebody who
20 is walled off from the Board in its
21 decision-making process but at the same time
22 has some contact. I'm looking for the
23 precise phrase, it may come later.

24 MR. COSTER: I can read it back for you
25 if you like.

1 MS. TIERNEY: That would be great, if
2 you would, Billy.

3 MR. COSTER: Case manager isolated from
4 the decision making arm of the Board but
5 integrated enough to provide information and
6 guidance on the specific docket.

7 MS. TIERNEY: That's it. And the word
8 integrated was the one that I stumble on.
9 Why do we want the case manager at the
10 Board? Because we want some assurance that
11 the case manager is speaking for the Board,
12 or is at least representing what the Board
13 thinks, is channeling the Board. There is a
14 reliance interest to be created. This is
15 not necessarily a bad thing except you can't
16 have it both ways. You can't have an
17 impartial decision making body and also have
18 an individual who has carte blanche, or
19 maybe not carte blanche, but at least assert
20 to represent this is how the Board's going
21 to see this.

22 So we really have to make a judgment
23 here. And in our view, again the expert
24 agencies are better situated to represent to
25 petitioners what the Board is likely to

1 think about that or the other. So in any
2 case if you want to have a case manager, we
3 are going to need more staff for that.
4 There is no question about that. Ex-parte
5 rules are very clunky, but they exist for a
6 reason and they represent a value. We can
7 abandon that value or scale it back if we
8 like, but we just need to recognize that's
9 what we are doing.

10 That sort of overlaps with a point later
11 on. I'm going to try to wrap this up a
12 little bit, Jan, because I don't want to
13 take more of your time. It sort of overlaps
14 a little with the thoughts about who ought
15 to be on the Board, whether there should be
16 a dedicated anything in our Board members or
17 whether you should be looking for Board
18 members to have a certain background. Those
19 are perfectly rational things to be
20 thinking. It's fun to build a better
21 mousetrap, but you do have to think about
22 what value you are then setting aside in
23 order to facilitate that process.

24 And in my mind the facility that you're
25 setting aside is the one that says that the

1 Board members are not necessarily supposed
2 to be lawyers.

3 We have also said the Board may not have
4 ties, I think it's under Section 4 of Title
5 30, to the corporations that they are
6 regulating, because we don't want special
7 corporate interests on the Board either.
8 This is going to cost me my career, but it's
9 America, so I'm going to say it. If you
10 would for a moment I must speak -- I'm going
11 to draw the very unflattering analogy of the
12 environment as a corporation for a moment.
13 If it's a corporation, it too would be
14 treated the way corporations or Board
15 members with ties to corporations are
16 treated under section 4 of Title 30. It is
17 a dedicated interest that comes to the
18 Board, which means that you have made a
19 decision to weight the decision making, the
20 nature of the decision making a certain way.
21 And this is not a bad thing. It's not an
22 unAmerican thing, but it is a different
23 thing. And maybe that's one of the things
24 that you folks are engaged with.

25 But in any event, if you wish -- again I

1 draw for a moment on a thing that happened
2 early in my career that traumatized me and
3 brought me here. Securities fraud cases
4 were enormously difficult to prepare. They
5 are very complex, and we generally didn't
6 want juries. We wanted judges because
7 juries were people who had good common
8 sense. And it was difficult to convey a lot
9 of complex information to them in trial
10 format, better take it up with the judge.
11 So that's what we did. And we defended on
12 the following principle. If we couldn't
13 make it clear to that individual who was
14 well versed in due process, the Rules of
15 Evidence, et cetera, then perhaps we deserve
16 to lose our case, and that's what I would
17 suggest to you is perhaps going on here.
18 When certain viewpoints are not prevailing
19 in cases, it may be because in the end they
20 were not persuasive, not because it's
21 broken. If you are in the end going to
22 decide who is going to hear this evidence, I
23 think there probably is value in having
24 people listen to that evidence who are open
25 from their background. They are not

1 dedicated to one vantage point or another.
2 Because that ensures a certain degree of
3 destruction, if you will, in the complexity
4 of the process. It requires the case to be
5 conveyed clearly.

6 The other thing too is the Chairman was
7 emphatic about this point, Public Service
8 Board decisions are made on a public record,
9 on evidence that is verifiable in the
10 record. And when you have an individual
11 listening to the case who comes to it with
12 certain expertise, that is not a bad thing.
13 You just have to realize that that expertise
14 itself is not on the record. The process
15 and the accumulated knowledge in that brain
16 is not on the record.

17 Now our system set right now is such
18 that you expect the Public Service Board to
19 bring its expertise, its experience, its
20 technical knowledge and so forth to bear on
21 making the record. But it's to be brought
22 to bear on reading the record not shaping
23 the record. And that is an important thing
24 to keep in mind as you go forward in your --
25 excuse me, in your dialogue.

1 One last point. I think I saw actually
2 in the pros and cons memo, not yours Billy,
3 about the suggestion that orders could be
4 made final at the Hearing Officer level as
5 opposed to the Board level. Not a bad idea
6 at all. It requires a statutory change
7 though because right now under 30 V.S.A.
8 8(c) I think, Hearing Officers can report
9 findings of facts and proposed conclusions
10 of law to the Board, but final judgments
11 must be made by the Board itself.

12 My paragraph -- your paragraph 3, Mr.
13 Coster, which is my point 7, involves
14 technical support for intervening towns. No
15 position on that whatever except it sounds
16 like a great idea. One thing to keep in
17 mind is this properly a function that is
18 administered by the decision maker? Or is
19 this a function that would perhaps reside
20 better with the Department or VANR?

21 If I am one of the parties, I am not
22 happy at all about having my expert chosen
23 by my decision maker and having them on
24 retainer. I have no control over who those
25 experts are. The towns themselves -- there

1 are members of the public, the Department of
2 Public Service has a Consumer Affairs and
3 Public Information Division. In my
4 experience working at the Department that
5 division was entirely dedicated to consumer
6 interests. This is a good thing. People
7 have difficulties with bills and utilities
8 all the time. But public information is
9 broader than just consumer concerns. And
10 increasingly I think it is fair to analogize
11 siting concerns to consumer concerns.
12 People are concerned about these things,
13 they ought to have an office or a public
14 advocate that they can turn to who can help
15 them with these decisions, these shifting
16 processes and local processes.

17 From my perspective the intervening
18 towns are simply towns representing people.
19 So again, why not make that technical
20 resource available to them? But not from
21 the decision maker themselves.

22 Concurrent permit review which I think
23 is paragraph four, this sounds like an
24 exceedingly logical idea. This is another
25 one of those situations where you have a

1 value that is in clash with another value
2 which is the one of flexibilities, and I
3 think Chairman Volz made this point the last
4 time around. These projects in our
5 experience change as the proceedings are
6 underway. They are often understood better
7 or differently going through the contested
8 process, and then the companies or the
9 developers try to tailor the project to
10 answer the concerns that have been raised
11 during the review.

12 The permitting in turn has to change as
13 well, and I think I'm probably telling this
14 Commission something that it has heard many
15 times and does not need to hear again. The
16 bottom line is we need to make choices. Do
17 you want the flexibility in the process, or
18 do you want these permits to be technically
19 complete before you get going? And we will
20 salute smartly and do as we are told, but
21 that flexibility has been quite valuable in
22 our estimation.

23 On paragraph five which is my point 9,
24 we have no position on whether the Board
25 should defer and adopt recommendations from

1 the Agency except to say that I know many of
2 the folks from ANR, and I think very highly
3 of them. So their recommendations are to be
4 taken seriously. But if you wish to do
5 this, we need to carve out reliability. We
6 need to make sure that reliability projects
7 stay with the Board in our opinion. It is a
8 good idea to have rebuttable presumption or
9 a burden shifting as has been suggested in
10 paragraph five. That would seem
11 appropriate.

12 It does seem though that if you're going
13 to give ANR's viewpoints, that the primacy
14 that is suggested in this paragraph, that
15 would be an advisable extension for a change
16 to that effect. In the end though, I've
17 stated the obvious. The Board has been
18 created as a decisional body that balances
19 the public good. And so when you create
20 primacy of a viewpoint in a contested case
21 proceeding you have to recognize that it
22 makes it difficult for other people to then
23 believe that other elements are being
24 balanced in the way of the public good.

25 I think I've already spoken to paragraph

1 six about the composition of the Board.

2 There is really not much I can say on that.

3 Paragraph 8, which is my point 11.

4 Enforcement and funding for monitoring.

5 These are things that are shortcomings right

6 now in our process, especially for

7 landowners who are not interested in the

8 project but who happen to be abutting, and

9 who are on the receiving end of the impacts

10 from these projects, and are desperate to

11 make those effects known and acted on, if

12 possible.

13 Again, who do you want making decisions

14 and investigating and bringing cases

15 forward? In our opinion the model works

16 better if the Public Service Board is

17 preserved as an independent decisional

18 authority and you have police resources

19 located in the expert agencies, and you give

20 them the field staff necessary to go out,

21 ascertain the facts, spread out an

22 affidavit, bring ownership of cause, and get

23 the ball rolling that way and possibly

24 provide funding for those to be filed with

25 the Public Service Board or the Department.

1 To put it simply, leave us as the job and
2 make them the cops.

3 Last but not least, the concern about
4 cumulative impact analysis. This is genius,
5 yes. Definitely from our point of view it
6 should be considered. Vermont is such a
7 lovely place because so much thought has
8 been put into how things are landscaped and
9 how to use our resources, it seems rather
10 silly to be approving a project and not
11 thinking about how they work in the
12 aggregate. But this is something that has
13 to be done statutorily then. And it has to
14 be squared with other very pressing values
15 such as the need for renewable generation,
16 the need for generation and electricity and
17 the like to be cost effective too, to be
18 afforded -- affordable for all Vermonters.

19 The Public Service Board cannot do
20 everything, but it is pleased to try to do
21 what you ask and to do it competently and
22 well. I have some time left. If I can be
23 of any help to you to answer some questions
24 right now, otherwise I will be happy to pack
25 my bags and go back to my foxhole.

1 CHAIRMAN EASTMAN: Thanks for coming
2 over and responding to that. Have you got
3 some questions for June? It's our time to
4 start talking about the options papers here.
5 If you've got something for June.

6 MR. JOHNSTONE: A small one on the point
7 of who does the enforcement. The Department
8 also seems to actually -- I think the
9 Commissioner might have said last time that
10 it should be there, but some of the same
11 issues that you raise for the Board are
12 there. Since they are supposed to play the
13 public advocate role, how do you be the
14 public advocate and the cop? I'm just kind
15 of curious how you might react to that
16 versus the other option is kind of -- I'm
17 kind of curious your reaction to that.

18 MS. TIERNEY: My reaction, this is a
19 talent of mine, I have no right, no left,
20 I'm ambidextrous. I actually don't see the
21 two as separate. I see enforcement as
22 public advocacy because a Certificate of
23 Public Good has been issued, the project has
24 been deemed to be in the public good which
25 means that there is a public interest in

1 having those terms implemented the way they
2 are licensed. And if somebody is falling
3 short of that or if somebody else believes
4 somebody else is falling short of that, that
5 is a matter of public interest and public
6 advocacy, so I guess I don't see the
7 problem.

8 MR. JOHNSTONE: That helps. Thank you.

9 MS. TIERNEY: I hope so.

10 MS. SYMINGTON: How does Asa feel about
11 that?

12 MR. HOPKINS: The public advocate is
13 sitting right here.

14 CHAIRMAN EASTMAN: You'll be fine with
15 it right, Geoff?

16 MR. COMMONS: All in my head.

17 CHAIRMAN EASTMAN: Okay.

18 MS. SYMINGTON: Yeah. No. I'm -- okay
19 great. Thank you, June.

20 MS. TIERNEY: Thank you so much. Linda,
21 I'm sorry --

22 CHAIRMAN EASTMAN: Thanks so much for
23 bringing that.

24 MS. TIERNEY: It's my pleasure.
25 Absolutely. I should add JoAnn Carson the

1 Court Reporter especially waived her fee for
2 giving you the transcript. Thank the public
3 service on that.

4 CHAIRMAN EASTMAN: Okay. Do you want to
5 stretch for a minute?

6 MS. SYMINGTON: No.

7 CHAIRMAN EASTMAN: No. Thanks
8 everybody. We think -- if you don't mind,
9 can some of us just change seats, so we are
10 not all on one side. We would like to get
11 into a conversation about these draft
12 possibilities.

13 And as I said this morning, and not
14 everybody was here, this is something that
15 staff has put together to just give us a way
16 to start talking about possibilities. And
17 so this is our very first conversation about
18 any of them. It's not verbatim from ideas
19 that have been, you know, presented to us.
20 But we have tried to take ideas that have
21 been presented and then try and position
22 them within the seven charges kind of thing.

23 Okay. So we wanted to talk about some
24 of these things, and I know some of you have
25 seen this, probably most of you have. We

1 are going to be putting it up here. And
2 then when we can, we will get it up on the
3 site. This has no meaning. We know that
4 there are things that contradict each other,
5 and you can't do it all. We know that there
6 are things that require legislative change.
7 There might be things that require
8 rulemaking changes. We are just trying to
9 see what we think about these ideas, if they
10 help us work our way through our charges.

11 MEMBER OF THE PUBLIC: Are there extra
12 copies of that?

13 CHAIRMAN EASTMAN: They are going to be
14 right up there. You're going to be able to
15 see everything there.

16 MS. MARGOLIS: It's on the Web site.

17 CHAIRMAN EASTMAN: It will be right
18 there.

19 (Pause).

20 CHAIRMAN EASTMAN: Commission, do you
21 want to just go through this? Is there
22 something that we have heard today that we
23 want to talk about first? I mean we divided
24 this, as we say, into these, right, into
25 like seven areas, right Linda?

1 MS. MCGINNIS: Seven charges, yeah.

2 CHAIRMAN EASTMAN: Seven charges, and
3 things do relate to each other and how it's
4 put together. There is a section to outline
5 what the situation is, and then we have
6 options, and then we talk about pros and
7 cons.

8 And the one thing when I looked at it we
9 did -- I asked them to move up this idea of
10 how to approach FERC. I think some things
11 -- maybe if we decide that what we have in
12 Vermont is a contested case process for all
13 things right now, before one body, and if we
14 decide that we still want one body at the
15 state level, but do we want a contested case
16 process for all things? Do we really need
17 it and/or whatever?

18 So might we have tiers here that had
19 different process or less process or no
20 process. If it's something we want to
21 encourage, and for all you utility guys, you
22 aren't going to screw it up.

23 MR. MULLETT: Just looking for general
24 comments or --

25 CHAIRMAN EASTMAN: What do you want --

1 how do you want to do this?

2 MR. BODETT: Is that how you want to,
3 start with the tiers?

4 CHAIRMAN EASTMAN: How do you want to
5 start? Either one is tiers.

6 MR. JOHNSTONE: I would just walk us
7 through this and go that way, and for me
8 anyway the reason I say that is I'm trying
9 to react to what we heard today. I haven't
10 even thought about that yet other than make
11 some notes. And so I think it would be
12 better to walk through what we had in front
13 of us already. We may then leave some stuff
14 in, or we may not get to that today, because
15 we are not going to get through everything.

16 Frankly the staff may add a few things
17 based on dialogues that happen. And we can
18 talk about --

19 CHAIRMAN EASTMAN: Let me throw this out
20 and see how the rest of you feel, the
21 Commissioners. I really think it might be
22 better today to get through more than to go
23 deeper. So we get a sense from ourselves, I
24 mean is there something here we -- meaning
25 high levels, an idea we don't want to pursue

1 any further or not. See what I mean? We
2 have got this session.

3 MR. JOHNSTONE: Get the ice on the pond.

4 CHAIRMAN EASTMAN: Get the ice on the
5 pond, and then we can start to go deeper.
6 Gaye.

7 MS. SYMINGTON: So are all these people
8 going to be available? I feel like I know
9 -- I'm only speaking for myself, but I feel
10 like I don't know what we are talking about,
11 so I really rely on people chiming in when
12 we -- when I say something that doesn't make
13 any sense.

14 And so my question is, I think the
15 people other than Commissioners around the
16 table do know what we are talking about, and
17 if they are only here today, I just would
18 want to somehow get them to chime in today.
19 You know, if there is something in here that
20 --

21 CHAIRMAN EASTMAN: Is totally wrong or
22 something.

23 MS. SYMINGTON: Yeah.

24 CHAIRMAN EASTMAN: May I say I think we
25 encourage chiming except for our court

1 reporter. She really wants me not to talk
2 over all of you. So it could only be one of
3 us talking at the same time.

4 MS. McCARREN: And if any of you have
5 been in this business for awhile, you know
6 who is really in charge in the room.

7 CHAIRMAN EASTMAN: So how about that.
8 How about trying to get as far as we can go
9 in here, because we do think, you know, more
10 than we don't in some respects, then we have
11 got to work it out.

12 MS. McCARREN: To Gaye's point, stepping
13 back for three minutes and saying what is in
14 our charge. I think you've laid it out
15 there. And so I think maybe just so that we
16 get our arms around what's in our charge and
17 what's not in our charge. So clearly
18 transmission is not in our charge. I just
19 threw that out. I'm not going to pretend to
20 do this. But I just want to, you know --

21 CHAIRMAN EASTMAN: Electric generation
22 siting above net metering.

23 MS. McCARREN: It's just energy siting
24 --

25 CHAIRMAN EASTMAN: Electric generation

1 siting above net metering. That doesn't
2 mean to me to tell you should we be changing
3 the net metering number. Sorry, but that's
4 a threshold issue to me. Jim. John. Sorry
5 John.

6 MR. ZIMMERMAN: Just an observation,
7 because I'm new in these meetings here, but
8 I have a different meaning to the concept of
9 generation siting. Like I have a business
10 that does siting. And I find sites for wind
11 generators, and I've done that for awhile.
12 This group in this Commission isn't finding
13 sites for generation, but you're using that
14 same word. So I keep getting a little bit
15 confused when you say that. But I'm saying
16 it here when I use siting, I used it in the
17 context of going and finding sites for
18 generation facilities.

19 CHAIRMAN EASTMAN: But actually in part
20 I know we are not going out and finding the
21 place today, but in fact what we are talking
22 about is what should the process be. And
23 right now what we have is we have got
24 legislative policy, and we have got a state
25 plan that has policy in it, and then we have

1 the 248 process that reviews a project-by-
2 project basis what happens.

3 So the issue to me is what we have been
4 asked to look at, is that enough? Is it
5 working as adequately as we want it to? Is
6 there something that we want between those
7 goals and that project-by-project? Or is
8 there something once we get to project-by-
9 project that should be different?

10 So it's sort of -- to me it's everything
11 between those policies and that actual
12 project, well and then the project itself,
13 the 248 process, we have been asked to look
14 at. Yeah.

15 MR. PRATT: Just one additional question
16 about the process, and it gets to Gaye's
17 point, and I love Scott's metaphor about
18 putting ice on the pond. The question is
19 how thick do we want that ice? And you
20 mentioned a meeting again next week. But I
21 guess without getting into the specifics, if
22 as I suspect is going to be true, if there
23 are going to be legislative changes
24 proposed, aren't we then going -- isn't it
25 going to be in the form of a recommendation

1 to the legislature which we will then have
2 the opportunity through the legislative
3 process --

4 CHAIRMAN EASTMAN: Oh, sure.

5 MR. PRATT: -- to go deep and to get
6 into these details.

7 CHAIRMAN EASTMAN: Right. You know, we
8 are supposed to come up with recommendations
9 for the administration and the legislature.
10 And maybe not all the other Commissioners
11 have heard me say this, but I've said it to
12 a few people. Boy, I didn't know all the
13 work that you all have been doing. John
14 Dooley and I used to laugh about how you got
15 appointed to things in Vermont. They want
16 you, but they really don't want you to know
17 anything about what you're doing. I've got
18 to say I'm a person who hasn't been paying
19 attention. I think there is a lot of -- you
20 have a Wind Commission and a lot of other
21 things, and the law school did a lot of work
22 and everything, and I think it would be
23 great if by the end of April we -- our
24 recommendations actually then were
25 something, that the, you know, the

1 Department, the administration, the agencies
2 could take along with the legislature and
3 say, okay yeah, here are the changes we
4 need.

5 And maybe -- I mean we have even gotten
6 the report that Aaron Adler did for Tony
7 Klein on everything that's happened since
8 1998. And today when I was listening to
9 some of the things I'm thinking about, oh,
10 that sounds a lot like S27 that was proposed
11 in 2011. So not just these options, but
12 those of you in the field if there are
13 things that we think are good ideas, or you
14 think are good ideas, maybe we put it all
15 together now, and because it's, you know,
16 and I don't want to waste your time. Next
17 week we have site visits and a public
18 hearing. We are hoping to probably have to
19 come back to this on February 20 to talk
20 about this. But if we could get through
21 enough today, that meant we could go -- all
22 go out and hone our thinking and whatever.

23 But we know that not all these things
24 are possible, and we haven't even looked at
25 these, and said how it's -- how we would

1 vote.

2 MR. JOHNSTONE: For Randy, at least in
3 my way of thinking, how deep is the ice on
4 this.

5 MS. McCARREN: Don't want to fall
6 through.

7 MR. JOHNSTONE: And part of not falling
8 through is enough depth eventually, if we
9 skim it first, that hopefully we don't have
10 surprises after we make recommendations at
11 the legislature. It doesn't mean people
12 won't be for and against the ideas, that's
13 perfectly fine and understandable and
14 expected.

15 But that, you know, we found out enough
16 to know if frankly something just wasn't
17 practicable. So if I was a utility, we are
18 going to recommend something that is going
19 to make the grid inoperable, boy, it would
20 be better if you just said that to us.
21 That's something that's useful.

22 If we then recommended after that, of
23 course you should go to the legislature and
24 tell us how nuts we are, that's perfectly
25 fair. So I think if you use that as a

1 thinking of how deep, you know, I think not
2 falling through is right. And not down to
3 the weeds. We can't be experts of all
4 things involved in this. And none us are
5 trying to be that.

6 MS. MCGINNIS: Just a small thing. The
7 extent to which we can identify what's
8 rulemaking and what would require
9 legislative changes would be great at this
10 stage too, because we can see what are the
11 most fast track and what are the slower
12 track things.

13 CHAIRMAN EASTMAN: Great. So okay.
14 Let's see. So the first option.

15 MS. MCCARREN: John, did you get -- are
16 you satisfied now that the difference
17 between you -- what is used for the term
18 siting as the practitioners before the Board
19 know what that means?

20 MR. ZIMMERMAN: Yes.

21 MS. MCCARREN: Okay. Great.

22 MR. ZIMMERMAN: Your siting policy.

23 CHAIRMAN EASTMAN: Siting Policy
24 Commission. Not siting.

25 MS. MCCARREN: That's right.

1 MR. ZIMMERMAN: Emphasis on policy.

2 CHAIRMAN EASTMAN: When I was at ANR, we
3 worked on siting the facility at the low
4 level. Okay. So the first option talks
5 about we really have been wondering about
6 this idea of having thresholds where we had
7 different levels of review, and/or in fact
8 no review, maybe registration or something
9 like that for certain projects. And didn't
10 know whether that was a good idea, bad idea.

11 MS. HAYDEN: Well having done work
12 through a number of the standard offer solar
13 projects, which I'm thinking about that, but
14 it could apply to different types of
15 facilities. There is a group of facilities
16 that probably could be something like what
17 you have for option one. That could go
18 through the process with a -- like a net
19 meter project does which is essentially an
20 application form. And it's reviewed for
21 completeness by the Board. I think if we
22 were to do that, and I would recommend
23 thinking about bumping that up to the 2.2
24 megawatt standard offer size.

25 But having an opt out for a contested

1 case if the Agency or the Department or, you
2 know, the public after some opportunity for
3 comment raised a significant issue. It's a
4 little bit different than the 248(j) process
5 which is you've got to draft testimony, a
6 Proposal for Decision, there is a 20-day
7 period and it's cumbersome and it's
8 expensive for the developer. A lot of these
9 projects that I've done, I think we have
10 done seven now solar projects, the public
11 never shows up. It's the Agency of Natural
12 Resources and the Department and the Hearing
13 Officer.

14 And we wait sometimes three months
15 before the project is even processed at the
16 Board because the staff is very busy. So I
17 think there is an opportunity to streamline
18 some of these -- the standard offer
19 projects. I will say from my experience the
20 developers generally do reach out to the
21 community, they reach out to the
22 interconnecting utility. And but they are
23 still looking at six to eight-month time
24 frames before they get their CPG, and after
25 spending a lot of resources, and after the

1 Agency has spent a lot of resources, 248
2 right now is set up as a contested case
3 process, and it's just not necessary in all
4 instances.

5 There are cases particularly in my
6 experience where the Agency of Natural
7 Resources may identify environmental issues
8 that need to be addressed if they are not
9 resolved, you know, at the time that the
10 petition is filed. I'm not aware of the --
11 how that would apply to wind. Because I'm
12 not sure that we even certify a small wind
13 project. I don't know if Geoff has.

14 MR. PRATT: There has been one or two.

15 MS. HAYDEN: And biomass, small biomass.
16 We are not seeing any of that because they
17 can't meet the efficiency standard. Right
18 now standard offer is pretty much
19 monopolized by solar.

20 CHAIRMAN EASTMAN: Comments.

21 MR. MULLETT: Yeah. If I'm mindful of
22 the question that Louise asked Rich Sedano
23 about the biggest changes in the 248
24 process, and that late 1980s period also
25 overlapped with my time at the Department

1 and the Board, I think the biggest change is
2 the proliferation of small generation.
3 Throughout the '80s and the '90s if you
4 think about it, small stuff was hydro which
5 was FERC regulated. So everything that --
6 in those roles whether it was private
7 counsel or during regulatory tenure, was 20
8 megawatt and up cogeneration projects, most
9 of which didn't go. A merchant or a
10 utility. So the incredible expansion of
11 just generation-related work at the PSB and
12 the PSD I think puts tremendous staff
13 pressures on at a level that is
14 unprecedented. It's very much
15 unprecedented.

16 And a tiered approach strikes me as very
17 consistent with the interest of our VPPSA
18 member systems, small municipals, probably
19 in three different ways I guess. First of
20 all, a more clear regulatory process, small
21 non-profit entities keeps our cost down and
22 gives us more predictability.

23 Second, because we are small, our 12
24 systems are only about 7 and-a-half percent
25 of Vermont load, we probably would tend to

1 have small projects that would plug in.

2 And the third piece I guess that we
3 don't think about as much is if you think
4 about standard offer, or for our purposes,
5 maybe we have certain disagreements about
6 certain legislative pieces or pricing or
7 things we talk about at the PSB, but a
8 process that yields predictability is very
9 important for power planning processes.

10 The 127 and-a-half megawatts of standard
11 offer is very different if it comes on in
12 three years with the big rush as opposed to
13 if the program doesn't go as planned. So to
14 the extent that we can monitor, look at, and
15 understand an application process, and say,
16 okay, it looks like three quarters of them
17 get approved within X time or they fail,
18 it's because they don't meet the Y criteria,
19 I don't know the specifics, but perhaps a
20 multi-tiered approach like you're talking
21 about fits those interests well from a
22 small, non-profit perspective.

23 MR. PATT: I also -- I mean I'm not
24 necessarily -- I wouldn't define, I can't
25 define the tiers yet, but we do --

1 CHAIRMAN EASTMAN: That's our role,
2 right?

3 MR. PATT: We do have experience. You
4 mentioned the 248(j) process already exists
5 in statute although I don't think that's
6 generally been used not for -- I'm not aware
7 of it having been used for any generation
8 projects. It's usually used for a
9 substation replacement.

10 MS. McCARREN: Avram, as I understand
11 it, that's inside the fence. No new land
12 being used essentially for that process.
13 Right?

14 MR. PATT: I don't think that's --

15 MR. HAND: No.

16 MR. PATT: I don't think that's in
17 statute.

18 MS. McCARREN: No, it's not in the
19 statute for sure.

20 MR. JOHNSTONE: One at a time.

21 MR. PATT: What it does mean, in all
22 likelihood from a policy point of view is
23 that you are saying as a matter of public
24 policy that these small projects are going
25 to have an easier time, and that it will --

1 it means that anyone who has any issues with
2 it has to move faster and have their act
3 together. Quicker. And that's the down
4 side of it.

5 From a development point of view, I
6 think most people if you're on that side of
7 it, regularity, knowing what the time frame
8 is and knowing if you do this, there is a
9 high likelihood of approval is a good thing.

10 MR. PRATT: I would echo what my
11 colleagues have said with perhaps one
12 exception. And there is an easy fix. It's
13 just to highlight two words in this -- in
14 the paragraph that's up on the screen, it
15 says 248(j) with improvements. Because the
16 248(j) process is not perfect. So we do
17 have some thoughts on ways that you can
18 actually even streamline the streamlined
19 process to accomplish a couple things.

20 One, to provide greater predictability,
21 but also to shorten up the time frame for a
22 248(j) because right now in the statute
23 there is a 45-day what's called a notice
24 provision; to the municipalities, to
25 adjoining landowners, to the Regional

1 Planning Commissions, and while -- but in
2 reality it's more than just notice.
3 Instead, the developer or the utility in the
4 case of a reliability project has to send a
5 complete package out to all of those
6 parties. And what that ends up doing is
7 overburdening the Regional Planning
8 Commissions and the municipalities with
9 having to have staff to go through all of
10 these projects that the Public Service Board
11 has already determined won't affect the
12 substantive criteria of the overall Section
13 248.

14 In other words, if we have to swap out a
15 transformer, it's not going to change the
16 aesthetics, it's not going to change
17 anything, it's not going to change the
18 footprint. It will all be in the fence. We
19 still have that 45-day requirement for the
20 RPC.

21 And so I'm going to speak with them
22 hopefully on Thursday to see if the RPCs
23 wouldn't get on board to free up their time
24 and their resources from having to deal with
25 projects that really have no impact.

1 Keeping in mind that the authority still
2 rests with the Board to determine whether it
3 qualifies for a (j), and the risk is still
4 on the developer or on the utility that if
5 it isn't (j), then you have to go back to
6 square one and go through the whole process
7 again.

8 So but finally to that point, there is
9 legislation currently in effect that would
10 take that -- right now the RPCs get 45-days'
11 notice, and then they have to file a
12 recommendation, if any, for a waiver before
13 seven days, I think, before the petition is
14 filed. There is legislation to make that
15 happen three weeks after the petition is
16 filed. And that looks to be happening but
17 -- and then I would also point out that Kim
18 was correct, there have been no wind
19 standard offer projects permitted.

20 CHAIRMAN EASTMAN: What else on -- get
21 your takes on it. Judith?

22 MR. COSTER: Quick statement. I think
23 we are of this concept. Our main concern is
24 that there is clearly standards and
25 applicability with the applicant so with

1 these lower tiered more expedited processes
2 we are getting the information we need up
3 front so we can evaluate if there are --
4 really are impacts. We are seeing these
5 smaller net metering up to 150 KW come
6 through where applicants are saying there
7 are no impacts where in fact there are. And
8 the burden is going to be on the petitioner
9 to set forth this information. It really
10 needs to be truthful and accurate.

11 MS. HAYDEN: Just one point of
12 clarification too. Right now under (j), and
13 that's why I don't know if you need a
14 legislative change, it's projects of limited
15 size and scope. That statute doesn't define
16 that. Board Rule 5.400 provides some
17 further guidance that was enacted, but the
18 Board precedent on this point, this is what
19 Louise was getting to essentially, it's very
20 -- like almost nothing qualifies for a (j).
21 I mean any change.

22 And so if you're looking at a two
23 megawatt solar project that has a 15-acre
24 footprint, it wouldn't qualify as a (j)
25 under the current Board precedent, and I

1 don't think under the current Board Rule.
2 So they are -- likely may need to be
3 legislation, definitely there would need to
4 be a rule to deal with it.

5 MS. McCARREN: I think what we are
6 dealing with is land use planning. And
7 that's why -- so once you get outside the
8 fence, that's why I was trying to make that
9 distinction.

10 MR. BODETT: My question is if we do
11 create some tiers, that that triggers
12 various intensities of regulation, are there
13 technical aspects? Because you do -- like
14 the 150 just creates a bunch of 149 kilowatt
15 sites, and wherever the tiers are, that's
16 what's going to happen. So are there
17 technical things to consider, like is 250
18 kilowatts some magic, awful number that
19 would cause system problems? I mean what
20 don't we know about it?

21 MR. PATT: It's an economic problem
22 because different size facilities get paid
23 completely differently. And in response to
24 comments you heard earlier, if you simply
25 bump up the size of projects and apply the

1 net metering economics to it, you'll be
2 hearing from me. You're talking about
3 commercial projects that should be paid
4 either standard offer determined by public
5 policy or, you know, market -- go to the
6 market, but you're in business then, and
7 it's not net metering. So that's the issue.
8 You know, from our point of view you can set
9 it at any number really looking at how is
10 the person being -- or the company being
11 paid for that and how much. And is that
12 equitable. And that goes beyond this
13 Commission.

14 CHAIRMAN EASTMAN: We can work that out.

15 MR. PRATT: You can. But I think also I
16 completely agree with Avram's points. But I
17 would follow up with that, by saying there
18 aren't -- there is nothing technical about
19 150 kilowatts or 2.2 megawatts, or you know,
20 500 megawatts. Instead, if you look at
21 where 2.2 came from, you know, there is
22 nothing magic about that except that there
23 was a Vermont company who manufactured a 2.2
24 megawatt turbine. That's where it came
25 from. It was going to be 2, and they asked

1 if it could be bumped up to 2.2.

2 MR. MULLETT: But with that said, I
3 think there are points where you can't go
4 infinitely bigger without running into at
5 least some interconnection or some
6 electrical issues on distribution lines. So
7 that's the other factor. And I don't think
8 my colleagues were suggesting otherwise.

9 But you, of course, have economic
10 factors, but there is a point that --

11 MR. BODETT: But that reliability thing
12 would come in at any level of examination.
13 So speaking to your point if it was a true
14 net metered situation like say a town wanted
15 to put in this town common net metering
16 thing, it was going to end up being 500
17 kilowatts which would not be out of reach
18 for a small town, would that cause you the
19 same heartburn if it truly was net metered?

20 MR. PATT: Yes, because essentially we
21 would be losing the revenue from all the
22 ratepayers in that town but being asked to
23 provide the infrastructure to them.

24 MS. SCHNURE: It's affect on our other
25 customers that it comes down to. Because

1 the other customers would be paying for
2 power that is much higher than that
3 wholesale price.

4 MS. McCARREN: So that's a rate, but I
5 think what we are trying to parse here,
6 that's a rate problem. I don't want to
7 dismiss it, because it's a very serious
8 problem. But then there is the electrical
9 interconnection issue which what point is
10 the project so big that it has an electrical
11 effect?

12 MR. PATT: When I said we don't care
13 what size it is, of course we care what size
14 it is. We will have a say in the process.
15 If someone wants to interconnect 150 KW
16 project at a certain location, we will look
17 at it and say no problem. Or we will say it
18 would really be disruptive, or you could do
19 it if you made certain improvements.

20 That's the role -- the interconnection
21 role that the utility has. But in theory,
22 in principle, we don't have an objection to
23 the size of it. We would have a say in
24 whether it interconnects properly.

25 MS. HAYDEN: I think it's solvable.

1 Because the rate issue is different than
2 what you're talking about which is is there
3 a process for going through the 248 process
4 that can be tailored to these projects that
5 generally don't run into the same issues as
6 bigger projects.

7 MR. HERSHENSON: There may not be a need
8 to reinvent the wheel. In Act 250 there is,
9 in fact, a template for minor projects which
10 is Rule 51. And under Rule 51 what happens
11 is you essentially submit information
12 demonstrating on a brief level compliance
13 with the criteria, and if the Commission
14 agrees, it will issue a proposed -- in this
15 case it would be a CPG, but a proposed
16 permit in Act 250. And then that proposed
17 permit is published and sent to abutters and
18 municipalities.

19 And if someone feels that there is an
20 issue that hasn't been addressed in the
21 proposed permit, they can request a hearing,
22 but the hearing is limited to those issues
23 and only those issues. And that creates --
24 and this template, this Rule 51 has been in
25 place for 20 some years and seems to work in

1 Act 250. So it's possible that that would
2 be a basis to structure a tiered CPG review
3 as proposed.

4 CHAIRMAN EASTMAN: Yes. Scott.

5 MR. JOHNSTONE: So I generally like the
6 approach of tiered and various tiered
7 issues. I always think a lot about the law
8 of unintended consequences when we do this,
9 so when we think about building depth to the
10 ice, part of what I want to pick up is some
11 of the technical stuff because if we went to
12 the Massachusetts, and frankly it's almost
13 an administrative procedural permit at 2
14 megawatt, all the applications are going to
15 go from, you know, 149 KW to 1.95. And if
16 those became really attractive and started
17 plopping all over the place wind actually
18 would get some operability questions. On
19 one hand there is a side of me that says
20 that would be a great moment because we
21 would be getting a lot of smaller scale
22 generation going on, but we need to
23 understand at some level where are the
24 constraints in the system, what do we need
25 to know. Do we need this kind of substation

1 line by, you know, how much granularity will
2 we need to know to be able to actually do
3 that in a way that brings comfort on the
4 technical side. Or is it really just a non
5 issue which you were kind of alluding to.
6 That's for another day.

7 CHAIRMAN EASTMAN: I'm not going to let
8 anybody answer that today. We are at 3:05.
9 I want to know from the Commissioners, and
10 then I want to move to option two, just to
11 move on.

12 Do we like the idea of a tiered
13 approach?

14 MS. McCARREN: I think --

15 CHAIRMAN EASTMAN: Generally right now.

16 MS. McCARREN: You can't answer that
17 question without knowing what process, if
18 any, will be applied to the lower tier.

19 MS. MCGINNIS: But that's the net
20 metering.

21 MS. McCARREN: Well it's -- I think it's
22 a lot more than net metering. But I support
23 the tiered concept, but that's not a full
24 sentence.

25 CHAIRMAN EASTMAN: Right.

1 MS. SYMINGTON: My question was shifting
2 it into option three --

3 CHAIRMAN EASTMAN: No option two here.

4 MS. SYMINGTON: Are you doing all of 1.a
5 or are you just doing option by option?

6 CHAIRMAN EASTMAN: What I want to do is,
7 yeah, I was just at option one -- on 1.a.
8 We were only at option one. Then I was
9 getting to -- I just wanted to get to option
10 two to talk about this. There may be some
11 things that go off the table faster among
12 us. This is establishing a minimum
13 threshold for 248s and anything under that
14 going through the 250 process. And so what
15 are the Commissioners thinking about that
16 idea?

17 MS. McCARREN: Well I think I've already
18 signaled to you what I think.

19 CHAIRMAN EASTMAN: No. I mean I don't
20 like it. Okay.

21 MS. McCARREN: I will tell you what my
22 straw is. My straw is that projects below a
23 certain size, and I don't know what that
24 size is, must -- let me flip it around.
25 You've already heard me say this today. I

1 strongly believe that local towns, if they
2 choose to have the right to zone for
3 industrial generation -- sized generation,
4 and so if you put that in the mix, and I
5 think there is probably a size limit on
6 that. And I don't know where that size
7 limit is. And they have the right to do
8 that, and if you do that, that means that
9 that is controlling.

10 And then I don't know how that fits in
11 to the 248 process.

12 CHAIRMAN EASTMAN: That's a later issue
13 and some other options.

14 MS. McCARREN: I understand.

15 CHAIRMAN EASTMAN: For me what this
16 means is instead of having all decisions
17 relative to electric generation made by, in
18 effect, one body at a statewide level, this
19 is having decisions made by one body at a
20 certain level by a statewide body, and
21 things underneath it made by nine different
22 District Commissions.

23 MR. JOHNSTONE: I'm not positively
24 inclined if that's what you're looking for.

25 CHAIRMAN EASTMAN: That's what I want to

1 know. Are we inclined to that?

2 MS. SYMINGTON: No.

3 MR. BODETT: My feeling is having -- as
4 a municipality we opened two gravel pits
5 through the Act 250 process, and without
6 that it was difficult. We got them, but
7 with a lot of provisions and very expensive
8 things that made no sense to a lot of
9 people. But without that public good being
10 considered, it's too easy to -- for a few
11 organized neighbors to kill good projects,
12 if there is not a greater public good as the
13 Public Service Board would recognize.

14 CHAIRMAN EASTMAN: Well for me I just
15 don't think that's going to facilitate
16 process and facilitate meeting the goals if
17 we go and have it done by nine different
18 entities as opposed to having one place
19 doing it well. That's all.

20 MS. MARKOWITZ: Let me add in, I think
21 when we think about the benefits of this,
22 which is to have some local context for
23 decisions, there are other ways to get to
24 that. And so --

25 CHAIRMAN EASTMAN: Right.

1 MS. MARKOWITZ: So I don't want to give
2 up the idea that we want to include some
3 local or regional context. But I would
4 actually also agree that having the
5 schizophrenic system would be sort of less
6 effective.

7 CHAIRMAN EASTMAN: Because later on
8 there are ways of, you know, more public
9 engagement and more, you know, some other
10 things in these different points.

11 MS. MARKOWITZ: We talked about maybe
12 having regional, you know, maybe Act 250
13 administrator, you know, on the panel or
14 whatever. There is other things we should
15 be looking at.

16 CHAIRMAN EASTMAN: Okay. I just want to
17 get a sense of some of these things. We
18 also talk about creating a checklist for all
19 applicants to complete prior to filing, and
20 a process by which the Board deems an
21 application complete. You've heard a lot
22 about this issue. Is it complete, is it not
23 complete. Do you have enough information to
24 make your, you know, decisions. And so we
25 were -- I don't know.

1 MS. HAYDEN: I mean one experience that
2 I have had, and it goes the range of, you
3 know, large transmission down to small
4 standard offer is that we don't know when an
5 application is complete. The petitioner
6 often doesn't know. And at the same time,
7 what I've heard from the Agencies, the
8 Department and ANR, is that they often won't
9 act on a filing until -- they may not even
10 staff it until they know, with counsel,
11 until they know an application is complete.

12 So it creates, you know, kind of a hole
13 in space. And for again, for renewable, I
14 don't know if we are focused on renewable
15 generation siting, but for any generation
16 siting, it's a real problem for the
17 developer.

18 I think it's probably problematic for
19 the two agencies too if they don't know, you
20 know, one day they don't have a docket, you
21 know, document or a docket, and the next day
22 it's plopped on them because it finally got
23 docketed by the Clerk of the Board. Right
24 now there is no organized process that I'm
25 aware of. I don't know if other people have

1 had that experience.

2 MR. HAND: I would echo that. I think
3 it's particularly important if you're
4 thinking about a tiered approach for those
5 lower tiers to have a checklist to see
6 you've done all the necessary things to meet
7 the requirements for the expediting process.

8 MR. JOHNSTONE: I'm sympathetic on this
9 one and think it could be a valuable tool.
10 But for me the devil is in the details,
11 because the cure could be worse than the
12 disease. So as an example, we have heard
13 routinely that projects change over time and
14 get better, and through input, and frankly
15 you could end up, because you've got to
16 combine the flexible with the static, and
17 you could end up with a project deemed
18 complete. And then you could end up having
19 to reset the time clock every time something
20 changes, which will force developers to try
21 to hold the status quo.

22 I'm not saying I know that's what will
23 happen, but there is a lot of room for
24 everything we can envision. When you go to
25 -- you know, there has always been this

1 drive to -- can we get one complete
2 application across every type of business
3 application for permits in Vermont. And
4 when you dive into it, it's always really
5 complex about, you know, is it actually
6 going to operate better under that model.

7 So I'm open and sympathetic, but I would
8 be really interested as we go with this, how
9 does that actually operate on the other
10 side. What are the rules of the road after
11 the application is deemed complete. So
12 that's a longer answer than you want from
13 us. But --

14 MS. SYMINGTON: You don't want to create
15 a disincentive to actually respond to
16 something that comes up after the process
17 are -- after the process has begun.

18 MR. HAND: Those could be handled
19 differently. There could be an initial --
20 there is a complete application, we can
21 process this. And then there is a different
22 process for if there is a change or
23 something else happens.

24 CHAIRMAN EASTMAN: Yeah.

25 MR. PATT: I think --

1 CHAIRMAN EASTMAN: I'll go to Geoff.
2 Geoff, come up here and sit.

3 MS. McCARREN: He can't.

4 MR. PATT: I think a checklist is useful
5 as a guide and a tool. But it can't be the
6 governing thing, because as other people
7 have said, things are changing. You may
8 have a talk with some neighbors and decide
9 to change the project that makes them happy,
10 and all of a sudden the project is a little
11 different than it was three weeks ago.

12 And the other thing is every project is
13 going to have some unique, weird thing about
14 it. We had to get FAA approval for a
15 landfill methane project. That wouldn't
16 have been on the checklist. But we had to
17 get it because it happens to be next to an
18 airport. So --

19 CHAIRMAN EASTMAN: Yeah Geoff.

20 MR. COMMONS: I was going to say -- this
21 is Geoff Commons. I'm Director for Public
22 Advocacy at the Department of Public
23 Service. I advocated for having a step in
24 the process where the application is deemed
25 complete in the transcript that you all have

1 where the Board -- at the Board's workshop
2 on 248. And I would like to say a couple of
3 things. One is it's good -- in my view it's
4 good for the Agency, because then there is a
5 definite starting point. We get petitions
6 in the door, and it can be weeks, a week or
7 it can be months before the Board gets
8 around to opening a docket. And I have to
9 staff it with attorneys and engineers and
10 whatever it is.

11 It's good to have -- at least know that
12 somebody has been through this application
13 and has checked off the boxes to say that,
14 yeah, it does include all the things. It
15 addresses each criterion, it has all of the
16 things that are required by rule, just a
17 prima facie case, just a showing of
18 something. Not that it's going to carry the
19 day, not that it's -- this is a winner, just
20 something.

21 And I would also say that the Board in
22 my view has been very good about allowing
23 and encouraging projects to change through
24 the process in order -- in ways that make
25 them better and has not made applicants go

1 back to square one because they changed --
2 they added a turbine or took off a turbine
3 or whatever the thing is. Sometimes
4 project opponents have asked that -- they
5 said now they have changed it, we have got
6 to start all over again, amended petition.
7 The Board has said no, you don't have to
8 start all over again. I think that's
9 something the Board is used to and has dealt
10 with well.

11 CHAIRMAN EASTMAN: Let's move on again.
12 I really wanted to get some of these ideas
13 out here today, because there is some good
14 stuff later. But the next sub area we have
15 is about timing. There are a couple of
16 timing issues. One of course is the public
17 and the town, right now the 45-day notice
18 being the first time officially that the
19 town or the region or the public may know
20 about a specific project, and whether we
21 should establish an earlier time for that
22 kind of thing so -- okay. I'm really
23 sympathetic to small towns like mine which
24 has no staff. You know, getting something
25 plopped 45 days in advance is the only

1 official thing, is not, you know, tell me a
2 little bit sooner so I can at least get, you
3 know, the lay of the land.

4 And you know, in small towns we even
5 have an issue of wait a minute, we have got
6 to -- then who is looking at it, the Select
7 Board or the Planning Commission. And how
8 are they going to meet, and do we want
9 public -- you know, there is stuff later on,
10 depending upon the threshold you may want to
11 hold a more intensive process anyway. I
12 don't know.

13 See this is it, and maybe this one is
14 too hard to talk about out of context,
15 because if it's a minor thing, 45 days may
16 be just fine, and it's only because it's
17 something bigger. And so maybe that
18 requires a bigger look at what the process
19 is anyway.

20 MS. HAYDEN: One thing I would say is
21 the statute doesn't preclude municipalities
22 and Regional Commissions from providing
23 their input after the petition is filed. So
24 the 45-day notice provides an opportunity to
25 modify the petition before it's filed. And

1 often developers and the utilities don't
2 hear feedback during that 45-day period.
3 Sometimes they do. The ones that are very
4 good about it will have gotten that feedback
5 much earlier. But the local and Regional
6 Planning Commissions have an ongoing ability
7 up to the time of intervention because they
8 have to move to intervene to then
9 participate in the case.

10 So I guess I don't see it as -- I'm not
11 sure that it makes that much of a
12 difference.

13 MR. JOHNSTONE: I would -- I think we
14 almost need to map this to what the tiers
15 evolve. I do think for the most complex, I
16 think 45 days is probably too much for towns
17 and regions to respond to. But there is a
18 second piece that we have heard a couple
19 times and Rich actually raised it again
20 earlier around this. We have heard that
21 very frequently the developers are talking
22 to, you know, the Board staff, the
23 Department staff, the Agency's staff, and
24 the towns have no knowledge or the regions
25 have no knowledge. And I get why that would

1 happen because you want to make sure when
2 you file it's it.

3 So I'm wondering, and I don't know what
4 it is, what it is, Jan, it's a second notice
5 which is a much earlier notice, which is a
6 notice of first contact, just that there is
7 a notice of interest in an application. I
8 don't know what we would call it. That
9 would go to a Town Clerk, or I'm not sure
10 where it would go, so that people's antenna
11 can be allowed to be aware that there is
12 something in the works, and then actually
13 hold tighter to this notion of what is the
14 actual timing of the filing of the final
15 permit request or Certificate of Public Good
16 request.

17 So nobody has really talked about how to
18 frame that. I don't quite know how to.
19 That is something in there, my brain has
20 been clicking on.

21 MR. BODETT: I think if there was
22 something like that, just a notice that
23 somebody is looking to build here. It's
24 going to be worse that people --

25 MR. JOHNSTONE: All right.

1 MR. BODETT: Because less information
2 the more people worry, I think. And I think
3 it would just create an agitation then for
4 when the actual application is revealed.

5 CHAIRMAN EASTMAN: And here's for me
6 right now, let me just say this is why it's
7 difficult to go through this page by page as
8 opposed for me wanting to say, but if we had
9 this planning process, you know, if you had
10 a regional planning process that was
11 effective, that had identified, you know,
12 here's what we are going to be doing, here
13 are the kind of projects you might see, then
14 a community would have already participated
15 in that.

16 And so that's the thing for me that's so
17 hard about this. I guess I keep coming back
18 to, and I don't know what this tells
19 everybody in the room, but on big projects
20 there may be something -- there may still be
21 too big a disconnect.

22 MR. HERSHENSON: From the context of
23 reviewing an application, the critical issue
24 is when you file an intervening petition
25 either on behalf of a citizens' group or a

1 municipality, are you going to be able to
2 demonstrate that you're entitled to
3 participate on all the criteria you want to
4 participate on? And that is a function of
5 having the time to review the application,
6 talk to your consultant, understand what the
7 issues are, and I can guarantee you that
8 with a large project, 45 days doesn't do it.

9 So somewhere here there needs to be a
10 fix to recognize that for -- again this is
11 the tiered project approach, but for some
12 projects either the intervening -- the
13 conference held by the Public Service Board
14 to determine intervention needs to be put
15 back or needs to be given much more than 45
16 days for major projects. It's almost
17 impossible to line up consultants in 45
18 days.

19 MR. HAND: I would say just to Scott's
20 point that I agree with you that the notice
21 -- the general notice that's not tied to a
22 petition, expected petition filing date, is
23 going to create more problems because the
24 developer may not have information on what
25 that project looks like until they know when

1 they are going to be filing. If it's tiered
2 from 45 or 90 days from when they are
3 expected to file the petition, the developer
4 is going to have information to share with
5 the public about the project by that time.
6 But if there is an earlier date, that's sort
7 of a -- we are contacting ANR for the first
8 time to see what information they have on
9 this wide area. They may not have any more
10 information to share.

11 MR. JOHNSTONE: So where is the point --
12 if I can just push on this a bit, because I
13 don't care. I'm okay if it's not the first
14 moment somebody had an idea to talk to
15 somebody, but there is some point in the
16 process before the actual filing when you're
17 all getting pretty serious and you're
18 starting to kind of frame up what will it
19 take to actually get to something you're
20 believing is worth filing. And the dial is
21 at a new level now.

22 I don't know what we call that, but
23 there is a point in there somewhere where
24 you actually do know enough to letting the
25 town or the region know that there is

1 something of active interest that's heading
2 towards some destination. I don't know
3 where that point is. I don't know if there
4 is a milestone already, and your project
5 lists say that's what this is called. But
6 there is somewhere in there that seems that
7 notification is a good idea.

8 MS. McCARREN: I'm going to just respond
9 to that by saying I was so impressed this
10 morning with the woman from Waterbury.
11 There is a community that has totally
12 engaged. So what we are really -- is what
13 we are really saying here we want
14 communities to engage on these issues
15 because they are land use issues. And does
16 that support my view -- I'm always looking
17 for people to support me no matter how crazy
18 the view is -- that seems to me to
19 underscore the importance of town planning
20 on these issues. If it's not the plan,
21 that's fine, we can certainly debate what
22 weight that has. But I come down on the
23 side of giving it a lot of weight, and I do
24 that because then it will really cause the
25 towns to focus on this. If we are going to

1 have as many renewables as our policy
2 indicates, and then I think a developer is
3 better off with a town that has focused on
4 the issue and said we have considered it,
5 and you know, here's all the places where we
6 think it's just fine.

7 I mean maybe I'm being naive, but Kim or
8 Geoff or anyone else?

9 MS. HAYDEN: Well I mean a couple of
10 thoughts. Again, and this happened to me
11 just last week. The Board when they decide
12 intervention at the prehearing conference,
13 if you've got a very contentious project
14 they will -- they have the authority and
15 they will bump out your intervention
16 deadline to give people an additional month,
17 two months. So there is usually about three
18 months before the time that that even gets
19 locked down. So I think that that, you
20 know, that is -- and people have the ability
21 to advocate that at the Board.

22 So this notice period, whatever it is, I
23 think having that active engagement is
24 really critical.

25 MS. McCARREN: Actually I'm trying to

1 get ahead of that. I know the Board can
2 extend that. I'm just thinking if that's
3 something that is really valuable in this
4 state, what is the most effective way when a
5 town wants to engage to ensure it --

6 MS. HAYDEN: The only thing there is you
7 have to think about resources for some of
8 these communities. They have to develop
9 these plans, take resources, so the first
10 time they may really have appreciation for
11 how a project impacts them is when a project
12 is proposed. That's my experience.

13 CHAIRMAN EASTMAN: But I also have in
14 the back of my mind this now goes off this,
15 but because it goes to today it is the
16 issue, boy, if there was any way we could
17 incent, you know, the communities who want
18 to play on that level -- and are playing on
19 that level, go there, and if there are
20 appropriate projects to do, if those
21 communities want to do them, that's like low
22 hanging fruit, you know, to me.

23 MS. McCARREN: But now the guys and
24 women you have to actually do this --

25 MR. PATT: I think first of all in terms

1 of the larger projects that I have been
2 familiar with, the developer did in fact go
3 to the community well ahead of any formal
4 notice process or anything like that. And
5 because it was in their interest to do it,
6 but there was no requirement, there were no
7 guidelines in terms of the format that that
8 should take.

9 If you wanted to put something, you
10 know, give some guidance there that says the
11 developer should go and contact, you know,
12 how to define who is effective, and then the
13 developer can say we did that, just the way
14 it says in the rules rather than someone --
15 what you get into is the developer said we
16 did go to talk to everybody that was
17 concerned and someone said but you didn't
18 talk to me. And so if you put it in paper
19 and say this is who you should talk to
20 before anything formal starts, it might
21 clarify things.

22 But I just want to say that any
23 developer in their right mind would do that
24 anyway.

25 MS. MARKOWITZ: I would suggest we think

1 about this in the context of taking a tiered
2 approach since there seems to be a general
3 consensus about it. And the idea then is
4 for those smaller projects, however we
5 decide to tier it, you know, I like this Act
6 250 idea. I wonder if we can get this rule
7 10 or whatever it is.

8 CHAIRMAN EASTMAN: 51.

9 MS. MARKOWITZ: Rule 51 sent to us so we
10 can take a look at it and see how we can
11 tweak it. But that same idea of having an
12 opportunity to engage once there is a draft
13 CPG, then the second tier that was proposed
14 had -- was a tier that maybe we will think
15 about because we want to encourage to talk
16 about -- in group about wanting to encourage
17 towns to actually proactively engage and be
18 part of the project so there is community
19 benefit.

20 So a second tier that involves community
21 benefit. And so then what we are really
22 doing is looking at what kind of notice do
23 we need for this third tier, the third tier
24 necessarily will be the more complicated
25 projects. The projects where you don't

1 already have the community benefit. And so
2 when we think about that, you know, I think
3 some of the concerns about overly
4 formalizing things become less of a concern.

5 MR. BODETT: I think you might -- I'm
6 sorry. Later on under the public
7 participation there is a lot of this
8 discussion too about incentivizing
9 developers to get early. Maybe we can sort
10 of table this until we get to that part and
11 fold those together.

12 CHAIRMAN EASTMAN: Great idea. Yeah.
13 Randy, and then I'm going to move on.

14 MR. PRATT: Before we leave timing
15 though, this only helps in terms of days,
16 maybe weeks, not months, if there were more
17 predictability and a set schedule on the
18 other side of filing for the process. For
19 example, 14 days before you hold a public
20 hearing, that would provide some flexibility
21 and would allow the parties more time or,
22 you know, not to have to pad their
23 application and file it any sooner than they
24 have to.

25 CHAIRMAN EASTMAN: You did a really good

1 job. That's the next thing that it actually
2 talks about is establishing time lines for
3 each, you know, for each key stage of
4 process.

5 MR. PRATT: And my battery is dead. It
6 was an accident.

7 CHAIRMAN EASTMAN: So there is some --
8 there was the time lines before, and then
9 there is the issue we hear about how do you
10 keep this process. And now I suppose if we
11 are doing this we really are in this
12 complicated case probably. How do you keep
13 this process on task.

14 MS. McCARREN: Well there are time lines
15 for rate cases right, Kim? I mean, and you
16 can always as long as you allow the Board
17 the flexibility to extend the time line.

18 MS. HAYDEN: You can waive it. But
19 there was somebody -- somebody had spoken to
20 why that construct doesn't work. And it
21 might be because the Board and the agencies
22 are so busy with these projects they barely
23 can process them right now. To me it seemed
24 we need to find ways to help them process
25 things, streamline their process.

1 CHAIRMAN EASTMAN: Let's just put this
2 out here. I have a sense that this process
3 is under resourced. So some of this --

4 MS. HAYDEN: Yes.

5 CHAIRMAN EASTMAN: If we can make some
6 of these changes that then makes some --
7 like the twos and below require less
8 resource, that might be helpful. Less
9 resource, then they put resources where you
10 need it. I still am not saying either the
11 Board or the Department or ANR have enough
12 resources to currently do something in a
13 timely fashion. And I did work in
14 government when we never got staff. We had
15 to lay them off and --

16 MS. HAYDEN: I agree.

17 MR. JOHNSTONE: You're looking at option
18 two right now?

19 CHAIRMAN EASTMAN: Yeah. I want to get
20 a sense of these options; two, three. I
21 would like to get a high level view from the
22 Commissioners at least as to whether we want
23 to keep it in, and if there is other things
24 we are saying we are not going to pursue.

25 MR. JOHNSTONE: I like the idea of it on

1 both two and three. Rich's use of the word
2 generous is ringing in my ear because it
3 gets to the ability to have flexibility and
4 discussion and dialogue that actually
5 improves the project, and you would hate to
6 have to come to the end of a useful
7 conversation among all parties because
8 you're up against, you know, the clock.

9 So I think that's what he meant when he
10 talked about generous in relation to time
11 lines. That's what -- that's what I had
12 heard him say.

13 MS. SYMINGTON: He said generous and he
14 also said disciplined.

15 MR. JOHNSTONE: That's why I'm not sure
16 when you actually put firm time lines in the
17 standard to waive it and go beyond has to
18 get higher. Right now things get extended
19 because what else is there? You keep
20 extending, if you're actually going to set
21 time lines, there has to be rigor around it.
22 Then you've got to have generous time to
23 make sure you can meaningfully get through
24 it all and give the surety of time to the
25 people tying -- but enough time for the

1 process to influence and make a better
2 project is in my head.

3 CHAIRMAN EASTMAN: So general consensus
4 that think about timing on the other side as
5 well is this --

6 MS. MARKOWITZ: One of ANR's concerns on
7 timing, just to put this in the mix, in
8 these larger projects what happens is there
9 is -- issues arise during the course of the
10 proceeding, and then we engage in some real
11 work with the applicant and concerned
12 parties sometimes to figure out sort of what
13 the options are and what we are comfortable
14 with, if we get to a settlement, you know,
15 we negotiate an outcome.

16 And so as we are thinking about time
17 lines I'm not sure how consistent that is
18 with the flexibility that we require. And
19 quite honestly, it really does have a big
20 impact on the quality of the project at the
21 end with respect to our resource concerns.

22 MS. McCARREN: I'm going to argue the
23 contrary, that I don't think there should be
24 time lines in front of the Public Service
25 Board. There should be a scheduling order.

1 And maybe you give -- maybe the only time
2 line that you give is the Board has to do a
3 scheduling order in whatever it is, 30 days,
4 60 days, whatever the right number is.
5 You've got your scheduling order, and that's
6 basically the Board saying, look at this
7 case. Here's what we think it's going to
8 take.

9 MS. MARKOWITZ: That's great.

10 CHAIRMAN EASTMAN: That's a good option.

11 MR. HERSHENSON: That's what we do.

12 MR. HAND: With one exception which is
13 an important exception, there is not a time
14 line to have that prehearing conference.

15 MS. McCARREN: In the scheduling order.

16 MR. HAND: So your point of having a
17 deadline to get to a scheduling order I
18 think is important. Because there could be
19 a really lag time, and from the developer's
20 perspective that often results in lag time
21 and meaningful conversation with the
22 agencies, because I know the agencies are
23 busy and sometimes they don't have point
24 staff or get feedback from staff on projects
25 until the day of the prehearing conference.

1 MS. MARKOWITZ: Your point is we need to
2 have a time line for that initial scheduling
3 order.

4 MR. HAND: Yeah, or the prehearing
5 conference. Something to sort of kick it
6 off once the petition has been filed.

7 MR. COMMONS: It has to run from when
8 the application is complete.

9 MR. HAND: That's fine.

10 CHAIRMAN EASTMAN: So let's say we did
11 this -- option four talks about making
12 Hearing Officers' decisions final unless
13 appealed to PSB, like FERC or with a motion
14 to review, as long as no standards in review
15 are changed.

16 MR. JOHNSTONE: As long as it's tied to
17 the tiered approach, I'm okay with that.
18 Said another way, for the smaller projects,
19 I'm good with that.

20 MS. SYMINGTON: Where are you?

21 CHAIRMAN EASTMAN: All the way to page
22 four at the bottom.

23 MS. SYMINGTON: Option four.

24 CHAIRMAN EASTMAN: Option four. So this
25 again was an attempt to less, you know, to

1 manage the work load, and keep things
2 moving.

3 MS. HAYDEN: In practice what's
4 happened, at least on some of the standard
5 offer projects, is that a Hearing Officer is
6 assigned, in almost all of the ones I've
7 worked on, reach a Memorandum of
8 Understanding with the agencies so they have
9 a fully settled case, Proposal for Decision,
10 and then the Board sometimes issues that
11 order.

12 CHAIRMAN EASTMAN: And you like that.

13 MS. HAYDEN: I like that. Instead of
14 having to go to a Hearing Officer and then
15 the Board, because it takes up unnecessary
16 time when there is a fully settled case.
17 But again this -- it's tied to this tiered
18 thing.

19 I believe June is right. Right now
20 under the statute you would need a
21 legislative change because the full Board,
22 but doesn't mean that the Board -- well I
23 think you would need a legislative change.
24 The Board could act more quickly on some of
25 those situations, scenarios, but the more

1 contested cases, I think they would have to
2 be decided.

3 MS. McCARREN: Could the Board create
4 its own consent calendar, Kim?

5 MS. HAYDEN: They could. The thing is I
6 don't know what they are doing. I've heard
7 a lot of feedback that they are very busy.
8 They have got two part-time Board members.
9 They meet once a week on a regular basis,
10 but they are going through so many projects
11 including the net metered.

12 CHAIRMAN EASTMAN: I know that. So we
13 have to think about if you want decisions,
14 you know, by the Board, by one entity in
15 Vermont, because whatever, then how do we
16 make it possible for them to actually do
17 that?

18 MS. HAYDEN: Like a clerk in a superior
19 court.

20 CHAIRMAN EASTMAN: This is what I want.
21 I made the note when I was listening to her.
22 I want to say this too, we have got a
23 contested case process, and it really does
24 feel to me at least through the culture is
25 they want it to be very judicial, not

1 quasi-judicial, very judicial. But I think
2 about all the work that the Vermont judicial
3 system has done to everybody around the
4 areas of Environmental Court, the Family
5 Court, to make things less judicial when
6 necessary to get the work done, you know, to
7 get the work done.

8 MS. HAYDEN: Like an early neutral
9 evaluation. There are ways cases that
10 really are not contested don't need to be
11 treated as if they were.

12 CHAIRMAN EASTMAN: Right. The Supreme
13 Court does a rocket docket. And you know,
14 and says affirmed or -- to decisions. It
15 doesn't explain anything.

16 MR. COMMONS: But what Kim is saying is
17 they are not treated with a lot of judicial
18 process. If there is an MOU, if there are
19 no issues, then the Hearing Officer just
20 goes right to the Board, the Board issues an
21 order.

22 MS. HAYDEN: Actually that's the way it
23 should work. That's not how it works.

24 MR. COMMONS: Well in -- I mean in cases
25 where all the issues are settled, it does

1 happen to -- the Board could come up with
2 one on its own. That can happen. Which is
3 -- I would say is a good thing because we
4 are fallible much to everyone's dismay. And
5 it's good to have another pair of eyes, but
6 I think that a developer can come to an
7 agreement with the agencies and settle all
8 the issues, that goes through pretty darn
9 quick. And I would be concerned -- my
10 concern about this one would be consistency.
11 Hearing Officers will vary in their views.
12 And I would just have a concern for
13 consistency.

14 MS. McCARREN: And you could have a
15 Hearing Officer shopping.

16 CHAIRMAN EASTMAN: But judges -- okay.

17 MR. COMMONS: Understand.

18 CHAIRMAN EASTMAN: I'm still keeping in
19 the back of my mind we have got an
20 overworked system here, and if we don't want
21 to change it drastically, we have got to
22 find some way to reduce work load. Because
23 if you only have one Board, it doesn't
24 matter if you've got three members, five
25 members or 25 members. They only have so

1 much time. Okay.

2 MR. JOHNSTONE: I think there should be
3 more administrative way to do the -- we are
4 talking about some of these tiers, projects
5 that we are saying we think once you work it
6 out with the agencies, and you can get those
7 permits, this stuff is in the public good,
8 it should go forward. So I am with you. I
9 think a way to make that a quicker
10 administrative approval for that tier and if
11 it's the Hearing Officer --

12 MS. McCAREN: I guess the question then
13 is what can the Board do now on its own in
14 its own --

15 MR. JOHNSTONE: We heard they can't.

16 MR. HAND: It's a statutory change.

17 MS. SYMINGTON: By that answer I thought
18 that you could have the Board say yes or no,
19 but it could be through something like
20 consent agenda or something else. That it's
21 presented as here's your decision, but we
22 bless these as non controversial, not big
23 deal, and --

24 MR. JOHNSTONE: That's fine. It's just
25 that you've still got to go through the

1 extra step at that point. Why not wipe out
2 the extra steps for the things we all say is
3 not controversial if it's a way to get there
4 without having to change statute. I'm okay
5 with that.

6 MR. COSTER: Can I ask a clarifying
7 question? These are first situations where
8 all the parties are in agreement, not just
9 the agencies, so if there were interveners
10 --

11 CHAIRMAN EASTMAN: Yeah. If someone has
12 been granted intervener status, then they
13 are a party, so you can't do any of this
14 stuff without all parties agreeing.

15 MR. COSTER: Just wanted to make sure
16 that was clear.

17 MR. COMMONS: I believe 248 does require
18 a hearing, even if there is a technical
19 hearing, so that's an extra step.

20 MS. HAYDEN: It is we have a technical
21 hearing regardless of whether everybody has
22 settled. What's been happening recently
23 even on standard offers, new questions can
24 come up at the technical hearing.

25 CHAIRMAN EASTMAN: Is that a statutory

1 requirement?

2 MR. COMMONS: I believe that is, isn't
3 it?

4 MS. HAYDEN: I don't know whether that
5 last technical hearing is a statutory
6 requirement. I tend to think it's not. But
7 the Board does require it.

8 MS. MARKOWITZ: It would be good to
9 clarify that. Although as a practical
10 matter we are making recommendations, some
11 of which are being implemented through rule
12 change, but we assume some will require
13 statutory change.

14 CHAIRMAN EASTMAN: I know some of these
15 things will. I expect some things may.

16 MS. MARKOWITZ: So I think the fact that
17 something is a statutory change is whatever,
18 right?

19 CHAIRMAN EASTMAN: Okay. So --

20 MR. BODETT: It's just an act of
21 Congress.

22 MS. MARKOWITZ: Exactly.

23 CHAIRMAN EASTMAN: So the next area here
24 is substantive criteria and standards. We
25 were asked to look at this. We were asked

1 to look at whether the criteria that are
2 currently included in 248, the environmental
3 criteria are, you know, are adequate. And
4 there were specific reference to, you know,
5 siting standards. So -- oh great. Thanks.
6 We've got that thing right up in here now.
7 So option one talks about establishing
8 generation siting and zoning standards.

9 MR. JOHNSTONE: So this is like a model
10 that towns could adopt, is that what you're
11 saying?

12 CHAIRMAN EASTMAN: Yeah.

13 MR. JOHNSTONE: It's fine. Some towns
14 like getting those, and some towns want to
15 do their own thing. So that's fine.

16 CHAIRMAN EASTMAN: Does the quietness
17 mean it's something to consider?

18 MS. HAYDEN: I don't know. Is it like
19 setbacks? We litigate these things.

20 MR. JOHNSTONE: So much that they can't
21 do. We heard the list from Deborah earlier.
22 The reason I said kind of fine and shrugged
23 my shoulders, it's going to be pretty
24 watery, the standard code is, unless we are
25 going to change the fundamental principles

1 in the statute. It's a pretty watery
2 standard code.

3 CHAIRMAN EASTMAN: So is it worth doing?

4 MS. HAYDEN: I mean the Supreme Court
5 has said that the local zoning is preempted.
6 So I'm not sure what -- you would have to
7 change the statute. And then you would have
8 to --

9 CHAIRMAN EASTMAN: Oh, yeah. Well go
10 ahead. Keep talking. I shouldn't have
11 interrupted.

12 MS. HAYDEN: I guess I just don't know.
13 I'm not quite understanding what the code
14 would be.

15 MR. JOHNSTONE: There is a whole list
16 that you went through, things that they can
17 talk about.

18 MS. MARKOWITZ: Setbacks and side yards.
19 And earlier today I read the statutes in
20 Title 24, 4413, which I believe was the
21 basis of the Supreme Court case that you're
22 referring to. Maybe.

23 MR. HAND: If I could speak to that
24 there are provisions in that section of the
25 code that spell out what a town can regulate

1 with respect to those areas. 4413(a) says
2 you can deal with these things or these
3 issues; (b) says you cannot set any zoning
4 bylaws for public-utility generating
5 facilities.

6 MS. MARKOWITZ: That's right.

7 MR. HAND: I think Kim's point here is
8 if the towns are preempted from zoning at
9 all, on all issues with respect to public-
10 utility generating facilities, without a
11 statutory change there wouldn't really be a
12 need for guidance on zoning.

13 CHAIRMAN EASTMAN: Okay. However, so
14 maybe -- all right. Let take out zoning.
15 If I took out and zoning and then tied that
16 into the next option which is our thought
17 about or which is a thought about having
18 some sort of planning, you know, that issue
19 between those goals and then actual project
20 having some sort of planning at a regional
21 level, you know, resource planning that
22 municipalities, you know, we do it for the
23 Regional Planning Commissions or something.

24 Then would you like some sort of state
25 level conversation about guidance that you

1 want them to then sort of play out of the
2 region, or do we just go region by region?

3 MS. HAYDEN: The issues that come up
4 from my -- just in generation and even
5 transmission that come up are noise,
6 lighting, vibration, there are many things
7 that a town can regulate that may fall under
8 an ordinance, not necessarily zoning, that
9 would be otherwise preempted. And so with
10 these particularly on the wind side, I can't
11 think of what would come up on actually a
12 local electrical for solar.

13 So the code -- when you talk about it in
14 code, there is so many things that that
15 could, you know, you could be referring to
16 that otherwise the Public Service Board has
17 jurisdiction over under 248(b). I think you
18 could be opening up a Pandora's box.

19 MR. HERSHENSON: I think the real
20 problem that exists, at least in my mind
21 today, and this may make it worse, is the
22 fact that we are getting inconsistent
23 decisions on natural resource issues because
24 we have different people looking at similar
25 projects with different jurisdictional

1 bases. So for example, with regard to
2 noise, the noise standard in Act 250 is
3 different than the noise standard that the
4 Board uses to evaluate 248 projects. And
5 248 projects they use an LEQ standard which
6 is averaged over eight hours. In
7 Environmental Board cases they use an LMAX
8 standard which is instantaneous.

9 You now have in the same community
10 potentially two projects with two different
11 noise standards. I think anything that this
12 committee does should address trying to
13 create consistent standards across all of
14 the agencies as opposed to having the
15 potential for inconsistent decision making.
16 And that's what we have right now.

17 MS. HAYDEN: That's a good point.

18 CHAIRMAN EASTMAN: Yeah, Randy.

19 MR. PRATT: One other thing that came to
20 me yesterday is about mitigation. And for
21 example, with Kingdom Community Wind, we
22 have a project in Lowell, but we have the
23 mitigation in Eden. And so I was asked by
24 somebody on our Regional Planning Commission
25 whether they would be allowed to write a

1 bylaw that said if there is a project in
2 this town, the environmental mitigation
3 associated with it has to be in the town,
4 which I thought was kind of an interesting
5 concept.

6 But so I don't know that those statutes
7 that govern generation would apply to
8 mitigation efforts that are associated with
9 that generation. But you know, I think it's
10 a pretty interesting -- yet another bucket
11 of worms that this Commission my want to
12 look at.

13 MS. HAYDEN: Those are often -- they
14 have often ended up being by stipulation, a
15 lot of mitigation conditions are, so in that
16 case I think that it may be open unless the
17 Board --

18 MR. BODETT: In option 2, it recommends
19 that RPCs carry out this energy planning
20 process. And in order to be availed --
21 eligible for intervener funding, which I
22 kind of like, because we have talked, there
23 has been a lot of testimony -- Annette Smith
24 as well -- about community-based siting, and
25 the Chairman spoke through June about more

1 discipline in the PSB process and how do you
2 get a little more sophistication of all the
3 parties.

4 And part of that would be if they had
5 done the work already. If the regions and
6 the towns within the regions had already
7 gone through this energy siting
8 conversation, and where it would be, should
9 it be anywhere, all of this stuff that goes
10 into it. If they can demonstrate that that
11 process has taken place, then when a
12 developer comes to their region, they are
13 eligible for this intervenor phone which we
14 haven't talked about yet. Let's imagine
15 there is one. If you haven't bothered --
16 your region, your town hasn't participated,
17 then you still have status at the Board, but
18 you're going to be on your own because you
19 haven't taken the time to do the work.

20 I think that's a pretty great incentive
21 for people to do the work locally.

22 MR. PATT: I like the concept of having
23 local and regional bodies, they need to have
24 the resources, and the guy -- but once they
25 do that, they have a high level of

1 responsibility. From a utility point of
2 view, you know, we are -- Washington
3 Electric Co-op is a small utility
4 relatively, but we are in 41 municipalities,
5 and I'm guessing three Regional Planning
6 Commission areas. And to have -- and what
7 we do in one town in one regional planning
8 territory in terms of generation affects all
9 of our members in all 41 towns in all three
10 areas. So having some consistency across
11 those somewhat arbitrary political lines
12 would really help us.

13 MR. JOHNSTONE: So I would -- I like
14 this idea. I think there is a lot of
15 positives here, continue to support. When I
16 thought about unintended consequences with
17 this one, Jan, is I want to hear from the
18 RPCs, if we put this authority with them
19 within the right box that we will create,
20 one of the challenges the RPCs might get
21 nervous about is towns aren't required to be
22 part of an RPC, and some of them have quit
23 over issues.

24 And they could actually be put in a
25 position when they actually have to make the

1 whole public processes and come up with what
2 will we accept, where that -- a town or --
3 their response could be quit, to get out of
4 the RPC, which is not exactly promoting the
5 same regional planning that we want. So I'm
6 sorry to say this because I love this idea,
7 but we have to figure out a solution. There
8 is an issue there that we have got to figure
9 out.

10 CHAIRMAN EASTMAN: Can I ask the
11 Commissioners, I'm now going to be Louise.
12 I think there needs to be something for
13 these large projects that's between the
14 goals we have and the current 248 project as
15 it is. Either a little I mean --

16 MS. McCARREN: Did you mean smaller
17 projects? You said larger.

18 CHAIRMAN EASTMAN: No, I mean for the
19 big projects. I think there needs to be
20 something between the current -- sorry if I
21 misspoke -- between the current goals and
22 the 248 process that is just project by
23 project. Something where communities engage
24 and/or, you know, and local individuals
25 engage.

1 And I don't know if it's this or some of
2 the other options that are later, but we are
3 running out of time today. And to me
4 that's, you know, I need us to think about
5 that and talk about that and figure out what
6 that might be. And it's not that I want to
7 make this so difficult to do anything. But
8 I just think we are going to have battle
9 after battle, case by case if we don't come
10 up with a way to do it. And yeah, we then
11 have the next thing is option on the
12 statewide plan, and Tony Klein has put that
13 forth. I don't think we have any chance in
14 -- of doing that. So --

15 MR. HERSHENSON: Act 250 didn't work
16 very well.

17 CHAIRMAN EASTMAN: Right. I'm thinking
18 what is it that's reasonable and fair so
19 that people can, you know, --

20 MS. SYMINGTON: You're just looking for
21 our general thinking about it?

22 CHAIRMAN EASTMAN: Yeah. Am I on my own
23 or are we --

24 MS. SYMINGTON: Well it depends. I'm
25 sympathetic to the issue that Avram raised

1 around consistency, and I think that there
2 -- that there is a lot of marrying of things
3 that can happen along in here, but if what
4 we are trying to do is create this access to
5 intervener funding, access to, you know,
6 more participation, I think it has to have
7 been some engagement in where are these
8 facilities going to go. And how are we
9 going to get to the goals that we have
10 bought into as a state, that people may not
11 individually agree with, but the state -- we
12 have through, you know, a pretty inclusive
13 process some of which involve elections,
14 bought into state goals.

15 And so anyway, I'm looking for a process
16 that -- by which those regions would have,
17 you know, taken into account that statewide
18 process. I don't want to lose what we have
19 with the Public Service Board which is a
20 state entity kind of with authority and
21 responsibility overall, but also give more
22 of a voice at the local level.

23 CHAIRMAN EASTMAN: Right. The regional
24 local level.

25 MS. SYMINGTON: But it has to happen in

1 this planning stage. It's not going to
2 happen project by project.

3 CHAIRMAN EASTMAN: Yeah.

4 MR. ZIMMERMAN: A thought that came to
5 mind when I looked through this was that the
6 U.S. Forest Service has a lot of land in
7 southern and Central Vermont that's windy
8 land, and they recognize that in the
9 formation of their latest plan. I think
10 it's their latest plan.

11 And they established a process that in
12 the face of all of hurdles of big wind
13 towers, whereby they designated areas,
14 ridgelines, windy areas that they thought
15 would be suitable for wind development
16 underneath their plan.

17 And having said that, it sounded all
18 good, and I was looking over that pretty
19 carefully and commenting as they went
20 through it, of course even gave them some of
21 the site to look at and evaluate. Deerfield
22 was judged to be suitable under those
23 grounds by the U.S. Forest Service, and
24 Deerfield still isn't built after seven
25 years. So it's hard.

1 And I even think they went through a
2 very good process. And to think that you're
3 going to be able to do that on all the
4 Regional Planning Commission levels
5 consistently, that's a real challenge.

6 MS. HAYDEN: So there is something maybe
7 in between which is the Department has the
8 Comprehensive Energy Plan that they go
9 through a fairly rigorous process for that
10 that they develop, coordinating with the
11 Regional Planning Commissions, and either,
12 you know, resourcing out from the
13 Comprehensive Energy Plan initiatives to
14 those Regional Commissions or going in the
15 other direction. And there is a lot of work
16 that's almost redundant out there if you
17 need some of these regional plans,
18 especially South Windsor Regional Planning
19 Commission has a very sophisticated energy
20 plan on the energy side. Not all the
21 commissions do.

22 The Department has put a ton of effort
23 into their Comprehensive Energy Plan, maybe
24 there is a way to marry those two processes
25 so there is some sharing of resources, I

1 don't know. I don't know if Geoff has any
2 thoughts about that.

3 MR. COMMONS: That would be Asa's
4 thoughts if there were any.

5 MS. McCARREN: And he's still here.

6 CHAIRMAN EASTMAN: I still think it's
7 the test, and I don't disagree, and of
8 course, we don't have time today to finish
9 this. But it is that issue that -- and I
10 live in one of those regions, and one of
11 those small towns that I don't think we can
12 -- I'm not sure we can do everything at the
13 state level. I'm not sure we can.

14 I think we have got to somehow really
15 encourage something between that, and a
16 project, but I'm not saying that's going to
17 make it through.

18 MR. COSTER: It would seem this planning
19 process has to follow the same approach
20 where smaller scale, simpler projects get
21 planned for closer to the municipal level.
22 And then as you get bigger and more complex
23 with larger impacts, it's more of a regional
24 and statewide conversation.

25 CHAIRMAN EASTMAN: I'm not even worried.

1 In effect, I mean some people say when I --
2 some people have commented to me when I've
3 thrown this out, this means you have to wait
4 for all this to happen. You go along, you
5 do whatever is in place, you're dealing with
6 it. Now some regional plans are much better
7 than other regional plans. And relative to
8 a small, you know, the small net metered
9 things we were talking about even if it was
10 two, I don't think it's -- I just don't see
11 the planning issue as much at all. I really
12 see the planning issue when you're impacting
13 -- I mean if you can get the requirement to
14 be not that big of an impact, I don't see
15 that as a planning issue. So much.

16 MR. HERSHENSON: Are you prepared to
17 bite the bullet and give the local planning
18 community veto power over projects? Because
19 that's really the issue. I mean the issue
20 is now we have plans, we have regional
21 plans. They have energy components. They
22 have natural resource components, but under
23 D-1 the Board is only required to give them
24 due consideration, which means they can look
25 at it and say it doesn't comply. But the

1 project on balance is in the public good, so
2 we are going to approve it.

3 If you are really going to give this --

4 CHAIRMAN EASTMAN: We have talked about
5 that.

6 MR. HERSHENSON: You have to give the
7 local planners veto power.

8 MR. JOHNSTONE: I am with the regional
9 plans. If we -- if it's combined with -- I
10 said this awhile ago, with -- we are state
11 and part of a region, and we have to be able
12 to have energy source. So we have -- out of
13 the Comprehensive Energy Plan there is
14 appropriate criteria what those plans must
15 resemble to meet the public good, the
16 statewide public good and the region's need.

17 And those are given to a region, and
18 they adopt at full standards and consistency
19 something that someone like the Department
20 would approve and say, yup, they have met
21 their obligation by saying this area is open
22 for wind, and this area is open for whatever
23 it is. Then I think that the regional plan
24 ought to have standing.

25 MS. McCARREN: I would take it down to

1 the town plan level but not a veto power.
2 What I said earlier, this level of
3 distributed solar, and/or wind, these are
4 industrial projects. And I think a town can
5 say -- can zone for industrial projects. I
6 don't think you can zone them out and should
7 you. But I do think that -- and I say this
8 because of my belief I said before -- which
9 I think if we are going to follow the energy
10 plan, we are going to have a lot of this.
11 That's my point. So --

12 MS. MARKOWITZ: Let me just say earlier
13 when I was reading through the statute I was
14 reading too quickly, and what was said
15 earlier was correct, that the second
16 subsection that I read was exclusive, so
17 there is no local zoning of energy
18 generation.

19 MS. McCARREN: That's right.

20 MS. MARKOWITZ: It's preempted by the
21 Board.

22 MS. McCARREN: That's right.

23 MS. MARKOWITZ: So I wanted to make
24 sure.

25 MS. McCARREN: This would require a

1 legislative change.

2 MS. MARKOWITZ: Right.

3 MR. HOPKINS: For one wrinkle, this we
4 -- we're thinking about energy generation
5 siting more generally. The conversation has
6 tended to focus on solar and wind which used
7 a lot of land, but one of the, you know,
8 biomass, hydro, the hydro is in FERC
9 jurisdiction, but biomass, and potentially
10 natural gas, turbines, other things that
11 would fall under the same would hit the same
12 section of the statute, right? Don't use
13 much land, they just look like an industrial
14 project, and yet they might so -- they look
15 like they fit in a shipping container
16 essentially, a natural gas turbine, but
17 might have large regional implications in
18 terms of reliability.

19 So you know, even, a biomass plant, you
20 know, a McNeil-scale plant looks like an
21 industrial facility potentially, right? So
22 is that -- does that run into the municipal
23 level concern, when the municipal plans
24 guide -- when actually you have regional
25 implications for where does the wood come

1 from and state natural resources, so you
2 can't necessarily, you know, some different
3 technologies can be different from each
4 other.

5 MS. McCARREN: Absolutely. My comments
6 were a follow on on the tiering of size.

7 MR. HOPKINS: Just need to be careful
8 about how you define the tiering.

9 CHAIRMAN EASTMAN: We are out of time
10 for today. And before we finish though I
11 want to see if anybody else behind us is
12 there anything that you desperately want to
13 say briefly?

14 MS. MCGINNIS: Go ANR, the table.

15 CHAIRMAN EASTMAN: Let's hear from
16 around the back first, then I'm going to
17 take it back for around the table. But
18 Annette, you had an announcement?

19 MS. SMITH: Well I'm listening to this
20 thinking I think you all need a big dose of
21 reality, so I will invite you to come to
22 Grafton on February 16 for a meeting from 1
23 to 4 which Iberdrola was in Grafton for a
24 three-hour meeting on Saturday to spend all
25 this time proposing a project that they said

1 may not be actually ready for 3 to 7 or 9
2 years. So on the 16th from 1 to 4 in
3 Grafton there will be two panels; one panel
4 of wind proponents and one panel of wind
5 opponents. And there will be -- the
6 audience will be the community of Grafton.

7 I feel like there is an elephant in the
8 room here, and it's big wind, and you really
9 need to get out in the community and see
10 what it's like. See what it is, you know,
11 when you talk about regional plans. I'm
12 thinking do any of these regional plans
13 actually call out big wind and say we want
14 it here? And that's kind of where we are is
15 that we need to talk about it instead of
16 dancing around it.

17 So I encourage you to come and see what
18 it's like because it's happening all over
19 the state in lots of communities. You have
20 an opportunity. It will be very
21 educational. We're going to have Kerrick
22 Johnson, Robert Dostis and a whole host of
23 people on one side, so I encourage you to
24 get out in the community and you're putting
25 so much time in this, you really need to see

1 what it's doing to you.

2 CHAIRMAN EASTMAN: Thank you. Anybody
3 else?

4 MS. RADEMACHER: I guess one thing, I
5 have been to some of these meetings, but I
6 think one thing that really makes me scared
7 are the health effects. And I really
8 haven't heard much about that. You know, I
9 talked about the viewing and of it, and
10 that's opinions. Some people don't mind it,
11 some people hate it, so that there is
12 questions there. But health effects and
13 what it does to the animals and the birds
14 and the bats, those are my major problems
15 with wind. I think small solar, you know,
16 if we could go with that, and maybe change,
17 we don't need 90 percent, maybe that's not
18 the right idea.

19 CHAIRMAN EASTMAN: And that's not our
20 purview. But we appreciate that. So around
21 the table anything else today? I think we
22 have got a scheduled time on the 20th.

23 MS. McCARREN: What year?

24 CHAIRMAN EASTMAN: February 20.

25 MR. PRATT: Before everyone is deflated,

1 I want to say in particular to Anne and you,
2 Jan, the Commission has done a remarkable
3 job especially with this document, that it
4 has taken a very complex set of issues and
5 boiled it down into something that, granted,
6 we couldn't go through in a day, but I just
7 -- I really want to say it's been a
8 remarkable job.

9 MS. McCARREN: Linda.

10 CHAIRMAN EASTMAN: And the staff. The
11 staff, Department staff and Agency have
12 tried to take everything and put it in a
13 format that was actually talk about a
14 conversation. But as I say, please look at
15 it, and if there are things, as I say, I was
16 listening today to 27. Are there things
17 that have been proposed in the past that if
18 we put it as a part of a package might
19 actually make something work better. And
20 don't disagree about the issues of being
21 sure that, you know, that all the criteria
22 that need to be addressed are addressed,
23 environmental, and you know, health. And
24 the cumulative impact. Okay.

25 (Whereupon, the proceeding was

adjourned at 4:03 p.m.)

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I, Kim U. Sears, do hereby certify that I recorded by stenographic means the Hearing re: Energy Generation Siting Policy Commission Deliberative Session #3, at the Calvin Coolidge Conference Room, National Life, Montpelier, Vermont, on February 5, 2013, beginning at 9 a.m.

I further certify that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting and the foregoing 313 pages are a transcript of the stenograph notes taken by me of the evidence and the proceedings to the best of my ability.

I further certify that I am not related to any of the parties thereto or their counsel, and I am in no way interested in the outcome of said cause.

Dated at Williston, Vermont, this 9th day of February, 2013.

Kim U. Sears, RPR