

STATE OF VERMONT
ENERGY GENERATION SITING POLICY COMMISSION

Deliberative Session

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Asa Bloomer Office Building
88 Merchants Row
Rutland, Vermont

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Jan Eastman, Chair
Louise McCarren, Vice Chair
Tom Bodett
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Gaye Symington
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1 MS. EASTMAN: Maybe we should go through
2 the 10 items and see what order we should do
3 things in because we have this afternoon and
4 then we have next Tuesday, and, Gaye, I hear
5 you have rescheduled.

6 MS. SYMINGTON: Yes.

7 MS. EASTMAN: Thank heavens because the
8 more we get to the end and we get some things
9 in, the more people are being more precise
10 about what they want, and I think there are
11 things really worth considering what people
12 have told us that I think would change where I
13 might come out on some of these things.

14 So the 10 things were how the Commission
15 will come to its final decision, meaning are
16 we going to vote, are we just going to have
17 consensus, are we going to whatever.

18 She just -- Linda suggested maybe we
19 need to be reminded of the Executive Order
20 charges. I don't think we need to do that
21 right now, but maybe when we get precise down
22 to the end we may need that.

23 We've got a third draft of the
24 recommendations which is what we finished
25 with, we thought where we were at the end of

1 the most recent meeting, and we've got some
2 comments around that regarding -- from Louise
3 and from Gaye. We still have some issues I
4 think relative to regional plans and, you
5 know, what role it has I guess.

6 Some questions or concerns about
7 Department of Public Service approval of the
8 plan. I guess I would say too, based upon
9 Karen Horne's and League's comments, I think
10 we need to have more conversation about
11 planning altogether and how we think it ought
12 to integrate in this and -- okay. I'm willing
13 to go back and talk to that some more, but I'm
14 really happy there's regional planners here
15 who can remind us all of what the actual
16 current planning process is here now and
17 here's another one. Thanks, Jim.

18 MR. SULLIVAN: Here's another one.

19 MR. CAMPANY: This is Chris Eves
20 (phonetic). He's the Rutland new RPC
21 Director.

22 MS. EASTMAN: Thanks for coming.

23 MR. EVES: That's for coming to Rutland.

24 MS. EASTMAN: And then I'll say I used
25 to live here so -- I graduated from Rutland

1 High School.

2 MR. JOHNSTONE: She's not just saying it
3 to be political.

4 MS. SYMINGTON: She's had every job
5 before us and she's lived in every town.

6 MS. EASTMAN: Well why do you think
7 those places were chosen. We've got more work
8 to flush out on the tiers which we saw, right,
9 that went out. The Department of Public
10 Service staff did some work on the tiers and
11 ANR has some comments about the tiers.

12 MS. MCGINNIS: I just wanted to note on
13 the tiers the work that's been done should
14 only be considered as indicative. We can't
15 possibly come up with all the details on the
16 tiers right now, and I think we should leave
17 it to professionals to flesh out what works
18 and what doesn't. I know ANR has been a
19 little bit nervous about some of the things
20 and the Department had been a little bit
21 nervous about some of the things. I think we
22 should just accept, and this is for Billy to
23 hear too, that the tiers Annex that we have is
24 just indicative. It's to throw out an idea of
25 whether it sounds like it's all right to have

1 four tiers or not, and then the part that we
2 do need to discuss is this screening, whether
3 that makes sense or not, but the details of
4 the tiers can be considered indicative because
5 all of our other recommendations are saying
6 the Department and ANR need to decide together
7 what are the statutory timelines that need to
8 be done. We're saying they need to do this
9 work and so we don't have to have completed
10 the work.

11 MS. EASTMAN: The other thing Linda has
12 sent us were the New York and VELCO public
13 engagement process because remember right now
14 in tier four we're proposing a public
15 engagement -- additional public engagement
16 process, but really haven't described it.

17 Having said that, we thought it should
18 be managed or facilitated or be held at the
19 Department of Public Service. It's that thing
20 that happens 150 days before the 90 days, and,
21 again, that may be something we never get
22 specific about what the actual design is. It
23 may end up being left to the Department of
24 Public Service and in effect any parties to
25 come up with the final thing.

1 Jim Matteau sent us a few comments I got
2 this morning.

3 MS. SYMINGTON: Some of his comments
4 related to that last point too.

5 MS. EASTMAN: Related to that point and
6 some relates to the planning issue and stuff,
7 and then Karen Horne sent the League's
8 position that they took before the
9 Legislature, and I'm willing to consider some
10 of these things.

11 I would be curious, and, Anne, you're
12 not here and Billy is here, the language of
13 local plans having substantial consideration,
14 has the term substantial consideration been
15 defined by anybody?

16 MS. MARGOLIS: I think Sheila is ready
17 to talk about that. We'll just get her on the
18 phone.

19 MS. EASTMAN: Okay, because I'm willing
20 to consider a different standard other than
21 do. If do is getting nothing --

22 MR. JOHNSTONE: I didn't know what that
23 meant and I thought the same thing, what does
24 that mean.

25 MS. EASTMAN: And I think what happened

1 is, as I understand it, from now I'll be
2 looking at the Wind Commission report. The
3 due consideration language may have come up
4 after that, and obviously towns don't think
5 it's working or some towns don't think it's
6 working.

7 Then we still have items that were left
8 on the -- from the last draft. The things on
9 the back page; things like storage, things
10 like RECs, things like nuclear, things that we
11 don't know what may be.

12 Linda also went through the most recent
13 wind report recommendations and gave us a
14 spiel on here's what's been implemented and
15 here's what wasn't. Did you see that?

16 MR. BODETT: Yes. It was really useful.

17 MS. MCGINNIS: I have paper copies of
18 some of these things.

19 MS. EASTMAN: Steve Wright sent copies,
20 but some of his comments relate to the natural
21 resource issues and process and I'm going to
22 need some help with that. Maybe that ends up
23 getting discussed next week as opposed to this
24 afternoon.

25 MS. SYMINGTON: I haven't had time to

1 read all these comments in the last batch.
2 I've just been on the road.

3 MS. EASTMAN: Exactly. This is what I'm
4 saying. We figure out what are we ready to
5 spend the next two and a half, three hours on
6 this afternoon, and then we can get in more
7 depth on things on Tuesday. This is what I'm
8 saying.

9 So we've got those, and then -- and
10 maybe we don't need to make any comments on
11 this now, but Joan is putting together a
12 public comment report to be a piece of this
13 report and she's got a draft, and right now
14 what she's doing, Linda, she's looking at how
15 the public comment report went for the last
16 draft of the plan.

17 MS. MCGINNIS: For the Comprehensive
18 Energy Plan. She's basically using the same
19 type of outline that was done for the
20 Comprehensive Energy Plan, but she's trying to
21 put summaries of the comments in each of the
22 categories that we've put into our
23 recommendations so that it will follow in
24 parallel with the report is how she's drafting
25 it right now.

1 MS. EASTMAN: So probably within the
2 next day or two we'll just send out an e-mail,
3 a copy of what her outline looks like. It
4 doesn't have any public comments in it, but
5 it's just here's the kinds of -- here's what
6 the structure might look like.

7 And then, finally, Linda's been working
8 on a draft report.

9 MS. MCGINNIS: To the extent that I can
10 write things.

11 MS. EASTMAN: And so what do you think
12 the - is for that because from a schedule
13 standpoint I'm just thinking we've got the
14 16th. Gaye won't be there. Are you able to
15 read anything while you're away?

16 MS. SYMINGTON: I'm not. Sorry.

17 MS. EASTMAN: That's fine. You already
18 accommodated as much as possible.

19 MS. SYMINGTON: I'm in Israel living
20 with family.

21 MS. EASTMAN: Understood. Understood.
22 I understand. I'm leaving my week so --

23 MS. MCGINNIS: I can send out to you
24 whatever I have which is very draft form. It
25 has lots of blanks because we haven't yet come

1 to conclusions on some core matters, and
2 particularly, Gaye, you can give me feedback
3 on that, and then the rest of us will just
4 work through it as we move forward.

5 MS. SYMINGTON: It may be that once
6 during the trip I can go to a place that has
7 WiFi and download and read if it's a PDF. I
8 won't be able to read anything other than a
9 PDF and it won't be like everyday. It would
10 be like once or twice over the trip.

11 MS. EASTMAN: Well I think it would be
12 great even if you sent it to Gaye before even
13 you sent it to the rest of us so she just has
14 a sense of how comfortable she's going to feel
15 on -- I mean hopefully by the end of the next
16 Tuesday we'll know pretty much what the
17 recommendations are. It's just that you won't
18 have seen the final polished copy of the
19 report, but to the extent that you've got
20 comments on the sections and how things are
21 coming together. Okay. Thanks.

22 So which ones should we do today? I
23 really think -- we've got the regional
24 planning commission guys here. I would
25 definitely like to go back over the issues

1 that people have from the last plan, the
2 regional planning process issue, and so I
3 think a lot of that relates to Jim's comments
4 and Karen's comments, and I would also like to
5 get to these issues that we never seem to talk
6 about. You know these things on the back page
7 that we never seem to talk about.

8 MS. MCGINNIS: I would also appreciate
9 figuring out, because in drafting it it's hard
10 when I know there's not consensus on an item,
11 I'm not quite sure exactly how to say it. So
12 if you can decide how you're going to decide,
13 that would be helpful.

14 MS. EASTMAN: So what we can talk about
15 before the other, if Chris and Louise are on
16 their way --

17 MR. COSTER: He is.

18 MS. EASTMAN: You want to talk about how
19 we're going to decide?

20 MR. JOHNSTONE: Sure. So how are we
21 going to decide?

22 MS. SYMINGTON: Just keep putting out
23 drafts and asking us to comment and when we
24 lose gas we're done.

25 MR. JOHNSTONE: So the way I would

1 respond is I think we should strive for
2 unanimity, but also not allow ourselves to
3 veto things. So I think the ideal of
4 everybody getting on the same page is
5 wonderful to the point where I decide I can't
6 live with something and I'm not being
7 constructive any more and then you ought to
8 just make us make a choice, and then hopefully
9 I would be able to live with the broader
10 document even if I loss a point, and it may be
11 that we end up in a place where people can't
12 live with that, but I don't know. So I don't
13 know if that's the question you're asking.

14 MS. EASTMAN: I am asking that question.

15 MR. JOHNSTONE: And I don't see lots of
16 light of day between us all, but there could
17 be something that the majority thinks is
18 really important to say and one person can't
19 live with that piece, and I don't know. I
20 think we ought to say where we end up, but I
21 think we should first strive to get to a
22 common place. So it shouldn't be a dodge out
23 of a hard conversation is my way of thinking.
24 The goal ought to be consensus, but not to the
25 point where we're not productive.

1 MS. MCGINNIS: And if there are points
2 where there isn't full agreement, how should
3 it be addressed in the report?

4 MS. EASTMAN: I guess what I think what
5 we have to do is -- I mean I may be willing to
6 just let -- like Scott, what I think I'm
7 hearing Scott say is there may be a point he's
8 willing to just lose and have -- still support
9 the whole thing.

10 There may be an issue that someone feels
11 so strongly about that they want to have a
12 comment in the report and just say that
13 somebody absolutely disagrees with this point,
14 and I would rather have it said right there in
15 the report as opposed to have a whole long
16 separate dissent, but let them make their
17 point there if they totally disagree with the
18 overall issue and just have it be one report.

19 MS. MCGINNIS: Okay.

20 MS. EASTMAN: Because I think most of
21 the time we're going to get there. We'll talk
22 it to death.

23 MR. BODETT: The report will be in a
24 narrative form, I assume, much like our
25 recommendations are. Wouldn't it be possible

1 at least to do it the way -- use the language
2 where when we refer to the Commission -- I
3 mean if there's one of us that's dissenting,
4 then that's not unanimous support. So you
5 can't say the Commission strongly supports.
6 You can say the Commission was mixed on this
7 issue, mostly supports this, and then just
8 recognize what you said, just put a little
9 footnote this was an alternative view, and I
10 can't imagine -- we're not going to be dead
11 locked obviously, but I think that -- I think
12 if I was like 10 years from now looking at a
13 report as we've looked back for these other
14 reports, you want to see what they came up
15 with, not -- you don't want to see where the
16 -- they couldn't agree.

17 I think at some point we're going to
18 have to either vote or just say this is the
19 majority opinion of the Board. I don't know
20 that the Governor appointed so many different
21 people for us to necessarily find consensus.

22 MS. MCGINNIS: How about I predict
23 there's going to be a couple of items in which
24 I'll have to use language that will say the
25 majority of the Commission opted for this, and

1 I will put a footnote and not just saying that
2 there was a dissenting opinion, but describing
3 a dissenting opinion so that it's given
4 adequate --

5 MS. EASTMAN: Right. So people can see
6 what the conversation was.

7 MR. JOHNSTONE: That's fine.

8 MS. SYMINGTON: I also don't think that
9 all the way through each point you have to say
10 the Commission supports or unanimously
11 supports or the majority supports because it's
12 the report of the Commission. So I think that
13 only when there's -- you get to a point, or
14 two or however many there are, where there
15 wasn't unanimous support and whoever disagreed
16 felt strongly enough that they wanted their
17 perspective represented there should be a
18 footnote.

19 MR. JOHNSTONE: I think that ought to be
20 the test. Again, there's many times -- the
21 way I tend to operate as an individual when I
22 don't win on a point I don't need it pointed
23 out for me to support the broad body of the
24 work.

25 My support for the whole report will be

1 based on whether I can support the balance of
2 what we're recommending, even if there's some
3 pieces in it that I'm not a hundred percent
4 with, and I'm fine with that, but some people
5 may want an individual item called out and
6 they ought to say I want that item called out
7 and that's fine.

8 Said another way, for me I can't really
9 fathom that I would be just so angry with
10 something we would come up with that I would
11 say I need it called out even if I didn't
12 agree. So for me it's not important, but we
13 should make room for those that it is
14 important for. Perfectly fine.

15 MS. SYMINGTON: Yeah, and I don't think
16 we have to be angry about it.

17 MR. JOHNSTONE: Strong opinion. I doubt
18 it would get there for me. It rarely does.

19 MS. SYMINGTON: I also think that it
20 would be helpful to convey that or the -- this
21 -- I think it's worth, not now, but thinking
22 about the presentation itself. You know, in
23 other processes when I've been part of --
24 usually it's a committee making the
25 recommendation or reporting a bill on the

1 floor, you know, it's like there's -- I think
2 you lead that work, but I think it would be
3 helpful for people to take parts of this and
4 speak up because it comes across in a
5 unanimous way, but I don't know if that's
6 logistically possible.

7 MS. EASTMAN: Well and that's gone --
8 that's not an side issue, this is an issue
9 that, of course, coming up is making the
10 presentation, and Anne's right when she -- I
11 know Linda you e-mailed Liz, the Chief of
12 Staff, and Lois, but -- Lewis, but I'm
13 concerned that is there really going to be
14 time to make a public presentation or are they
15 just going to want it in writing?

16 Right now you know what that last week
17 in April's going to be. Anne's got space
18 booked for us to go and make a presentation to
19 whoever can be there. Maybe that we get, you
20 know, bumped at the last minute by something
21 else.

22 What's the -- have you heard back from
23 staff? And I guess I think -- and neither Deb
24 nor Chris are here right now, but I think it's
25 important for them to tell us or guide us as

1 to what do they want from us, what kind of
2 help, because I don't disagree with you that
3 -- and I'm happy, even if we just have to do
4 it in writing now, and when it gets around
5 that a committee wants some testimony we try
6 and get another couple of people so it's just
7 not me going. It was fine for me to go and
8 tell them we don't have anything yet or here's
9 what the process was, which is we've been
10 there, but when it gets down to these other
11 things, especially some of the things that are
12 more technical, Scott, you speak to those
13 things better than I do.

14 MS. MCGINNIS: Basically I told Liz and
15 Lewis that all of you have set aside that day
16 until they hear more. I gave the indication
17 that we would like as many of you there as
18 possible, and they are going to get back to
19 us. They are trying to figure out how it's
20 all going to work.

21 MS. SYMINGTON: What day is it?

22 MS. EASTMAN: It's the 25th of April.

23 MS. SYMINGTON: And when do you leave?

24 MS. EASTMAN: I don't leave until after
25 that. I'm leaving Saturday or Sunday, but if

1 the issue had to go to the next week, you
2 could do this without me. It's not like you
3 have to have me there and -- or I can be on a
4 phone.

5 MS. SYMINGTON: I'm just saying I don't
6 think it's out of the question that we would
7 end up having -- you know, that we could end
8 up needing another discussion meeting and
9 needing to meet on the 28th or something.

10 MS. EASTMAN: Of April?

11 MS. SYMINGTON: I don't know.

12 MS. EASTMAN: And not being done you
13 mean and push back our time? Look, here's my
14 limiting factor and I'll just tell you this.
15 Sam gets her first -- her Master's on Thursday
16 morning, May 2nd, okay. I could do this by
17 leaving -- well of course I could drive the
18 whole way in one day if I had to. I don't
19 want to, but I could. So I could push it back
20 and just go quickly on midday Tuesday, okay,
21 guys, if we decide we need more time when Gaye
22 gets back to make sure we're all on the same
23 page. I can do that. That's April 30th.

24 MS. SYMINGTON: It might be it makes
25 more sense to do it on a Monday. The

1 Legislature isn't in session, although at that
2 time of year they can be in session on a
3 Monday.

4 MS. EASTMAN: We'll cross that bridge
5 when we get to it. All I have to do is get
6 there. Okay. I know the way. It's okay.

7 So is that enough, Linda, on how we want
8 to make a decision --

9 MS. MCGINNIS: Yes.

10 MS. EASTMAN: -- getting the draft out,
11 the absolute deadline to have me around, and
12 so what do we want to start with? I hate --

13 MS. SYMINGTON: This is a tough issue to
14 address without Louise and it's a tough issue
15 to address for me without Chris because I mean
16 the planning -- the planning is tough. Could
17 we at least hold off until 2 to address that
18 issue because I just think this could be a
19 potentially very different issue, very
20 different conversation.

21 MS. EASTMAN: The planning stuff?

22 MS. SYMINGTON: Yeah.

23 MS. EASTMAN: And adding in Karen's, you
24 know, point from the League I don't want to
25 waste that time. What else can we talk about?

1 Do you want to talk about the tiers and what
2 work went into the tiers?

3 MR. BODETT: I would like to get caught
4 up on that because I wasn't here for the
5 meeting that added that fourth level.

6 MS. EASTMAN: So you can see also on the
7 most recent draft that we did we have this
8 Annex 2, which is a proposed simplified four
9 tier system which none of us have looked at,
10 but it work following us thinking that we
11 should look at what the four tiers might be,
12 and then you can see that there's then, as
13 part of Annex 2, there's both regular language
14 and then there's a chart that's been put
15 together that says, you know, here's the tier,
16 here's what -- describing them, the
17 registration and permit process, public
18 notice, the statutory guidelines, and issuing
19 -- and statutory guidelines for issuing the
20 CPG, which all those things sort of went into
21 that.

22 Now is this the one -- Billy, has ANR's
23 comments been put in here yet?

24 MS. MCGINNIS: Yes. This was printed
25 out in black and white. They are in red,

1 ANR's comments are, in this one.

2 MR. COSTER: I think in the body of the
3 document --

4 MR. JOHNSTONE: The document we're
5 looking at is the third draft packaging and
6 recommendations. Is that the package?

7 MS. MCGINNIS: Yes.

8 MS. EASTMAN: As part of that you get to
9 Annex 2.

10 MR. COSTER: So, yeah, there's some
11 comments in Annex 2 indicated in red which if
12 you have a black and white copy --

13 MS. SYMINGTON: I have the black and
14 white copy Annex. Is that an international
15 term?

16 MS. MCGINNIS: It must be. We use it
17 all the time.

18 MS. EASTMAN: It's an international
19 term, but it's cute.

20 MS. SYMINGTON: I thought it was a room.
21 What room is she talking about?

22 MR. COSTER: Again I tried to get as
23 much as I could over to Linda before today. I
24 think we have some additional thinking on just
25 the way that the tiers are set up, and it

1 sounds like from your comments earlier that
2 would be something that we will continue to
3 work with.

4 MS. MCGINNIS: Right. That's what I
5 just want to make sure is understood. The
6 discussion around the four tier system is more
7 around the idea of having simplified tiers,
8 and that the details within them we can't
9 possibly ask ANR and the Department to come up
10 with the absolutes right now, and I don't
11 think it's the job of the Commission to come
12 up with all the details. It's more to look at
13 the broad notions of having a four tier system
14 and what the purpose is of it.

15 MS. EASTMAN: And I think, though, as we
16 go to this chart it's like the issue of having
17 longer public notices for more complicated
18 projects. The issue of statutory guidelines,
19 which we were asked to look at, you know, more
20 time for the public to be engaged, that kind
21 of thing.

22 MS. MCGINNIS: It's sort of easier to
23 look at it on the chart because you can see
24 there's a graduated emphasis on public
25 participation. So in tier one, for example,

1 you know it's just like the current net
2 metering process. Rate's approved in 30 days
3 and that's up to 500 kilowatts. Tier two it's
4 500 kilowatts to 2.2 megawatts, and that has
5 an overall timeline of about six months, but
6 if there are no issues raised, it could be
7 approved as quickly as 12 weeks which is
8 currently more or less the process.

9 MS. SYMINGTON: What if there's no
10 issues raised? I mean is there an outside --
11 is the three months the -- even if issues are
12 raised?

13 MS. MCGINNIS: You can see in the
14 statutory procedural guideline column after
15 filing you have 14 days for the Public Service
16 Board to deem it complete. First you have 45
17 days notice. This is in tier two. So small
18 projects, 500 kilowatts. You have 45 days
19 notice and then you move to the statutory
20 procedural timelines in the next column, and
21 what's being suggested, and again these can be
22 worked out with input from other people after
23 the Commission, but right now it's been
24 suggested that the schedule would be set so
25 that you have 21 days for public hearings, and

1 then in addition to that 28 days to raise
2 issues within the 248 criteria, and then 21
3 days for the Public Service Board to determine
4 if significant issues are raised, which is
5 currently the process, and then if no issue is
6 raised, the CPG is granted.

7 MS. SYMINGTON: Okay. But weren't we
8 looking for -- isn't the whole point of this
9 to have -- like it's not going to take longer
10 than x amount of time no matter what?

11 MS. MCGINNIS: That's the farthest
12 column to the right. Okay. So the overall
13 timeline is in the farthest column to the
14 right. So if there are no issues raised, then
15 it would be approved in 12 weeks which is just
16 adding up all of those. It would be approved
17 in 12 weeks if it's under 2.2 megawatts. If
18 issues are raised, the maximum time it would
19 take, and this is the one that we're talking
20 about to have an overall decision timeline,
21 would be six months.

22 MS. SYMINGTON: Okay.

23 MS. EASTMAN: So that's in the tier 2.
24 Now if you go down to the tier 3 --

25 MS. SYMINGTON: Extension if due cause

1 is demonstrated. That gets determined by
2 whom?

3 MS. EASTMAN: That's going to be
4 determined by the decision maker. So it's the
5 Board or the Hearing Officer or whoever is
6 running the case.

7 MR. JOHNSTONE: Keep in mind --

8 MS. SYMINGTON: That's the safety valve
9 concept.

10 MR. JOHNSTONE: For Tom's benefit this
11 came up last time. That absolutes sometimes
12 work against everybody involved, and so you
13 need to have the decision maker with some
14 ability to have a safety valve. Everyone says
15 about three more weeks we would all be in the
16 same place, and rather than have to deny an
17 application, if you're that close it seemed
18 like developing a safety valve it was -- I
19 forget whether it was ANR or who, then
20 recommended strongly we come up with a safety
21 valve.

22 MS. SYMINGTON: I think it was Louise.

23 MS. MCGINNIS: It was ANR.

24 MS. EASTMAN: Louise doesn't believe you
25 need timelines.

1 MR. JOHNSTONE: With the safety valve
2 she thought it was okay I think.

3 MS. MCGINNIS: And I sent you around
4 three examples of safety valve language from
5 three other states, and so we can determine
6 which one of those people are most comfortable
7 with, but basically it all means this is -- if
8 due cause is demonstrated, then you can extend
9 it in exceptional circumstances, but the whole
10 notion is to provide more predictability, more
11 understanding of when you can expect to have
12 the process done at each tier.

13 So in tier two that sort of outer
14 deadline is six months. In tier three the
15 outer deadline that's being proposed is in
16 nine months, and then in tier four the outer
17 deadline is 12 months.

18 Now mutually in terms of increasing
19 public participation and the opportunity for
20 the public to get involved, in tier two, again
21 which is under 2.2 megawatts, it's the current
22 45 days for the smaller ones, or if it's under
23 500 kilowatts, it's much shorter than that,
24 but that's the net metering that's currently
25 there too.

1 Where we start to add more is at tier 3
2 between 2.2 megawatts and 15 megawatts. If
3 you look in the column of public notice, it's
4 increasing from 45 days public notice to 60
5 days public notice.

6 MS. EASTMAN: Plus with the description
7 of outreach efforts.

8 MS. MCGINNIS: Plus with a much more
9 detailed description of outreach efforts, of
10 comments that are received, how you dealt with
11 the comments, there's a whole series of
12 expectations that come with the application.

13 MS. EASTMAN: Plus this is after
14 hopefully we have a better planning process
15 than we currently have.

16 MS. SYMINGTON: And Jim Matteau's
17 concern had to do with it doesn't count to
18 slip the notice under the door and hope I
19 don't see it. There has to be some actual
20 meaningful --

21 MR. BODETT: That's a good point.

22 MS. MCGINNIS: And I think with the
23 notion that you had been talking about of
24 having a facilitator at the DPS who was
25 responsible for overseeing the actual public

1 participation takes place, and I do think
2 there needs to be more definition of what that
3 public participation in tier 3 would be, but
4 that there's somebody who is responsible for
5 making sure it isn't just something that's
6 slipping underneath the door, that it's
7 actually taking place.

8 Part of what you might want to decide on
9 is if you want to have more explicit
10 description of this tier 3 public
11 participation and tier 4, and that's why I had
12 shared with you the examples of -- from New
13 York on the public engagement plan because on
14 tier 4 it bumps up to a much more intensive
15 public participation effort and that's above
16 15 megawatts. In New York it's above 25
17 megawatts, but here we're talking about above
18 15 megawatts, and that you would have not the
19 45 days for public notice, but you would have
20 90 days for public notice.

21 In addition to that, you would have 150
22 days prior to the 90 days after which the
23 applicant would have to provide a public
24 engagement plan. Now we haven't talked about
25 the details of a public engagement plan yet,

1 but there are models that are out there, and
2 those are the ones that I had shared with you
3 from New York, and VELCO has also some
4 successful models they have been dealing with
5 in their transmission work.

6 MS. EASTMAN: And Annette gave us her,
7 you know, personal proposal.

8 MS. SMITH: Could I ask a question about
9 the third tier?

10 MS. EASTMAN: Yes.

11 MS. SMITH: A question or comment. I'm
12 curious where this came from, and last week I
13 went down to Massachusetts to the Hoosac wind
14 project which has just come online at the end
15 of December, and there are two different
16 strings of turbines, and they are 1.5 megawatt
17 turbines. So there's a string of ten 1.5
18 megawatt turbines.

19 From my perspective the issues are
20 absolutely identical to Lowell with the three
21 megawatt turbines.

22 MS. EASTMAN: So ten 1.5?

23 MR. SMITH: You would have exactly the
24 same issues as with the bigger ones.

25 MS. EASTMAN: And Chris was here last

1 week and Chris would treat that as one 15. It
2 would be in tier 4.

3 MR. SMITH: So then there was another
4 string of nine 1.5.

5 MS. EASTMAN: As Chris said, that's his
6 job as the Department of Public Service and
7 always to say to try and -- people are always
8 going to try to do something, right? He
9 figures it's his job as Commissioner to go to
10 the Board and say this isn't a 1.5 project.
11 This is a 15 or --

12 MS. SMITH: That's why I'm asking a
13 clarification. Doesn't 15 megawatts encompass
14 like five 1.5 megawatt turbines?

15 MR. JOHNSTONE: Yes.

16 MS. SMITH: So what I'm pointing out is
17 from my perspective, like where we have this
18 Grandpa's Knob project and the guy's just lost
19 all of his leases for four of the six miles so
20 now we're looking at maybe he'll do 5 or 6
21 turbines instead of the 15 or 20, same issues.
22 Doesn't matter.

23 So I really question the logic of this
24 tier 3, at least where wind is concerned and
25 probably for solar too. I don't think we have

1 anything bigger than 2.2 in Vermont for solar.
2 So I wonder what the point is if you're really
3 looking at -- the wind developers will tell
4 you it's more efficient for them to do more
5 and bigger because the impacts are the same
6 whether you're putting in a half megawatt
7 turbine and a two megawatt turbine, but I
8 don't see that this third tier is grounded in
9 what's really happening.

10 For instance, we saw what happened in
11 Derby with the proposal for two 2.2 megawatt
12 turbines.

13 MS. EASTMAN: Right. What we're
14 proposing is to have an extra -- right now the
15 proposals with all the recommendations include
16 more planning upfront before you even get to
17 applications thinking that that's really where
18 cumulative impacts should be, and that if you
19 really want to have a say in the siting
20 conversation you want to deal with it as early
21 as possible. So we're proposing right now to
22 really enhance that process.

23 I don't know on the other side of it,
24 though, here we want to have -- it's the extra
25 150 day public engagement process that we're

1 not proposing for smaller projects.

2 MS. SMITH: I guess the question is what
3 is the type of project that you envision
4 coming in under this third tier?

5 MS. EASTMAN: I think there could be
6 some wind.

7 MS. SYMINGTON: We talked about the
8 example of Georgia Wind.

9 MS. SMITH: That had huge, huge impacts.
10 Exactly the same as the bigger ones.

11 MS. EASTMAN: And so the issue it
12 doesn't mean the impacts don't get addressed
13 because there's a process, and if there are --
14 if there are issues, there's a process.
15 People get more notice, and as Linda was just
16 saying, we haven't talked about what that --
17 when we say they have to have engaged what --
18 certification that the developer's made a good
19 faith efforts to hold meetings and so forth so
20 on, we haven't described exactly what that
21 would be, but there's more process there, but
22 not as much as a full blown, you know, 150 day
23 special process. So that's where we are right
24 now.

25 MS. SMITH: To some extent what happened

1 in Georgia Mountain, because it was a smaller
2 area, was that those people were actually more
3 disadvantaged than the ones in larger areas
4 where there were more people to draw from to
5 raise money.

6 MS. EASTMAN: Which is why I still
7 believe that the planning process at the
8 beginning of all of this is critical so that
9 the -- before even anybody decides to put
10 anything at Georgia Mountain there's been a
11 planning process, and maybe that would be a
12 place that doesn't even end up having anything
13 like that proposed for it, and so this is the
14 issue is -- it's really having to plan, in
15 fact, back when planning ought to happen and
16 the public can actually have a say in perhaps
17 where the best spots are for things as opposed
18 to waiting for a specific application. And
19 maybe it will never happen, but right now
20 where I'm coming from this, and I don't know
21 everybody else agrees, but to me having the
22 issues addressed at the time an application
23 filed is nuts anyway for some of these things.
24 They never should be proposed. That's what
25 we're trying to get at, and I don't know if

1 we'll ever be fortunate about that, but I
2 think there are a lot of things currently, or
3 at least some things currently being proposed
4 that will never get built, but it's certainly
5 causing a whole lot of problems for people.

6 So the hope, and this is why we want to
7 wait for Louise to get here and Chris, but the
8 hope is we can really beef up the planning,
9 the real planning about this long before
10 things happen, you know, through the RPCs and
11 maybe Karen has this -- maybe substantial
12 consideration of local plans so that some of
13 that work gets really front ended and we're
14 not even looking -- we're not even dealing
15 with Georgia because it wasn't the right
16 place. We're not dealing with Lowell if it
17 wasn't the right place. So I don't know if it
18 will work.

19 MR. BODETT: Can you remind me what the
20 three tiers were again? I'm completely blank.

21 MS. MCGINNIS: The three tiers combined
22 2 and 3 into a second tier, and so based on
23 some of these comments that were raised we
24 decided to split -- you decided to split the
25 tiers so that you would have more emphasis on

1 the bigger ones in the public participation.

2 MR. BODETT: Wasn't that 2.2 originally
3 -- I mean that's what the standard offer
4 special is, right? And wasn't that from the
5 fact that 2.2 was like the biggest wind
6 turbine they made at the time these laws came
7 in? I thought we heard that from someone that
8 it was sort of a tail wagging the dog sort of
9 number, and now that the turbine technology is
10 actually -- I think the big ones are above --
11 well above three now. I mean is this part of
12 what the DPS will look at in terms of are
13 these thresholds at these particular megawatt
14 --

15 MS. MCGINNIS: The 2.2 came --

16 MS. EASTMAN: The 2.2 is now statutory.

17 MR. BODETT: Well I mean is that a
18 recommendation that might be made? That's
19 kind of an arbitrary threshold and that
20 perhaps --

21 MS. EASTMAN: Nobody is here from the
22 DPS.

23 MS. SMITH: It came from Northern Power
24 Systems. When they however -- some little
25 amusement. When they applied for the Derby

1 one it turned out that their actual nameplate
2 capacity is 2.3 and so they were not allowed
3 to participate in the SPEED program. So I
4 think it's a good question. Having seen the
5 damage done to 1.5 megawatt turbines just
6 recently, I think it's a question to look at
7 what is the right threshold.

8 MS. SYMINGTON: I think the conversation
9 we had last time was we didn't want to have a
10 whole bunch of different numbers between what
11 we're recommending and what's in statute. So
12 we might make a recommendation that maybe that
13 could be reviewed.

14 For the purposes of the report we want
15 to have the thresholds be consistent with the
16 current.

17 MR. BODETT: Any numbers are arbitrary I
18 guess when --

19 MR. JOHNSTONE: Maybe the way to deal
20 with this would be through a footnote on tier
21 two that the top of that tier may float with
22 the statutory definition of the SPEED program.
23 It's 2.2 now.

24 MS. MCGINNIS: I think that was the
25 logic of the DPS that is with the SPEED, so

1 float with the SPEED program.

2 MR. JOHNSTONE: We said it here because
3 that's the current statutory level, but if the
4 Legislature chooses to move that the DPS, PSB,
5 and all should take a look at that again at
6 that time.

7 MS. EASTMAN: Gaye, and I'll go behind
8 me, but I do want us to get through this.

9 MS. SYMINGTON: As I was looking at this
10 I don't remember the different, you know, how
11 we came to the numbers of these, but it seems
12 to me that the difference between tier 2 and
13 tier 3 is bigger than is suggested by only
14 moving the notice up by two weeks, and that
15 then from tier 3 to tier 4 we jump to 50.

16 MR. JOHNSTONE: Or maybe more could be
17 180.

18 MS. EASTMAN: Right. Plus in tier 3
19 it's not just the 60 days. We're asking for
20 some public conversation that the applicant
21 has had. We aren't described it. We aren't
22 called it a full public engagement process.
23 The way we're thinking we're talking about
24 something that takes 150 days.

25 MS. SYMINGTON: I guess my point is I

1 would be comfortable having the 60 days moved
2 to 80 days.

3 MR. JOHNSTONE: For tier 3.

4 MS. SYMINGTON: For tier 3.

5 MS. MCGINNIS: That would be for a 2.2
6 megawatt project.

7 MS. SYMINGTON: I'm more concerned about
8 the 12 megawatt project. I get the 2.2
9 megawatt. I mean, you know, all of this is
10 arbitrary. It just seems there's a big
11 difference between 3 and 4 when actually 3 and
12 4 are kind of more similar than 2 and 3 are.

13 MS. EASTMAN: And I think the issue
14 would be exactly what that -- if tier 3
15 requires an outreach project, what do we want
16 for evidence for that, and if that includes
17 that they have had conversations with the
18 municipality, you know, and with people in the
19 area, then that's the work they have done in
20 advance to find out what they want and then
21 the 60 days notice is on top of that.

22 MS. SYMINGTON: Okay.

23 MS. EASTMAN: But I think if we describe
24 more of what we want them to do, and I was
25 thinking some of the legislation this year

1 that was proposed actually tried to do that
2 kind of thing. You see like the things that
3 the League talks about, you know.

4 MS. MCGINNIS: It might be interesting
5 to see what they --

6 MS. EASTMAN: Well they want -- you know
7 they want substantial consideration which I
8 would love to talk about that.

9 MS. MCGINNIS: On that point we have Asa
10 and Sheila standing by for a call to talk to
11 us about both the substantial consideration
12 and the RECs RPS issue. They were scheduled
13 to talk to us around 1:30. So if we want to
14 do that --

15 MS. EASTMAN: I think we should do that.
16 I know Louise isn't here, but we've got to get
17 moving.

18 MS. MCGINNIS: So do you want to call,
19 Billy?

20 MR. LEWANDOWSKI: Can I just ask one
21 quick question?

22 MS. EASTMAN: Oh sure. Yes.

23 MR. LEWANDOWSKI: Tier 2 says between 5
24 kW and 2.2 megawatts and tier 3 says between
25 2.2 and 15. Where exactly does that leave

1 2.2? Should it be above 2.2 and less than 15?

2 MR. JOHNSTONE: In the table --

3 MR. LEWANDOWSKI: I don't have the
4 table.

5 MR. JOHNSTONE: So assuming that it will
6 be put in the tables, what we mean we can fix
7 the language. What the table says is 500 kW
8 to 2.2. Tier 3 says above 2.2 to 15, tier 4
9 says above 15, and so we have -- I don't know
10 that we've said that's the answer, but that's
11 what the table says.

12 MR. LEWANDOWSKI: You left it in limbo.

13 MS. MCGINNIS: I do think it's worth
14 trying to come up with a couple of specifics
15 on public participation for tier 3 to address
16 this issue because right now I left it generic
17 because we hadn't gotten any, but to make a
18 distinction between 2 and 3, and I think the
19 general feeling was it didn't need to have a
20 full public engagement plan which is a lot,
21 but that it needs to have more than what is
22 sort of currently generically described.

23 So if there are specific suggestions or
24 if it's something that we say needs to be
25 developed by the Department after this

1 recommendation is there, we can be specific
2 that there needs to be a higher level of
3 public engagement in tier 3, terms of which
4 will be developed by the Department. I don't
5 know how you want to do it, but I do think we
6 need to be a little more explicit on that in
7 tier 3.

8 MR. JOHNSTONE: On that one thing I've
9 thought is the burden is kind of flipped the
10 opposite way in tier 3. It says the developer
11 needs to make a good faith effort. I actually
12 think it should be more burden on the
13 developer because good faith effort could be
14 send them a letter and I didn't hear back so I
15 tried and I certify that I tried.

16 I think it ought to be they shall meet
17 unless the town or RPC declines. So I think
18 the standard ought to be a little higher
19 because the purpose is to get that
20 communication going and the issues flowing so
21 that things can get aired, and this felt a
22 little loose to me to be honest.

23 MS. MCGINNIS: It was because nobody had
24 given any specifics.

25 MR. JOHNSTONE: It is too easy for a

1 developer to certify they tried it felt to me.
2 I don't know what I said is right.

3 MS. MCGINNIS: So the developer is not
4 making a good faith effort, but shall meet
5 with, and the other question I have is the
6 wording that you want to use on affected towns
7 because that's always been something -- right
8 now it's a 10 mile radius that's in the
9 statutes, and I don't know if we should
10 continue with the word affected towns. I know
11 that there's been concern that sometimes it's
12 just with host towns and so --

13 MS. EASTMAN: Well I think it should be
14 affected. I really do think it should be
15 affected towns, and I think if we leave the 10
16 mile radius but with language again, Chris, I
17 look as the -- as the Department of Public
18 Service, we were talking earlier about the
19 tiers, about being responsible for not letting
20 people screw around with it and not break up
21 projects to avoid things, and the same way
22 here. Like if there are more effects beyond a
23 10 mile radius and I think that potentially
24 with viewsheds or something like that, again,
25 some of this we may get into some things

1 really may be more determinative when we get
2 through the planning process because the
3 planning process, you know, a regional
4 planning process could show far in advance all
5 of these towns will be affected by if x
6 happens, and hence all of those should be part
7 of the process or given the opportunity.

8 MS. MCGINNIS: So, Louise and Chris,
9 just to let you know where we are right now
10 we're on the table of the tiers and we're
11 looking at tier 3, and tier 3 goes up to 15
12 megawatts which is large and we're trying to
13 distinguish what would be the public
14 participation, the added element of public
15 participation beyond tier 2 to tier 3.

16 I want to just start out again with what
17 I had said earlier which is that this tier
18 sheet should only be considered indicative
19 because we around the table are not the
20 experts and some of the details should
21 probably be developed by those who are the
22 experts in developing, but it is indicative to
23 try and underscore what you want to do, and
24 you want to have more public participation the
25 higher up it goes and you want to have more

1 clarity for those involved. Those are the
2 main goals.

3 MS. SYMINGTON: Predictability.

4 MS. MCGINNIS: And clarity, yeah, and
5 public participation.

6 MR. JOHNSTONE: What I had suggested one
7 measure for tier 3 is that the good faith
8 seemed too wishy washy, and that if the burden
9 was you shall meet unless they decline, then
10 that -- and I don't know if that's the right
11 language, but something like that feels, you
12 know, that the burden is on the developer to
13 find a way to meet with people and be open and
14 honest and clear.

15 MS. EASTMAN: And it's not just the
16 selectboards. It -- shouldn't it be the local
17 planning commissions as well? They are
18 required by law by statute right now allowed
19 to comment.

20 MR. RECCHIA: Right. So it's an
21 interesting dilemma between at what point are
22 you dealing with the official town, you know,
23 and I do think that there's requirement right
24 now that we consult with multiple entities.
25 So I think that's fine.

1 I would just point out I can understand
2 the frustration if someone is dealing with the
3 selectboard and the selectboard says oh by the
4 way you should meet with our Planning
5 Commission or relay the information to the
6 Planning Commission that it can be frustrating
7 for people thinking they have talked to the
8 town when they haven't really talked to the
9 town, and it extends beyond the planning
10 commission to the general public as well where
11 people will feel like they have not -- they
12 have not been engaged and have not found out
13 about it because of the way the town mechanics
14 work.

15 MS. EASTMAN: And again hopefully this
16 also goes along with -- goes along with a, you
17 know, a docket system on a web site that as
18 soon as things start to get filed at ANR
19 there's a way that people can access
20 information much before any of these things --
21 actually their 60 days or 45 days or their
22 other days.

23 MR. RECCHIA: Which, by the way, Senate
24 Appropriations seems inclined to cut the whole
25 electronic docket filing and availability

1 thing. That's a whole other subject.

2 MS. EASTMAN: So everybody write their
3 Senators to fund the work so we can get a way
4 for the public to access this stuff.

5 MS. MCGINNIS: Just to catch you up as
6 well, there is a suggestion, Louise and Chris,
7 to move the public notice in tier 3 from 60
8 days to 80 days.

9 MS. EASTMAN: But then, Gaye -- I
10 thought Gaye understood when we were talking
11 about when we have this public process before
12 the 60 days, then you didn't need extra time
13 because I mean they have to have done -- they
14 have to have gone to the community and talked
15 to them prior to the 60 days.

16 MR. COSTER: There's a difference
17 between explaining the project conceptually
18 and being able to respond to an actual
19 petition. So I think the actual warning
20 notice period and the public outreach period
21 are substantively different.

22 MS. EASTMAN: I understand that, but we
23 want them to go out in advance and maybe --
24 I'm trying to find a way if you want the
25 public to influence something, you want the

1 planning process, the planning process,
2 planning process years in advance and then you
3 want the stuff prior to the 60 days.

4 MS. MCGINNIS: Well right now we don't
5 have any wording in this anything prior to the
6 60 days explicitly.

7 MR. JOHNSTONE: Let's just address that.
8 We're hearing there's concern three is still
9 substantive projects. What if we put -- I
10 don't know what we're calling this yet because
11 four is public engagement plan. We're going
12 to define that.

13 What if we said instead of adding more
14 days on the front of the formal notice that we
15 have a 60-day window for enhanced public
16 participation or something like that, whatever
17 we're going to call this, or some window in
18 there so --

19 MS. SYMINGTON: Or are we just making it
20 more complicated?

21 MR. JOHNSTONE: I don't know.

22 MS. SYMINGTON: I thought I was ready to
23 agree with your earlier suggestion which is in
24 tier 4 we have 90-days notice, but we've added
25 this 150-day piece.

1 MS. EASTMAN: And we've added full
2 public engagement. So maybe tier 3 should
3 simply be the 90-day notice without the
4 additional 150 because in 90 days that's quite
5 a bit of time to fold in the public process.
6 Then you have some pre -- you don't have to
7 have done something and prove something prior
8 to the 90 days.

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

10 MS. SMITH: I'm curious how what we're
11 talking about is different from what's
12 currently happening.

13 Currently what's been happening is the
14 developers do go out to the 10-mile towns and
15 they do have their little dog and pony shows
16 at the selectboards and they come to the
17 regional planning commission. None of that
18 really gets to the public.

19 MR. RECCHIA: That's my point. I think
20 that's a problem.

21 MS. MCGINNIS: How do you address that?

22 MS. EASTMAN: Because I think that's the
23 kind of thing the League is talking about. In
24 some of the League's language says it's not
25 just that you go out, but when you're talking

1 to the local -- when you're talking to local
2 people and you find out what their areas of
3 concern are they actually have to be
4 addressed.

5 MS. SMITH: What's happening right now
6 how many people do you know who regularly go
7 to a selectboard meeting, right? So they go
8 do their -- they fulfill that obligation to go
9 to like three people on a board. There's no
10 public present. It's not broadcast anywhere.
11 Nobody even knows it's happening. We've seen
12 that happen with several projects. So what's
13 meaningful public process as opposed to just
14 this show that doesn't really engage people.
15 It's more about, I think, notifying the
16 landowners.

17 MS. EASTMAN: Which is why we have the
18 docket, yeah. I don't disagree it's getting
19 notice to people so they know to go to these
20 meetings, and this is what's being talked
21 about.

22 MS. SMITH: It's more what Act 250 does,
23 and by the way you have two District
24 Coordinators in the room.

25 MS. MARGOLIS: I'm going to call Asa and

1 Sheila.

2 MR. RECCHIA: Can I ask a question?

3 MS. EASTMAN: Sure.

4 MR. RECCHIA: When you do have these dog
5 and pony shows is the application far along?

6 MS. SMITH: Very far along, but nobody
7 knows about it.

8 MR. RECCHIA: So the developer, when
9 they are describing it to the selectboard, are
10 they presenting the project?

11 MS. SMITH: Yes.

12 MR. RECCHIA: Okay.

13 MS. SMITH: In Rutland County in both
14 Grandpa's Knob project and the Ira project,
15 and the way that we at Vermonters for a Clean
16 Environment alerted the public to the
17 Grandpa's Knob project and how far along it
18 was by sending a postcard to everybody within
19 two miles, and that immediately brought people
20 up.

21 MR. RECCHIA: Okay. So the information
22 is available at that point. What I guess I'm
23 getting at is the level of detail is available
24 as meaningful public reaction to the plans if
25 you can get meaningful public engagement, and

1 I feel this frustration about relying on
2 selectboards to do that, and yet that's the
3 town government, but that's indicative of
4 anything as to why I think regional planning
5 agencies --

6 MS. EASTMAN: So here's my issue.
7 Again, for me the statute now allows or
8 requires or whatever also municipal planning
9 commissions to make comments on any proposal.
10 So if they are supposed to be making comments,
11 they also ought to be getting this
12 information.

13 MS. MCGINNIS: So we're adding local
14 planning commissions.

15 MS. EASTMAN: Unless we're going to
16 change the statute.

17 MR. RECCHIA: Yes.

18 PUBLIC MEMBER: I'm wondering if you
19 could elaborate a little bit on what you mean
20 by meaningful public participation and what
21 you could see as actual meaningful successful
22 outcome of that because, as an example, Seneca
23 Mountain Wind put on a couple of open houses
24 in the Northeast Kingdom and they planed their
25 project from their point of view, and there

1 were some things that they said that weren't
2 true. Publicly there were a lot of things
3 they said that weren't true, but some specific
4 ones, and that was almost a year ago, and for
5 the last year we have been, you know,
6 researching, studying, fighting, forming
7 groups, talking to Senators, going to
8 Montpelier, and S30 got gutted and we need
9 something more.

10 I mean I don't see this public
11 participation with the developer as being -- I
12 can't see where that's going to lead to
13 anything because they have a vested interest
14 and they present their project in the light
15 that they want to be seen in which is, you
16 know, comes from -- I don't know. I guess I
17 have asked my question. How do you see this
18 actually going anywhere?

19 MR. RECCHIA: So I see this
20 accomplishing two different purposes. Sorry
21 my back is to you guys. I think the upfront
22 part there's no way around the fact that the
23 developer is going to present the project in
24 their light.

25 I think part of the concerns that I have

1 heard that I think this piece, this one piece
2 trying to address that you guys are not
3 hearing about the projects at all or not aware
4 of them until the 45-day filing and then it's
5 too late to like get your act together and be
6 -- meaningfully participate.

7 I think what we're trying to do with
8 this first part, and you guys correct me if
9 I'm wrong, if you disagree, I think on this
10 first part what we're really trying to do is
11 just get the project visible to you so you're
12 aware of it. Getting the truth out. Forgive
13 me. I don't see anyway to do that until we
14 start the formal process because unless I'm
15 going to follow the developers around and
16 essentially conduct the hearings in advance of
17 the hearings, I don't see a way of getting
18 more meaningful dialogue except in between,
19 you know, the residents and the developers
20 during that upfront phase, but at least you
21 would know about it and the basic concept of
22 the plan.

23 PUBLIC MEMBER: And then we're just like
24 sunk.

25 MR. RECCHIA: No. Then the second part

1 of the problem is the amount of time you have
2 to prepare a participation level. So that's
3 the thing we're trying to deal with.

4 PUBLIC MEMBER: We have had a year.

5 MR. RECCHIA: Sure, but you have no
6 plans right now, right?

7 MS. SMITH: You can't prepare at this
8 stage.

9 MS. EASTMAN: You can't prepare so we're
10 trying to get more authenticity upfront.
11 Trying to get longer time once for, you know,
12 once filed and -- once filed, and so make that
13 longer, and then as I say still have a more
14 engaged planning process about all of this
15 stuff prior to any project because this is
16 still once a project is there a lot of the
17 issues are let's figure out where these
18 projects ought to be, and maybe some of them
19 won't even be proposed if they are not going
20 to go in a place that can ultimately, you
21 know, get approved, and maybe we wouldn't have
22 so many of these things just being talked
23 about. I mean that's the concern I have.
24 Everybody is talking.

25 So we can't spend -- I mean this is all

1 really important, but I want to get enough
2 accomplished today so we can make some
3 decisions.

4 MR. COSTER: Can I make one quick
5 recommendation? We've been thinking about how
6 this public engagement process feeds into the
7 actual proceeding and that there's a
8 disconnect, and one thought is that the
9 Department and the applicant or the applicant
10 has to report out on the findings of the
11 public engagement process, identify which
12 issues have been raised, which have been
13 resolved, and which issues are still
14 outstanding just at a minimum to kind of frame
15 the outcome of that process for the Board so
16 they going in know what, if anything, was
17 accomplished.

18 MR. RECCHIA: And I think that's the
19 last bullet on each of tier 3 and 4, right?

20 MS. EASTMAN: Because when I look at
21 what the League's proposing I think what they
22 are thinking about is after the -- when it's
23 actually an application because they are
24 saying give substantial consideration to the
25 municipal plans, okay, and hold hearings

1 there, and at that point whatever the local
2 decisions are or issues, have it be part of
3 the Public Service Board's inquiry process.

4 What we're talking about and, Billy,
5 what you're saying and what I'm agreeing with
6 is whatever we have required beforehand,
7 before the 90 days, that there actually be
8 something, you know, reported and an
9 opportunity for that to actually shape what
10 inquiry either you the Department thinks
11 necessary to make or ANR you think is
12 necessary to make so it starts to influence
13 permit processes hopefully.

14 MS. MCGINNIS: What Chris just said is
15 in the last bullet, but I think it can be even
16 more explicit. Copies of all comments
17 received -- so the application must include
18 copies of all comments received and a
19 description of how the petition has addressed
20 these comments, but I think in tier 3 and 4 we
21 can go a little further with that,
22 particularly the public engagement plan. Say
23 in this public engagement plan you the
24 applicant have to show what were the major
25 issues and how you propose to address them so

1 that the Board is already prepared to be
2 looking at that in advance, and the regional
3 planning commission, because they would be
4 statutory party, would have the opportunity to
5 be able to -- if they disagree with that, to
6 be able to give it another perspective on
7 that.

8 MS. EASTMAN: And so can municipalities.

9 MS. MCGINNIS: Right.

10 MS. EASTMAN: I mean municipalities are
11 currently asked to make comments.

12 MS. McISLIN: Very, very briefly.
13 Billy, I appreciate what you said about that
14 you have been thinking about how to go about
15 that process, but I would hope that there
16 would be ample room for equal weight being
17 given to public comment and not just listening
18 to the developer because one of our concerns
19 and observations has been the amount of
20 communication that goes on between ANR and the
21 developer and without any transparency, and
22 again the developer may present things in a
23 certain light. I think there needs to be a
24 balance of some kind and public input from the
25 getgo along with the developer.

1 MS. EASTMAN: Well that's why this is --
2 what this is talking about, tier 3 and tier 4
3 is talking about it, and trying, again, if we
4 can get the docket system funded so there's an
5 easy way for you all to find out what's going
6 on, and that have that notice go up as soon as
7 there's something public happening, as soon as
8 something is happening at ANR, which may be a
9 long time in advance of anything being
10 proposed before the Public Service Board, but
11 have it available over here if it relates to
12 something that may be an energy generation
13 issue.

14 MR. JOHNSTONE: Can I ask one question
15 on the tiers before we leave?

16 MS. EASTMAN: Yes.

17 MR. JOHNSTONE: So if you go up to tier
18 2 and the wording, I'm just curious the
19 rationale, and, Billy, I presume this came
20 from ANR. What's the purpose of the veto for
21 ANR in there in the process? We don't have
22 anywhere where any party can demand that the
23 -- through their sole right that DPS -- that
24 supersedes the DPS determination -- I mean a
25 PSB determination.

1 It sounds like you're saying in that
2 third paragraph that if the Board decides --

3 MS. MCGINNIS: It's in the text.

4 MS. EASTMAN: Tier 2 or 3.

5 MR. JOHNSTONE: If the Board determines
6 there's no issues, if ANR determines there is,
7 that supersedes PSB is the way I read this and
8 I was just curious why.

9 MR. COSTER: Because I think it's
10 basically saying within a 30-day window
11 non-technically -- you know, that the Board,
12 which doesn't have any -- doesn't necessarily
13 have technical expertise in these issues are
14 going to make a determination that often takes
15 a year of contested proceedings to conclude
16 that there's no adverse impact. So, you know,
17 I think we felt they might not get it right.

18 MR. JOHNSTONE: You still have your
19 permits though. That's the only reason I'm
20 asking.

21 MR. COSTER: Right, and I guess as we've
22 tried to stress repeatedly from the getgo
23 there's a whole host the resource issues that
24 only the Board has jurisdiction over that we
25 don't issue permits for that we're a party and

1 we have to argue and that we're bound to give
2 a recommendation to the Board, but they
3 ultimately are the decision makers.

4 MS. EASTMAN: And I think they are
5 ultimately the decision makers.

6 MR. COSTER: So we want to save this
7 contested hearing option.

8 MR. JOHNSTONE: So my nervousness is
9 that we won't really speed anything up in tier
10 2.

11 MR. COSTER: If there's no issues,
12 there's no issues. We often, in the existing
13 framework, settle with applicants and parties
14 on natural resource issues before a docket is
15 even scheduled. If something has no
16 significant impacts, it has none and we're not
17 going to fabricate them, but our only concern
18 is if the Board makes a determination that we
19 feel strongly is incorrect, that there is an
20 opportunity to contest those issues because up
21 to 2.2 megawatts can potentially be a large
22 area with real impacts.

23 MR. JOHNSTONE: I get the impact side.

24 MR. RECCHIA: All right. I guess I
25 would ask that you pick a belt or suspenders

1 but not both because you've asked also that
2 the permits that are required be issued before
3 tier 1 and 2 go forward, right?

4 MS. EASTMAN: Yes. So there's
5 redundancy then.

6 MR. RECCHIA: I hear Billy's point.
7 There are some environmental issues that are
8 not regulated by the Agency, in which case if
9 they are that significant I suggest you get
10 regulatory authority for them, but I hear the
11 desire to say at some point where you got
12 notice to be able to say I would apply this to
13 any statutory parties to say wait, we feel
14 like we need to contest a portion of this or
15 all of it. I don't see anyway around that
16 point of being able to tell the Board that
17 they shouldn't go forward with a shorter
18 process.

19 MR. JOHNSTONE: Any party can raise the
20 issue. What seemed different here to me,
21 Chris, is that while any party can say as a
22 party I'm not comfortable with this, ANR is
23 asking us to allow them to overturn the PSB
24 determination that it actually is not a big
25 deal.

1 MR. RECCHIA: Right. That's correct. I
2 hear you.

3 MR. JOHNSTONE: And there's a piece of
4 me that desperately thinks that's a great idea
5 and there's a piece of me that thinks --

6 MS. EASTMAN: That's not the right way
7 to go.

8 MR. JOHNSTONE: Feels like it's further
9 out.

10 MR. RECCHIA: Right.

11 MR. COSTER: With all due respect the
12 way this is written the Board has 12 days to
13 determine whether a project raises an issue.
14 I'm thinking that 99 percent of the time they
15 are going to do that okay, but they may --

16 MS. MCGINNIS: 21 days.

17 MR. COSTER: The obligation can't be
18 deemed complete for 14 days. Okay. Then 21
19 days after.

20 MR. RECCHIA: Your point is still valid.

21 MR. COSTER: And I think having our
22 permits issued before some are filed I think
23 we gave up on that at the last deliberation
24 was my understanding where the Commission
25 went. So they have to be filed. They don't

1 have to be issued.

2 MR. RECCHIA: All right. Then this can
3 be the belt instead of the suspenders. I'm
4 good with that.

5 MS. EASTMAN: So we have 14 days
6 petition that you then -- you determine
7 whether it's complete, right? Then you've got
8 a public hearing within 21 days and a period
9 of 28 days after the public hearing for
10 comments whether a significant issue is
11 raised, and then a period of 21 days to
12 determine if it's a significant issue, right?
13 So that's a lot of time.

14 MR. COSTER: Couple, few months, yeah.

15 MS. EASTMAN: So what more do we need?
16 Isn't that enough time for you to argue it
17 out?

18 MR. COSTER: It often takes six months.
19 I don't know. I don't know if it will be in
20 every case and it just seems a little
21 arbitrary that the Board, having taken
22 absolutely no expert testimony, can determine
23 that there's no need to have a contested
24 hearing on a two megawatt project. That's our
25 concern.

1 MR. RECCHIA: Okay. So I think we're
2 confusing tier 1 and tier 2, right? I thought
3 we were talking about tier 2. Are we talking
4 about tier 1?

5 MR. COSTER: Tier 2.

6 MR. RECCHIA: Isn't there always a
7 hearing?

8 MS. MCGINNIS: If you look on the table
9 under the statutory procedural timelines, it
10 summarizes all the different -- so you have 45
11 days prior to filing, right?

12 MR. RECCHIA: Yes.

13 MS. MCGINNIS: And then after the filing
14 you have 14 days for the Board to deem it
15 complete.

16 MS. EASTMAN: Plus 21 days for public
17 hearing, 28 days to raise issues, plus 21
18 days.

19 MS. SYMINGTON: That's 12 weeks.

20 MS. MCGINNIS: On the right-hand side
21 the absolute minimum that you would have is 12
22 weeks to approve. Max would be six months if
23 an issue is raised.

24 MR. RECCHIA: So it feels to me like
25 both you and we, statutory parties, would have

1 the ability, or anyone for that matter, to --
2 since there's going to be a public hearing to
3 raise those issues in briefing and all that
4 stuff.

5 MR. COSTER: Right, and I guess our
6 comfort level is --

7 MS. EASTMAN: It's actually longer than
8 that if you include the 45 days prior notice.
9 It's like 8 weeks.

10 MR. COSTER: What's going to happen is
11 we're going to put in one set of written
12 comments which say there are issues that we
13 believe deserve a hearing and then the Board
14 issues an order that it's no there's not,
15 here's your CPG. There does not appear to be
16 any recourse for that decision.

17 MR. RECCHIA: Okay.

18 MS. MCGINNIS: Then you appeal.

19 MR. RECCHIA: If we're talking tier 2, I
20 think there's a hearing no matter what.

21 MR. COSTER: That's not how I'm reading
22 this. If -- 21 days for the PSB to determine
23 if there are significant issues raised. If no
24 issue, CPG is granted.

25 MR. RECCHIA: So is the chart I'm trying

1 to use as a cheat sheet on this page not
2 correct?

3 MS. EASTMAN: It says there's a public
4 hearing. It doesn't say there's a technical
5 hearing.

6 MR. JOHNSTONE: Let me try to bridge the
7 misunderstanding because I actually think
8 there is a hearing. I think what you're
9 talking about the 21 days in the text refers
10 to the last step in the statutory procedural
11 timeline which is after all that stuff
12 happens, including the hearing. If there are
13 no further issues, 21 days after the CPG
14 issues, and I think that's what is intended in
15 the text. Correct me if I'm wrong. That's
16 the way I read the text, and there's more time
17 available if there are additional issues to
18 work out up to and not exceeding six months.

19 MR. COSTER: Right.

20 MR. JOHNSTONE: So the way I read this
21 there would be a hearing. If we need to
22 clarify that, we should, but did I misread
23 that, Linda?

24 MS. MCGINNIS: I was trying to summarize
25 what the Department had written. So correct

1 me if I'm wrong, but if there are issues, you
2 have 21 days for a prehearing conference that
3 would deal with the issues.

4 MR. COSTER: The hearing that will
5 always happen for tier 2 is a public -- people
6 show up, talk into a microphone and say this
7 is what I think. It's not a technical hearing
8 with experts.

9 MR. JOHNSTONE: I hear you.

10 MS. MCGINNIS: So that is the last one.
11 If there are issues, there are 21 days for a
12 technical. So just say technical.

13 MR. COSTER: Our concern is the Board in
14 its sole discretion determines whether they
15 grant a certificate without any due process or
16 if there is a contested case, and I didn't see
17 the opportunity for our Agency or any others
18 to easily appeal that determination, and that
19 was all we were trying to raise with our
20 comment.

21 MR. JOHNSTONE: So I would like to
22 figure -- if it's possible, I would like to
23 figure out how to deal with the opportunity to
24 raise an issue and appeal rather than give a
25 veto personally.

1 MS. EASTMAN: Well what do you mean? Of
2 course if a CPG is issued and they don't agree
3 with the issuance of the CPG, they can appeal
4 it. Okay.

5 MR. JOHNSTONE: Right.

6 MR. RECCHIA: What about in that 21 days
7 for the PSB to determine if there's
8 significant issues raised we don't get into
9 the level of detail about process that the
10 Public Service Board is doing, but you can,
11 after hearing from the parties of record, the
12 statutory parties or something like that, so
13 that we would be sending a letter and you
14 would be sending a letter saying, yeah, we
15 agree there are no issues or no there are
16 issues.

17 MR. COSTER: We would be doing all of
18 that stuff.

19 MR. RECCHIA: I can't imagine the Board
20 -- I cannot imagine the Board saying, if you
21 send a letter saying no Board you got this
22 wrong there's an issue here we need a hearing
23 to talk about it, technical hearing to discuss
24 it, I can't imagine them saying thanks anyway
25 but no. I hear --

1 MR. COSTER: It's putting a lot of faith
2 in the Public Service Board.

3 MS. EASTMAN: That's my point. Okay. I
4 know and I know we've got questions about
5 statutory parties and about the Public Service
6 Board and all, but I really don't think -- I
7 can't imagine ever that one party would get to
8 dictate what goes on. I can't imagine. I
9 don't know. I just can't imagine that in a
10 process.

11 What we're trying to do here is make
12 things move along when there aren't issues,
13 but have the opportunity, providing enough
14 time for people to have more time to have the
15 opportunity to raise issues when there are
16 issues, and then get them heard, and once
17 there are issues, then I don't know it's --
18 then it's a hearing and everybody has time to
19 comment.

20 I know that -- I mean when the
21 application gets filed, right, at least the
22 application doesn't it include -- it doesn't
23 include any -- any testimony at all prefiled.
24 That all comes later.

25 MR. COSTER: It should be part of the

1 application.

2 MS. EASTMAN: It is part of the
3 application. So at least you've got that
4 information and that's when people are saying
5 yeah we've got issues with it, and if we've
6 got issues with it, you're right, I can't
7 imagine the Public Service Board being able to
8 say you're not going to go to technical
9 hearings on that because you're right, that
10 would then deny due process. If somebody says
11 -- if a party says I've got a real issue here,
12 then I think you got to give them a hearing.

13 MR. COSTER: This should say if any
14 party raises an issue.

15 MS. EASTMAN: No. If they determine
16 there's a significant issue, that's up to the
17 Board. They have the opportunity here to --
18 as I say the Supreme Court can do appeals in
19 five minutes.

20 MR. RECCHIA: The way this is written
21 right now it says if no issues the CPG is
22 granted. If issues, then you have prehearing
23 conference implying a hearing, right?

24 MS. EASTMAN: Right. Implying a hearing
25 or at least testimony and an opportunity for

1 people to settle.

2 MR. RECCHIA: So I don't think under
3 this scenario that the Board can just ignore
4 it. If somebody raises an issue, I don't
5 think they can say in advance of hearing
6 testimony on that -- I don't think the Board
7 can decide in their heads that this is not
8 worth listening to.

9 MR. COSTER: That's more what the text
10 implies. We don't need to beat this any
11 further. That was our concern and that's why
12 we put that request in.

13 MS. EASTMAN: We don't disagree with
14 your concern. I just think it doesn't need
15 anything more in here.

16 MS. SMITH: You were just talking about
17 tier 2, right? Those are tier 1 issues. For
18 instance, the Vergennes NPS 100 that went up,
19 hundred kilowatt machine, neighbor objects.
20 Before he even knows what's happening the
21 turbine is up. A year goes by. He's got
22 headaches, he can't sleep, he's desperate for
23 relief. There was absolutely no due process.

24 So it's these -- it's these 150 or 160
25 foot tall wind turbines that they want to put

1 a lot of up in Vermont and there's no due
2 process. So I'm afraid that what you're
3 talking about in tier 2, if someone raises a
4 complaint as this neighbor did, he was
5 completely ignored.

6 MR. RECCHIA: So I think the reason I
7 was going this way I think it's covered in
8 tier 1 actually more elegantly the same
9 process. It says in tier 1 if issues raised,
10 hold prehearing conference within 21 days. So
11 I feel like almost the same thing except
12 there's more time given in the tier 2.

13 MS. EASTMAN: Right. Right.

14 MR. RECCHIA: There's still the question
15 of how people receive notice, but I don't
16 think we're dealing with that.

17 MS. SMITH: It's just a prehearing
18 conference. It's not necessarily a
19 requirement for a technical hearing.

20 MR. RECCHIA: Good point.

21 MS. GRACE: Sheila Grace. What I would
22 to add right now I was just looking at the
23 charge again and the charge does say that this
24 Commission is supposed to look into the
25 process for all electric generation projects

1 and that that's designed to meet all electric
2 generation facilities other than net metered
3 and group net metered facilities.

4 So to the extent that tier 1 changes net
5 metering and group net metering, then you've
6 gone beyond your charge. So I think that's
7 just a piece of information. Like we might
8 want to keep that separate.

9 MS. EASTMAN: Right.

10 MR. JOHNSTONE: Thank you.

11 MS. EASTMAN: Thanks, Sheila.

12 MS. MCGINNIS: We also need to ask
13 Sheila's opinion --

14 MS. EASTMAN: That's what I want to talk
15 about. I think we've got issues here. We got
16 to come up with language and then talk about,
17 okay, but a lot of it is really the Department
18 in terms of coming up with language. Sheila.

19 MS. GRACE: Yes.

20 MS. EASTMAN: The League sent in their
21 letter relative to -- I guess what they sent
22 us is what they proposed to the Legislature in
23 January, and we right now don't have any
24 changes in the municipal -- municipal plan
25 issue, but they want -- they suggest that the

1 language change from due consideration of
2 municipal plans to substantial consideration.
3 Has anybody defined the term substantial
4 consideration?

5 MS. GRACE: No, and again Anne has just
6 given me a heads up about this and so I jumped
7 on to Westlaw to try to figure out if there is
8 some easy definition I could find, and when
9 that didn't work I grabbed the Black's Law
10 Dictionary.

11 So to the extent it's helpful Black's
12 Law Dictionary does define what substantial
13 evidence rule means, and that says the
14 principles that are reviewed in court should
15 uphold administrative body's ruling if it is
16 supported by evidence on which the
17 administrative body could reasonably base its
18 decision, and then it goes on to define
19 substantial factor test, and that's the
20 principle that causation exists for the
21 defendant's conduct is an important or
22 significant contributor to the plaintiff's
23 injury, which of course led me to go back to
24 something that we had -- internally had been
25 talking to Chris a little bit about is, you

1 know, can we -- is there a spectrum, you know,
2 between due consideration and what the next
3 adjective up and then what's the next
4 adjective up from that, and you know what? It
5 kind of -- I think we got ourselves a little
6 bogged down by the fact that any of these
7 words will probably be defined by the Public
8 Service Board in some sort of precedent, and
9 so if you have a decision about how much
10 weight you want to be given to something, it
11 might be good to just say that.

12 MS. EASTMAN: Okay. So let me read you
13 -- because this is what the League wrote and I
14 think the League is actually writing what they
15 suggest substantial consideration should be,
16 and I just want to see because they are saying
17 require the Public Service Board to give
18 substantial consideration to municipalities
19 by, I think they mean one, at least holding
20 hearings in a municipality affected by the
21 projects at issue, include all local decisions
22 concerning the projects within the PSB docket,
23 require the Public Service Board to formulate
24 areas of inquiry based on concerns raised in
25 the local hearing process, and finally require

1 any decision on the project to address local
2 concerns raised in the local decisions.

3 I think that when I read it the way they
4 wrote it I think that's what they mean by
5 substantial consideration. It's a process.

6 MS. GRACE: My personal suggestion would
7 be first I have -- I don't know whether that
8 -- all of that process is most efficient or
9 effective way for the Public Service Board to
10 be reviewing cases, but if that's your
11 decision, I would just put that process in
12 there. You know, make a recommendation that
13 that process be included in 248 proceedings.

14 MR. JOHNSTONE: Not to play language
15 police on us, but that's actually not what
16 they wrote. They really defined substantial
17 consideration as just there, number one, and
18 then they had three other recommendations for
19 the Legislature.

20 I think you may be right, Jan. So I
21 realize I may be splitting hairs, but they
22 wrote four different things for the
23 Legislature to consider, and one of them was a
24 definition of substantial which only said to
25 hold the hearings in municipalities

1 potentially affected by the projects, and they
2 may have meant what you said, but it isn't
3 actually what they wrote. I don't mean to be
4 -- you know, I'm actually okay with if we want
5 to group them that way for the way we think
6 about it for a dialogue, but --

7 MR. RECCHIA: I think in terms of the
8 process aspects of that I feel like we either
9 have or we're really close to providing what
10 they asked for and we ought to make sure that
11 we do. I don't see anything in there that we
12 shouldn't be doing.

13 MS. MCGINNIS: So 1, 2, 3 and 4.

14 MR. RECCHIA: Yeah, and then substantial
15 consideration versus due consideration I would
16 like to apply that to the regional plans that
17 we're talking -- no. I guess you're right.
18 They still stay with the municipal plan and
19 then the actual control is in the regional
20 plans.

21 MS. EASTMAN: I think --

22 MR. RECCHIA: I'm okay with that. Maybe
23 I'm just wanting to get done with this.
24 Whatever you want.

25 MS. EASTMAN: No. No. I mean I think

1 they have got -- I mean to me because what
2 they are writing about either fits a different
3 standard of review from due to substantial,
4 whatever that is, and/or it fits the kind of
5 thing we're talking about even in tier 3.
6 What do we want, you know, like that somebody
7 has to actually talk to the locals, their
8 stuff has to be considered, you have to see
9 that it's actually considered you know. You
10 have to close the loop.

11 MR. RECCHIA: Right.

12 MS. EASTMAN: The concern I have is,
13 though, what Sheila says. If we want -- so we
14 either write substantial consideration means
15 this or we write substantial consideration
16 means something else or substantial
17 consideration is going to be determined by the
18 Public Service Board in their first decision.

19 MR. JOHNSTONE: I think we need -- if we
20 agree with these four items, we don't define
21 substantial consideration. We recommend that
22 these four actions are adopted.

23 MR. RECCHIA: Okay. I want to agree
24 with Scott and disagree a little bit.

25 MR. JOHNSTONE: Go ahead. I'm just

1 saying there's a different way.

2 MR. RECCHIA: The reason I was
3 distinguishing between the process, which is
4 what I think those items speak to, additional
5 process, what do you want to have happen
6 versus the legal standard of review, right.
7 The legal standard of review right now is due
8 consideration of the municipal plans.

9 MS. EASTMAN: I wouldn't mind having it
10 be a higher standard.

11 MR. RECCHIA: Me neither, but here's I
12 think what the question is. Do we define for
13 the Board what we mean by substantial
14 consideration or do we say due consideration
15 by the precedence that the Board has ruled on
16 so far. Due consideration doesn't seem to be
17 working. So we're just saying Board this is a
18 higher standard and now evaluate -- let the
19 Board evaluate what substantial consideration
20 means.

21 MS. McCARREN: Do you want me to hold up
22 my card or shall I speak?

23 MS. EASTMAN: We're getting more. We're
24 now getting more.

25 MS. McCARREN: Because I have said this

1 way too many times. I believe that the town
2 plans have to be controlling, and you guys
3 don't agree with me.

4 MS. EASTMAN: I'm not going that far,
5 but I'm willing to go further than we are
6 currently.

7 MS. GRACE: The other definition that I
8 found out there unfortunately, I mean because
9 of what we just talked about we need to be
10 defining it differently.

11 There is one particular citation here
12 that claims that substantial evidence was
13 evidence that a reasonable mind might accept
14 as adequate to support a conclusion, and then
15 on the other total end might be something like
16 deference, and you might want to define
17 deference as something -- you know, maybe
18 going to think about with the regional
19 planning commission plans is you could define
20 deference from anywhere between kind of what
21 we're talking about here with significant
22 consideration, or it could go all the way to
23 something like if looking at all the other 248
24 criteria the project isn't clear when, but the
25 project is against the regional plan. That's

1 the only thing that's against -- you know.
2 That's the only down factor, does it get
3 approved or not.

4 MR. RECCHIA: Sheila, I can't believe
5 that would ever be the case where you could
6 have just that one piece hanging out there. I
7 mean -- I didn't mean to distract us. If you
8 want to answer that -- if you want people to
9 answer that question, we should --

10 MS. GRACE: I think it could be possible
11 but --

12 MR. RECCHIA: Okay.

13 MS. MCGINNIS: I want to come back to --
14 just for the purpose of clarity in the report
15 to what Chris just brought up which I think is
16 two different ways that we can go with this
17 language that the League of Cities and Towns
18 is talking about.

19 So I would like to know what the
20 Commissioners feel they would be more
21 comfortable with of those two options, saying
22 that we define substantial -- that we say due
23 consideration is not currently doing what it
24 was intended to do and we would like to move
25 to substantial consideration which we

1 understand is defined by one, two, three, and
2 four. That's one option. Or the second
3 option is to say the same thing, but say that
4 the Board then establishes a standard which is
5 higher than is currently the case. Are those
6 the two options that are out there?

7 So -- and there may be other options,
8 but at least for clarity for what I put in the
9 report I would like to know what you guys
10 think about those two.

11 MS. SYMINGTON: I'm kind of lost.
12 Sorry. I don't understand how this relates to
13 the earlier conversation. I feel like I'm way
14 in the weeds and I can't reconstruct where we
15 are.

16 MS. EASTMAN: Here's what we have.
17 Here's where we are. Last time when we met we
18 said we were leaving the municipal planning
19 piece the way it was, although I raised some
20 concerns having read the current language in
21 248 that it really doesn't refer to municipal
22 plan. That's interesting. But the League has
23 proposed this language. This is what they
24 said they proposed to the Legislature in
25 January, and when I read it I don't know quick

1 -- reading it through quickly it looked to me
2 like they were changing -- they wanted to
3 change due consideration to substantial
4 consideration, which for me sounds like it's a
5 higher standard than due. Due consideration,
6 as I look back at the wind report, came from
7 the wind report or whatever.

8 So for me I don't know exactly what
9 substantial consideration is, but I don't have
10 a problem going there because I think people
11 ought to be listened to. It's not a -- it's
12 not, you know, determining.

13 Then when I read this and then I read
14 these other things that they wanted, which to
15 me sounds much more like process that they
16 wanted upfront, and to -- and that issue that
17 everybody has well we go to public hearings
18 but nothing happens with public hearings and
19 it doesn't become part of the record. So this
20 is a way of getting those kinds of things at
21 least considered, and it means that -- so okay
22 I get those kind of things considered and
23 having some influence.

24 Then when I went back and I reread this,
25 I think the way they wrote this is not clear

1 and it looks to me like they were trying to
2 write a definition of substantial
3 consideration.

4 MR. RECCHIA: So I feel like my vote
5 would be to do both, to do the process
6 improvements to make sure that those items are
7 part of the record and are considered by the
8 Board and the Board has responded to them, and
9 then increase the standard from due
10 consideration to substantial consideration,
11 but not link these two because I don't think
12 those four points or three points are a good
13 definition of that standard, and I think they
14 are going to reach that determination of what
15 substantial consideration is over time either
16 by getting more people reading from Black's
17 Law Dictionary to them or by precedent.

18 MS. MCGINNIS: Which was clear as mud.

19 MS. EASTMAN: Because it's not the same
20 thing I don't think.

21 MR. RECCHIA: So that would be my
22 suggestion.

23 MS. SMITH: I'm having a little trouble
24 with this discussion partly because of what's
25 happened in the past, and I called Chris with

1 an idea. He said I should talk with Linda.
2 He said write it up and I sent it to you and
3 this goes to what I actually see happening.

4 So, for instance, in the Lowell and
5 Sheffield cases, as I understand it, both of
6 those town plans had language in it that was
7 protective of the ridgeline. Also had town
8 plan language that said we support renewable
9 energy. Public Service Board cherry picked.

10 What I see happening on the ground is
11 that the citizens who haven't been engaged in
12 anyway in their town and then a project comes
13 along really need to take the time and the
14 town needs to take the time to go through what
15 is about a six-month plan amendment process to
16 actually grapple with the proposal. We have
17 something like that right now with interim
18 zoning where the town, if they are hit by a
19 big proposal, gets two years to plan.

20 So what I'm thinking in this
21 conversation is that you would want to go
22 further in having the Public Service Board
23 tell them -- say you must consider -- I don't
24 like the word consider, but you must give
25 value to this plan if they have gone through

1 this planning process, and the six-month plan
2 amendment planning process I have seen many
3 towns do, and it's not yes let's oppose the
4 project. It is a really democratic process.
5 All parties come in. They get a chance to
6 craft their town plan to create that clear
7 written community standard which can be very
8 much pro-renewable, but then they have to
9 eliminate the language about the ridgeline
10 protection.

11 So I don't see that this discussion
12 you're having right now really gets to the
13 problem. Some town plans, if they had time,
14 like if there's a met tower application,
15 actually do give the Public Service Board that
16 clear written community standard they need and
17 some town plans don't, and that's really not
18 helpful to anybody because nobody knows what
19 part to look at.

20 So I feel like we need to do something
21 to empower that plan amendment process when a
22 big project comes into town and that's
23 something that's real. So Grafton right now
24 they are -- just don't know what to do, where
25 what they need to do is have a democratic

1 process where everybody comes in and they
2 decide what their town plan -- what they want
3 to say in response to the application. I
4 think that would be far more meaningful.

5 MS. EASTMAN: Tom.

6 MR. BODETT: In answer to the question
7 Linda posed what to do, I'm feeling a little
8 lost, as Gaye is, about what's right because
9 there's two -- there's kind of the world the
10 way it is right now where the town plans are
11 all over the map on this stuff and they are
12 very reactive when a project is proposed. You
13 know they try to amend their town plan, and so
14 giving due or substantial consideration to
15 town plans is a sort of well what town are we
16 talking about, and, on the other hand, there's
17 this whole planning aspect to our
18 conversations that we have had all along where
19 these town plans would have a very different
20 significance if there was a statewide energy
21 plan that had been reflected in the regional
22 planning commissions and these regional
23 planning commissions facilitated the local
24 plans. Everyone takes their share of this so
25 no community can just say no no.

1 Then what you give a town plan should be
2 significant because they have had these
3 community conversations. They have decided
4 what kind of projects they want and what kind
5 are appropriate for their -- and like you say
6 the projects that are really going to cause
7 the trouble probably won't show up because
8 that process has been done.

9 So in a way I think we're wasting time
10 on this definition of it because it's sort of
11 what are we going to emphasize with our
12 report. It like let's get this planning done
13 because that's going to fix everything
14 downstream from it or is this -- this is to me
15 like a band-aid in a way. It's like what are
16 we going to do with the town plans that exist
17 right now in the project.

18 MS. EASTMAN: For me, though, that's
19 what I'm still thinking always. This is just
20 one piece of the bigger puzzle, you know, and
21 so you're right, that I'm still for planning
22 and I still want to get to talking about that,
23 but I'm also happy to have the kinds of things
24 that the League mentioned be part of what the
25 public process is relative to listening to

1 local communities, which would be somewhat
2 different than they do now.

3 I'm also happy to have a local plan have
4 a higher standard of review than due
5 consideration. I would be happy to have it be
6 substantial, you know, consideration. Again
7 I'm hoping that plans are --

8 MS. SYMINGTON: If it's gone through
9 that whole process.

10 MS. MCGINNIS: Right.

11 MS. SYMINGTON: But I still don't
12 understand where it fits on this chart. Is it
13 happening within the 45 days or the 60 days?

14 MS. EASTMAN: No. No. Here's the
15 thing. I'm sorry. We're mixing apples and
16 oranges here because we had to get Sheila on
17 the phone.

18 So this issue of substantial
19 consideration, here's where I think it fits.
20 Some of the things they are talking about on
21 substantial consideration -- not substantial
22 consideration, but the things they are
23 actually asking for I think fit on this chart
24 under tier 3 as what the minimum -- or
25 actually in any tier as to what -- you know

1 what the process is for the Public Service
2 Board to use to listen to local concerns.

3 MS. SYMINGTON: During the 60 or 90 or
4 45 days?

5 MR. RECCHIA: During their proceedings.
6 I'm interpreting it after the application is
7 made the Public Service Board holds hearings
8 in the communities.

9 MS. EASTMAN: They told a hearing --
10 when they are holding their public hearing
11 they are holding a hearing in a municipality.
12 Okay. They are listening to all that stuff.

13 MR. RECCHIA: Instead of interpreting it
14 the way they do now, which is they go to the
15 hearing and they listen to people politely and
16 they see whether any issues are raised, but
17 none of that goes into evidence, right? None
18 of it is considered part of the docket, and I
19 understand the concern taking somebody who,
20 you know, is not -- is standing up at a public
21 meeting and just saying something and taking
22 that as evidence without cross examination,
23 without discovery and all that is a problem,
24 but taking the town plan in is not. Shouldn't
25 be, and right now they are considering it to

1 be not evidence.

2 So I think there's a higher standard
3 here that just feels logical to me of the
4 Board saying okay we're going to hold this
5 hearing, and instead of just listening to
6 issues that we're going to have the other
7 parties address when we get back to the
8 hearing room we're going to listen for issues,
9 we're going to take documents in, those are
10 going to be reflected in the record, we're
11 going to list those issues as a concern that
12 people raised, and then we're going to
13 evaluate them as part of our responsibility as
14 the Public Service Board to address those in
15 our decision.

16 MS. SYMINGTON: Thank you. That's what
17 I couldn't understand, where does this
18 conversation fit on the little chart.

19 MS. McCARREN: I don't agree with that.

20 MS. EASTMAN: I think it fits in a
21 variety of places. I don't think this fits on
22 any chart. I think as you think about this
23 there's a piece that fits relative to the
24 planning and what's the standard for review
25 for the plan. I think there's a piece that

1 fits prior to -- prior for me. It's also --
2 it is in tier 3. It's the prior conversations
3 with people prior to the filings to -- you
4 know, the municipalities talking to somebody,
5 the municipal planning commission maybe
6 considering, you know, this project, and
7 there's local concerns and you want those kind
8 of things raised early, and then yes there's
9 something we could do, and I think this is all
10 useful because this is the kind of things
11 people are -- want to talk about that I don't
12 think it's too painful that in the actual
13 decision making itself, right, somehow the
14 comments that come from the public and from,
15 you know, local folks actually get considered.

16 MS. McCARREN: Chris, my distinction
17 that I would make, and I don't think -- I
18 think we're probably -- the distinction I
19 would make is that if the town has a plan, I
20 know no one else agrees with this, but my view
21 is that the project has to be in conformance
22 with that plan and that plan comes into the
23 docket not through a public hearing.

24 MS. EASTMAN: I agree.

25 MS. McCARREN: Does not come in through

1 a public hearing process. It comes in either
2 by taking judicial notice or a proponent.
3 He's got to demonstrate they are in
4 conformance. I didn't mean to nitpick you.

5 MR. RECCHIA: That's fine.

6 MS. EASTMAN: The town plan should
7 become evidence in the proceeding and it can
8 become evidence by them simply taking judicial
9 notice, and then the comments that -- right
10 now they are asking for comments from regional
11 planning commission members and local
12 selectboards, right, and local planning
13 commissions on the town plan, and I think it
14 ought to be on the whole town plan, not just
15 the land conservation portions of it, and
16 those comments should be given substantial
17 consideration or whatever.

18 MR. RECCHIA: So can I just add that I'm
19 looking at this whole exercise as a carrot and
20 stick exercise. Maybe you guys need to beat
21 me into submission.

22 MS. MCCARREN: How big is the stick.

23 MR. RECCHIA: But I think the goal here
24 is to get people to participate early, is to
25 get towns to plan early, and to do a good job

1 on the planning.

2 So the carrot here I would say is that
3 if a town has been through the planning
4 process to update their plans in conformance
5 with the regional plans the way we talked
6 about last time, then the Board should take
7 judicial notice of that. I would agree with
8 Louise it should be part -- it should be in
9 the record and then the standard should be
10 higher. That's how I kind of would reward
11 that effort. In addition to that --

12 MS. SYMINGTON: Can we just stop there?

13 MR. RECCHIA: Yes.

14 MS. SYMINGTON: Do people agree with
15 that statement?

16 MR. JOHNSTONE: Say it one more time.

17 MR. RECCHIA: Okay. If the towns --

18 MS. SYMINGTON: Or have it read back.

19 MR. RECCHIA: No. That would be scary to
20 have anything read back from here.

21 If the towns have gone through the
22 process of making their plans, doing planning
23 process, making it in conformance with the
24 regional plan, then I think --

25 MS. SYMINGTON: And the regional plan

1 itself is in conformance with --

2 MR. RECCHIA: This presumes the regional
3 plan has gone through the process as well, but
4 the town plan's now in conformance with the
5 regional plan, then I think any proceeding,
6 I'm going to extend this further, one through
7 four the Board's needs to take judicial notice
8 of the plan and give it substantial
9 consideration in rendering their decision.

10 For those towns that maybe haven't
11 gotten that far but still want to participate
12 and actively have a meaningful role, then I
13 think in addition to that you still have all
14 the testimony and things that, you know,
15 comments that are received, the Board taking
16 notice of those, addressing those in their
17 decision regardless of whether you have a
18 plan.

19 MR. JOHNSTONE: Can you tell me what
20 judicial notice means? I'm not a lawyer.

21 MR. RECCHIA: Sheila, I'm right next to
22 the phone so you can kick me.

23 MS. EASTMAN: All it means is there's a
24 document --

25 MS. GRACE: I have to tell you it's hard

1 to hear you, Chris.

2 MS. EASTMAN: It's just the idea of
3 being able to take judicial notice of the town
4 plan. All it means is that there's a document
5 and that we can rely upon it is what it says
6 it is. So you don't need to have somebody
7 come in to say it's what it actually is.
8 That's all it means. So it's very easy.

9 MR. JOHNSTONE: I hear you.

10 MS. SYMINGTON: It means the plan exists
11 whether or not you hold a public hearing and
12 somebody stands up and says we have a plan.

13 MR. JOHNSTONE: Thank you. I wanted to
14 make sure I understood that definition.

15 MS. SYMINGTON: My hope was we could
16 stop before you got to the extra part. I'm
17 just wondering if that statement in and of
18 itself is we generally agree with that if you
19 have a town plan that is in conformance with
20 the regional plan, that's in conformance with
21 the state plan, that that plan should be given
22 substantial -- a higher level of consideration
23 and that we don't -- and that it's done
24 through this judicial notice thing. We don't
25 have to do it through a --

1 MS. EASTMAN: Well you agree at least
2 with that, Louise?

3 MS. McCARREN: No.

4 MS. EASTMAN: You want to go further.

5 MS. McCARREN: I sent you all my
6 comments. All right. So you all have them.
7 With all due respect to Chris, I do not
8 support the Department of Public Service
9 having the authority to review regional or
10 town plans, and again it would just be on
11 their energy piece of it, for consistency with
12 the state energy plan. I don't support that.

13 Number two, I believe that if the town
14 has gone through the planning process and
15 addressed the issues of renewables, then
16 projects must be in conformance with that
17 plan, and that's a very -- and I know you guys
18 don't agree with me and I respect the fact
19 that you don't agree with me, but I just want
20 to be clear.

21 MR. RECCHIA: So, Louise, I do respect
22 that, and I want to now try to incorporate
23 your best thinking into the standard.

24 MS. McCARREN: It may not be that good,
25 Chris.

1 MR. RECCHIA: Well into the standard
2 that we're trying to get to. Even though you
3 don't agree ultimately with where we may end
4 up, I still want to get your best thoughts
5 into how to make this as good as it can be
6 through your view.

7 MS. McCARREN: Well as I said in my
8 comments to you all, I believe that a project
9 needs to be in conformance with the plan and
10 that it is the Public Service Board that has
11 the jurisdiction to determine conformance.
12 I've said that all along. Okay.

13 MR. RECCHIA: Okay.

14 MR. JOHNSTONE: Can I speak at that just
15 a little because I want to make sure I know
16 what you mean by conformance with the plan. I
17 know you mean with the local plan, the
18 regional plan.

19 MS. McCARREN: I'm not excluding the
20 regional plan.

21 MR. JOHNSTONE: What about the concept
22 of statute and energy plans, if not the Public
23 Service Department, would you think the Public
24 Service Board should do that role or do you
25 just not think that role is appropriate?

1 MS. McCARREN: Well --

2 MR. JOHNSTONE: I'm trying to
3 understand. I'm trying to better understand.

4 MS. McCARREN: Because I look at this as
5 a land use planning issue and therefore that
6 land use planning needs to take place at the
7 regional plan level in the towns. All right.
8 And I don't view this as -- this as making
9 sure that anything is in conformance with the
10 energy plan. I mean that's -- and that's
11 because I view this as land use planning,
12 okay, and I don't take that next step, all
13 right, and you got it.

14 MR. JOHNSTONE: I got it.

15 MS. McCARREN: I don't mind repeating
16 this.

17 MS. EASTMAN: Tell me -- I just want to
18 clarify now, tell me now what's the planning
19 process now. RPCs -- because this is
20 something I just want -- what is it now? Who
21 is in conformance with whom? Who approves
22 with anybody these days?

23 MR. JOHNSTONE: Nobody is in
24 conformance.

25 MS. EASTMAN: I know. I want to know

1 theoretically what's the current process
2 because I don't want to change, you know --

3 MR. CAMPANY: Regional plans are
4 ultimately approved by our member towns, and
5 so you already have that town engagement in
6 the regional plan development process. So if
7 they were to -- I'm sorry.

8 I would expect if we were to do this,
9 energy siting planning would not be in the --
10 exclusive of everything else in the regional
11 plan. There would be other pieces. So they
12 would look at any amendment to the plan, the
13 whole plan itself that has to be approved by
14 the towns. Remind me again of the
15 percentages.

16 MR. SULLIVAN: 60 percent.

17 MR. CAMPANY: Of our member towns have
18 to pass --

19 MS. MCGINNIS: 60 you said?

20 MR. CAMPANY: 60.

21 MR. SULLIVAN: That's 60 percent of the
22 municipal representatives on the Commission
23 and then there's a step beyond that. If they
24 adopt it, then the actual municipal, the
25 legislative bodies, municipalities, 50 percent

1 of them can essentially veto it.

2 MR. JOHNSTONE: Where do you send them
3 right now to gain conformance? To the Council
4 of Commissions since that doesn't exist or has
5 the statute changed?

6 MR. CAMPANY: Regional plans are
7 creations of the commissions and our member
8 towns.

9 MR. BODETT: But they are directed by
10 statute. I mean there's certain things towns
11 can zone out and certain things they must zone
12 in.

13 MR. CAMPANY: Correct.

14 MR. BODETT: That's how I see this.
15 Maybe, Louise, what the hang-up here that you
16 have a state department approving a plan, but
17 maybe what we're talking about is creating
18 statute that the plans must adhere to.

19 MS. EASTMAN: Can I just clarify then
20 though what are local plans? Are they still
21 required to be in conformance with regional
22 plans or not?

23 MR. SULLIVAN: Well there's the question
24 is it required, you know.

25 MR. CAMPANY: If they submit them for

1 approval.

2 MR. SULLIVAN: If they submit them for
3 approval, then the regional planning
4 commission has processes to go through whether
5 or not to approve them or not approve them.
6 If they are not approved, they're still valid
7 at the town level, but there's some things
8 that town planning process can't be confirmed
9 without a regional planning commission
10 approved the town plan and that has certain
11 implications.

12 MR. CAMPANY: It goes back to the RPCs
13 not being able to make anyone do anything.

14 MS. EASTMAN: I know you can't.

15 MR. JOHNSTONE: Can I just -- I just
16 want to poke on this a little bit more. Does
17 the statute change -- I know in Act 200 your
18 plans then had it go through ACCD to this
19 Council of Commissions. Has the statute
20 changed?

21 MR. SULLIVAN: I saw that the line in
22 the statute referencing the Council of
23 Regional Commissions review is not there any
24 more.

25 MR. JOHNSTONE: So they have actually

1 changed the statute?

2 MR. SULLIVAN: To that extent, yeah.
3 And so, you know, there isn't that body to
4 review the regional plans. So I mean we're
5 doing kind of an administrative process this
6 year actually where an independent consultant
7 is looking at all the regional plans to try to
8 verify that -- what they are supposed to be.

9 MR. JOHNSTONE: I know there's a
10 question over here.

11 MS. EASTMAN: Yes. A question.

12 PUBLIC MEMBER: Yes. More of a comment.
13 This past year we've been -- I'm from West
14 Rutland. We had our town plan approved by the
15 regional planning commission. We rewrote the
16 section -- several sections on energy and land
17 use, and what I'm wondering is with Rutland
18 being so-called solar hub, which Steve
19 Costello wants to do with Green Mountain Power
20 and everything, what I'm afraid of Rutland is
21 going to come up with a plan where they are
22 really touting renewable energy, which is
23 basically okay with us too but properly sited,
24 and they say they have a gentleman that is
25 going around reading all the other town plans,

1 and yet Rutland has got to almost come out
2 with what they would endorse, wind and solar,
3 biomass, you know, what have you, and I'm just
4 wondering where you were going to come in on
5 that.

6 MS. EASTMAN: Well I'm sorry. I don't
7 think we can talk about that today. We got to
8 figure out these issues and then --

9 PUBLIC MEMBER: What I'm saying is if
10 you're going to take a regional plan over a
11 town plan that's within that region, take
12 their wording of it differently than what
13 you're doing with a smaller town, then that's
14 where I see trouble brewing.

15 MR. RECCHIA: I'm intrigued by this
16 vote, this idea that the towns actually though
17 are engaged. I'm wondering if we can bridge
18 the gap.

19 MS. EASTMAN: You have to understand
20 it's the first vote. Every town has chosen a
21 representative. The first vote is that and
22 then the vote that's taken after it by the
23 selectboards, not by the towns, by the
24 legislative bodies of the towns. Okay. So
25 you've got -- they are the ones who are

1 ultimately approving.

2 MR. RECCHIA: Even so, okay, with that
3 in mind is there enough structure that we can
4 bridge the gap? In other words, you've got --
5 if we get the regional plans -- regardless of
6 what -- who decides the energy component of
7 the energy plan, if the towns vote to do that,
8 you know, vote, the representatives vote first
9 to do it and then the selectboard either don't
10 object or don't vote to approve being part of
11 the regional plan, does that solve the
12 problem?

13 MS. MCCARREN: I guess I should ask
14 people who actually know what we're talking
15 about over here. So if a town votes to be
16 part of the regional plan -- is that how you
17 say that? Not the town itself, but the
18 representatives on the regional planning
19 commission.

20 MR. SULLIVAN: They vote to support the
21 regional plan or --

22 MR. CAMPANY: That's what they do. So
23 they are not voting to be -- okay. So let's
24 step back one more step.

25 Towns choose to be members of the RPCs.

1 So they appoint Commissioners to the RPC. So
2 those Commissioners are actually part -- we're
3 in the process of updating our regional plan
4 right now. Those Commissioners are also part
5 of the regional plan update. So even if
6 developing like this particular piece of it,
7 they will be involved in that. So they are
8 already town representatives, and when it
9 comes time to automatically have that we've
10 gone through the whole public meetings. I'm
11 talking about all the public outreach, not
12 just the formal processes, and we go to the
13 public hearing.

14 When it comes time for that final
15 approval that's when, you know, it's both the
16 Commissioners and then the towns ultimately
17 are in the driver's seat about whether or not
18 it gets approved.

19 MS. McCARREN: You've answered this
20 before I know, but if you don't mind answering
21 it again.

22 MR. CAMPANY: Sure.

23 MS. McCARREN: How you handle it when a
24 town goes through its own planning process and
25 reaches a conclusion that is not consistent

1 with the regional plan?

2 MR. CAMPANY: So, first, and, Jim, feel
3 free to jump in here, towns choose to submit
4 their plans to RPCs for approval. They don't
5 have to.

6 MS. MCCARREN: All right.

7 MR. CAMPANY: And if that plan is
8 submitted and it's not consistent, when it
9 comes time for approval we look at the
10 statute. It's not our whim. It's what does
11 the statute say is required by the RPC to
12 approve it, and it comports with, it's not in
13 conflict with the plans of adjoining
14 municipalities, and most importantly it meets
15 the state planning goals, and so that's what
16 we look at.

17 It's a rather clinical process, and
18 then, as Jim was saying, if we were to not
19 approve a plan because it didn't meet those
20 criteria, it still has standing within the
21 town. It's just the regional planning
22 commission hasn't approved it or confirmed the
23 process, and that has more implications like
24 more municipal planning grants and village and
25 downtown designations.

1 MS. McCARREN: So -- but the only
2 reasons you would not approve a plan is in
3 your opinion, expertise, it did not comply
4 with the statutes, and I guess we've talked
5 about low income housing and the statutes.

6 MS. EASTMAN: The state planning goals,
7 and now I'm thinking state planning goals why
8 aren't these -- why aren't the Department's
9 energy goals state planning goals.

10 MR. RECCHIA: If I took -- if we
11 enhanced their review for conformance to
12 include state energy planning goals, whatever,
13 in a statutory way, and took me and my -- what
14 was the word we used last time?

15 MS. McCARREN: Deranged.

16 MR. RECCHIA: Deranged review out of
17 this, that combined with the fact that the
18 towns are engaged in a process and don't even
19 have to submit it, what I'm trying to get to
20 is the distinction between, again, the carrot
21 of encouraging towns to do that process. If
22 they did it and we gave them the conformance
23 with the plan that you're looking for, I'm not
24 saying everybody has agreed -- just let me
25 finish this thought -- would you be willing to

1 not have those that did not go through that
2 process get that same deference.

3 MS. McCARREN: There was a double
4 negative.

5 MR. RECCHIA: I'll try to do it in one
6 negative. All I'm saying those that go
7 through that whole thing and the standard is
8 set by statute, not by me, that they are then
9 given the conformance standard that you're
10 looking for before the Public Service Board,
11 but that those that are not, that do not go
12 through that process, don't get that standard.

13 Would that be a compromise and
14 appropriate balance here that would bring you
15 back into the tent?

16 MS. McCARREN: I'm going to need to
17 noodle that, but I'm trying to be open because
18 again I really respect that you don't agree
19 with me and that's fine.

20 MS. EASTMAN: What we're saying is we're
21 trying to get to a point it doesn't change it
22 upside down, the whole planning process, and
23 so if you're the one, instead of approving
24 this -- I raise this because Jim reminded me
25 it's not the state who approves anything.

1 It's you guys. Okay. So right now the
2 statute 248 requires that the proposal be in
3 conformance with the state energy plan. It
4 does require conformance with that, right?

5 So we're saying -- okay. But what he's
6 saying is instead of having the DPS review
7 regional plans or whatever, you put the state
8 goals over in the -- you put the DPS goals
9 over as part of the statutory goals. That you
10 already have statutory planning goals.

11 MR. CAMPANY: And energy is already in
12 there so it would be refining that portion.

13 MS. EASTMAN: And that for those
14 municipalities who wanted to have -- who
15 wanted to be able to -- I mean I could get
16 their conformance with a municipal plan so
17 long as it was approved by you, and that would
18 encourage people to go through a process if
19 they didn't do that and you didn't find it
20 conformed.

21 MS. SMITH: That's the piece I'm trying
22 to get to is the timing of it, is that what
23 you're talking about, I like where you're
24 going, that you are then placing some towns at
25 a disadvantage if they get hit by a project

1 and they don't have six months to do the
2 amendment process, and so I'm asking you to
3 insert an interim planning process.

4 MR. RECCHIA: Okay. Let's do that in
5 the next step because I want to respect that
6 but --

7 MS. SMITH: The other piece is I serve
8 on the Rutland Regional Planning Commission
9 and for the last several years chaired what
10 was called an energy committee which no longer
11 exists. We have been trying to update our
12 energy plan for quite a while, and I just want
13 to get some reality, you know, what's
14 happening.

15 Here we are in Rutland County. Solar
16 city, right? We have not had a presentation
17 from GMP about their plans and that's a
18 problem.

19 MS. EASTMAN: I understand and this is
20 why, though, to me, I don't disagree with you,
21 that's a problem. That to me is like a
22 merchant facility is coming in, which is why I
23 think it's important to make planning more --
24 have it have some play so that people will
25 come and -- because that's where the

1 conversation should be. The conversation
2 should be way back when, not when they decide
3 that's all in. So I'm with you on this. This
4 is the point. I'm with you on this.

5 So the issue here is, though, I just
6 want to be sure, and this is what I -- this is
7 where I'm at, okay, and my cautionary tale is
8 simply that I do believe that energy, and it's
9 not just renewable, energy siting or energy
10 future can -- we got to play, okay, and we got
11 to plan for it. We got to do it. So it's
12 like you can't have those -- I can't have the
13 veto kind of thing from people. I've got to
14 give a chance to go through a process, and for
15 those who go through it and play and meet
16 whatever the goals we statutorily say to the
17 Legislature --

18 MS. SMITH: That's what's not built --

19 MS. EASTMAN: But I get that, but -- but
20 you can do a lot more now. You can be a lot
21 more specific. I'm also just wondering if --
22 here's how legally I have to think what the
23 standard is, when do the rules come into play.
24 Is it on the date of the application? So the
25 150-day plan?

1 MS. SMITH: It takes six months to go
2 through the planning process in response to a
3 project. We've seen it over and over and over
4 again.

5 MS. SYMINGTON: We're trying to get to
6 not having planning in response to a project.

7 MS. SMITH: Right, but even the process
8 itself, whether it's in response or not, takes
9 six months. Robust public process is great.

10 MR. RECCHIA: I think that's a
11 legitimate issue that we're going to need to
12 address, but I would like to still focus,
13 Chair, on this concept to see if -- because we
14 have a fundamental disconnect issue probably
15 of notice, and I'm trying to reach across the
16 aisle here.

17 MS. EASTMAN: So how do you guys feel
18 about that?

19 MR. JOHNSTONE: I'm not there yet. I'm
20 with you on substantial consideration and
21 getting all the way to conformance. I'm not
22 there yet. I'm listening. I'm noodling to
23 use your term, but I'm not there yet.

24 MS. EASTMAN: I think we're not going to
25 get it -- I really think we ought to try and

1 write this down like what these steps are.

2 MS. MCGINNIS: I'll be happy to write
3 what I think I heard, which is very different
4 from different quarters, and see if everybody
5 is in agreement with it. I will say what I
6 heard and then I will try and make it a little
7 -- let me say what I heard.

8 MS. EASTMAN: So that then we can talk
9 about it next Tuesday some more.

10 MS. MCGINNIS: And we don't have to come
11 to agreement with it now because I will try to
12 get better wording, but I will say right now
13 what I heard just in case there needs to be
14 major changes. Okay.

15 I understood what would happen is we
16 would refine the statutory requirements as
17 they relate to energy for the regional
18 planning commission to be more in line with
19 state statutory targets and goals. Okay.

20 If a town plan that is presented to the
21 regional planning commission gets the regional
22 planning commission approval within the
23 framework of those statutes, then a project
24 must be in conformance with both town and
25 regional plans. That's what I heard.

1 MR. JOHNSTONE: Say the last sentence
2 again please?

3 MS. MCGINNIS: Okay. So if a town plan
4 gets regional planning commission approval
5 within the context of those revised energy
6 statutes, then a project must be in
7 conformance with town and regional plans.

8 MR. JOHNSTONE: Where I get stuck is
9 we're saying really clearly that nobody in the
10 State of Vermont is going to look at the
11 regional plans to determine if they are in
12 compliance.

13 MS. EASTMAN: No. I think --

14 MR. JOHNSTONE: And that's where I'm
15 struggling and where I'm noodling.

16 MS. EASTMAN: That's something separate
17 to me. That should also be in conformance
18 with the regional plan.

19 MR. JOHNSTONE: You're referring there's
20 no review of that any more. That's what she's
21 offered up as a compromise.

22 MR. RECCHIA: Yeah, but I mean to do
23 that there's -- I got to understand -- I got
24 you and you know --

25 MR. JOHNSTONE: That's where we lose

1 you.

2 MR. RECCHIA: I should be the one being
3 lost here, right, and abandoning ship, but I'm
4 willing to keep going down this road to see if
5 there's -- because I think that's fixable too.

6 MS. EASTMAN: What I'm thinking, though,
7 is I mean what about still holding it out for
8 the regional plans. That the regional plans
9 have to be -- the energy components of the
10 regional plans have to be looked at by you for
11 regional plan approval.

12 MR. RECCHIA: They are not listening so
13 let's vote. Yeah, that would be my
14 preference, but I'm willing to keep the
15 discussion open.

16 MS. EASTMAN: Go ahead.

17 PUBLIC MEMBER: Okay. I just would like
18 to back up Louise here a little bit. I think
19 this is a land use question and it's always
20 been like that. I was on the Huntington
21 Conservation Commission for a number of years.
22 We went through the town plan. We all
23 supported renewable energy. This is five or
24 six years ago. We did not foresee that wind
25 power would come into this state as fast and

1 as dynamic as it has come.

2 We have -- in Huntington we have most of
3 our land or a lot of our land over 2500 feet.
4 It was designed to protect -- be protected by
5 at 250 -- over 2500 feet, and we have thrown
6 that right out the window.

7 So our town plan even five years ago we
8 wanted renewables, but we don't foresee having
9 wind power over 2500 feet on our ridgelines.

10 MR. RECCHIA: Okay. So I'm going to
11 interrupt and say a couple things if I may.
12 One is Act 250 does not prevent construction
13 over 2500 feet.

14 PUBLIC MEMBER: It's designed to protect
15 over --

16 MR. RECCHIA: It requires a review. So
17 it requires Act 250.

18 PUBLIC MEMBER: Where is the review now?

19 MR. RECCHIA: Hang on, and, secondly,
20 three quarters -- very, very little of the
21 wind projects that people have been
22 complaining about are over 2500 feet. They
23 are barely over 2000.

24 My point is -- okay. I don't want to
25 argue. My point is what you're citing is not

1 a protection. It is a process. It's another
2 process.

3 MS. EASTMAN: So --

4 PUBLIC MEMBER: We don't have any land
5 under 2000 feet that you can build on. It's
6 mostly at 2500 feet. So we're vulnerable.

7 MS. McCARREN: Chris, the statute which
8 you pointed out and it's always helpful to
9 read the statute --

10 MR. RECCHIA: Now and then. I'm still
11 looking forward to an opportunity to do that.

12 MS. McCARREN: 248 something 7 says
13 except for natural gas facility is in
14 compliance with the electric energy plan
15 approved by the Department under Section 202
16 of this Title.

17 MR. RECCHIA: Right.

18 MS. McCARREN: And there's an exit
19 clause. Okay. So that says to me that the
20 project developer has the affirmative burden
21 to prove that.

22 MS. EASTMAN: Right, but that's against
23 the state plan. Now what we're saying --

24 MR. RECCHIA: State electrical plan
25 which is different than the energy plan.

1 MS. MCCARREN: Hang on.

2 MS. EASTMAN: What we're suggesting is
3 right now --

4 MS. MCCARREN: Says electrical energy
5 plan.

6 MR. RECCHIA: There's a 20-year Electric
7 Energy Plan which is different than the
8 Comprehensive Energy Plan, but I see a path.

9 MS. SYMINGTON: But wouldn't the
10 electric generating plan be a subset --

11 MR. RECCHIA: We are making it that way.
12 We are making it that way. It has not been
13 traditionally.

14 MS. EASTMAN: And what I think we then
15 need to do, I mean because I think that the
16 project should be in conformance with some
17 state plan, and then what we need to do,
18 though, is take whatever components are
19 necessary out of that plan and put them over
20 in whatever the -- you know, when you say
21 you're looking at a local plan and it has to
22 be in conformance with state planning goals,
23 whatever that is, those things should be over
24 there in state planning. There should be a
25 link.

1 MS. MCCARREN: Let me just try this and
2 then I'm going to stop. Why should the town
3 or the region have the burden of -- on a land
4 use issue of demonstrating that it is in
5 compliance with the electric energy plan,
6 whatever? Isn't that the burden of the
7 developer?

8 MS. EASTMAN: But what I say is the
9 plan, if they are willing to go through this
10 process, I mean to get their plan approved,
11 now they have to show they are in compliance
12 with other state planning goals. This is just
13 one more state planning goal to be added. If
14 they get that, then you could get to
15 conformance with the local plan. If they
16 don't get there, you might just have
17 substantial consideration of what they have
18 done locally.

19 MR. RECCHIA: What I think they are
20 trying to do is make that link between the
21 energy planning that's in my world now and the
22 land use planning which is on the ground
23 literally and try and make that link, and I
24 think this might be a path forward.

25 MS. SMITH: So I'll ask more

1 specifically what that link looks like. For
2 instance, what in the State Energy Plan would
3 you envision the regional plan articulate? Is
4 it a specific number of megawatts per county?
5 How exactly would that -- I'm really having
6 trouble understanding what that looks like.

7 MR. RECCHIA: Sure, and I think with all
8 planning aspects there's got to be some
9 flexibility left to everybody.

10 MS. EASTMAN: To the regions.

11 MR. RECCHIA: You're right. For me I'll
12 describe it this way. I don't want to get to
13 the point where I tell a given region that
14 they have to come up with x number of
15 megawatts. I would rather have a community be
16 able to say you know what, we're not going to
17 do electrical generation, but we're doing
18 district energy heating or we're doing
19 efficiency 30 percent, we're doing deep
20 retrofit so we're getting 30 percent
21 contribution that way, and be able to do the
22 mix themselves and feel like it's a positive
23 contribution instead of -- you know, instead
24 of being beaten over the head with having to
25 do x number of megawatts or, you know, x

1 amount of solar.

2 MS. SMITH: Have you guys thought how to
3 articulate that?

4 MR. JOHNSTONE: We've talked about it
5 and we haven't articulated it, and where I run
6 -- where my nervousness comes in I absolutely
7 agree with what you just said, and in your
8 position you need to be able to add up all the
9 numbers and know that directionally we're
10 headed right, which means there has to be some
11 sort of reporting relationship to know if
12 we're going to give conformance to these
13 things it's got to add up to directionally
14 with the statutory and planning goals that
15 have been set or it's a free for all, and
16 that's where I'm concerned.

17 MR. CAMPANY: I was going to add there's
18 another benefit to this which goes back to
19 cross Jan's heart, which is if you look at our
20 energy component of our plan, we made a
21 conscious decision in 2006 to have energy be
22 an element in every single chapter. In
23 transportation we talk about energy
24 consumption and what we can do through a
25 regional planning process. We talk about

1 thermal efficiency.

2 So, in other words, our energy component
3 in our plan, I think if you are looking right
4 now they address the entire CEP not just the
5 siting piece, and all of the RPCs -- I don't
6 know what the status is in Rutland because you
7 said they don't have an energy committee any
8 more, but we still have a very active energy
9 committee. We just went through the entire
10 process of -- in our towns doing energy audits
11 of municipal buildings, coming up with
12 guidelines for towns on how to create
13 efficiency of the buildings, and that's why I
14 made the case that one of the things that
15 could come out of this as well is ongoing
16 support for that overall energy planning
17 effort, trying to get at the whole CEP and not
18 just decide siting things. Frankly I would
19 hate to see all this die on the vine. Just
20 because the renewable tax credit dies all of a
21 sudden this activity dies and we quit doing
22 energy planning because suddenly, you know,
23 wind turbines are maybe not as lucrative as
24 they once were. We need to keep this going.

25 So I just want to make a pitch as you

1 look at this to also -- you're tasked with the
2 siting piece, but it wouldn't necessarily
3 preclude you to say and while we're at it the
4 regional plans can also help.

5 MS. EASTMAN: But this is it. The
6 regional planning process around energy will
7 hit all the issues like the state plan hits
8 all the issues. It hits all the issues and
9 then that's why I think there's maybe a shot
10 that this -- I don't know. You make it bigger
11 make it more bigger than smaller.

12 MR. SULLIVAN: I agree, and you know it
13 is everything you said is true. This gets a
14 little complicated because you have a state
15 Comprehensive Energy Plan is comprehensive.
16 As Chris noted, the Windham Regional Plan
17 considers energy in all of its different
18 elements.

19 Our regional energy plan is a stand
20 alone document, but it's pretty comprehensive
21 too. In fact, renewable energy is a
22 relatively small part of it I think in the
23 grand scheme of things, but all that said
24 you're still here to try to figure out how
25 regional planning, town planning is going to

1 play into the siting process. So that's got
2 to be a big part of this one way or another.

3 Like I said, our regional plan talks
4 about renewable energy, talks about
5 non-renewable energy, talks about generation,
6 and it doesn't talk in a fairly general way
7 about what makes sense and what doesn't make
8 sense in our particular part of the world, and
9 where -- in very rough idea broad parameters
10 where good places are, it doesn't get into
11 that level of detail, and I think --

12 MR. RECCHIA: I think this is an
13 evolution, much like the Act 250 criteria when
14 they were written 40 years ago said don't --
15 we want to evaluate your project in the
16 context of what impacts you're not causing.
17 In other words, no adverse impact on
18 education, no adverse impact on anything,
19 traffic, you know. It's all in the negative,
20 and I imagine the energy plan components out
21 there now are in the form of look at a
22 development and a project in the context of
23 its energy use and how to make it more
24 efficient, how to conserve energy, and now
25 what I'm suggesting we have to evolve to the

1 point where if you really want to consider
2 this to be a land use piece, the energy pieces
3 need to show up in the use tables of the
4 different zones and they have to say yes here
5 no there to various types of energy projects.

6 It's an evolution beyond just the review
7 of the impact of energy to energy as a land
8 use component like a gas station or, you know,
9 a hospital or whatever else you might have in
10 a different zone.

11 MS. EASTMAN: So here's another -- and I
12 know to me what we've been talking about is
13 we've been addressing some of the League's
14 issues, we've been addressing some of the
15 public engagement issues, and all these kind
16 of things, but here's the other thing about
17 planning.

18 MR. JOHNSTONE: There's another.

19 MS. EASTMAN: There's just one other
20 thing here or not one other. They are also
21 complicated because it goes to the issue of
22 Rutland we didn't expect we would have this
23 kind of wind issue, industrial wind issue when
24 we made plans.

25 What about the next thing that we

1 haven't expected? Okay. The next thing that
2 comes up, and maybe it will even be better. I
3 mean I had this happen when I was Secretary of
4 ANR. I couldn't get things shut down because
5 our requirements -- it was about air issues.
6 Our requirements were so tight that they
7 couldn't get a permit, but, you know, I
8 couldn't get people to move. So that's
9 another problem or question we may have.

10 What if a new technology comes along
11 that has fewer impacts all around but isn't
12 designated in any plan?

13 MS. SMITH: That's where I'm saying you
14 need the interim planning division. Give time
15 to plan for whatever is unexpected.

16 MS. EASTMAN: At all levels.

17 MR. CAMPANY: I mean we've got about
18 every type of energy except for coal and gas
19 in our region that's possible. I believe we
20 have some biomass at Cersosimo. One of the
21 things I was hoping just looking at your -- at
22 the various proposals we're not talking only
23 about renewables.

24 MS. EASTMAN: Right.

25 MR. CAMPANY: Not being able to look

1 down the road somebody could be proposing a
2 gas plant.

3 MS. EASTMAN: Right. A gas plant. You
4 know, the energy storage issue that Gaye keeps
5 talking about. All these things could be
6 deemed to be --

7 MR. CAMPANY: We can talk to you about
8 pump storage facilities. We'll take you to
9 Northfield.

10 MS. MCCARREN: That's not in Vermont.

11 MR. CAMPANY: No, it's not, but it sure
12 affects Vernon. Anyway won't get into that.

13 MS. MCGINNIS: Jan, we only have Asa for
14 a few more minutes. Asa, are you still there?

15 MR. HOPKINS: I am.

16 MS. MCGINNIS: Thank you for waiting.

17 MS. EASTMAN: So the thing is, Asa, give
18 me one minute. So I think -- okay. So I
19 think for today we have some new language. We
20 just need to draft in a variety of things
21 taking what the League has and trying to put
22 it in places we might think is appropriate,
23 taking this thing and drafting out what it
24 might look like and giving ourselves time to
25 actually see, you know, do we connect all the

1 dots and where are the places that we're
2 concerned. So we just have to sort of map it
3 out I think.

4 Asa is here to talk about the RECs
5 issue, aren't you?

6 MR. HOPKINS: I'm here to talk about
7 whatever you all wanted to talk about.

8 MR. JOHNSTONE: What we wanted Asa for
9 is RECs have come up a lot and they have come
10 up almost exclusively from the perspective of
11 they don't ever turn into any pollution
12 savings, they don't end up there, and there's
13 a lot of views on both sides of this, and the
14 question has been raised do we need to talk
15 about RECs in this report. That's the high
16 level question, but the reason -- I think I'm
17 the one that asked that we find someone from
18 the Department to talk about this because
19 there's a lot of theory behind RECs and
20 understanding what the thinking is of how it
21 turns into something, and then the
22 shortcomings of it because everybody has an
23 opinion on whether it turns into pollution or
24 not, to saving pollution or not, which is the
25 theory around RECs, and I guess if he has time

1 he can even get into so why -- what are the
2 benefits and negatives of RECs versus RPS
3 which is really what people want us to talk to
4 potentially in this report.

5 That's what I have heard, Jan, but it
6 seems to me we wanted somebody that could
7 start at what are RECs supposed to actually
8 accomplish because we have had a lot from the
9 public that they don't accomplish anything,
10 you know, as a foundation, and that's not what
11 the framers of RECs think they are doing, and
12 not that I think Asa's a supporter of RECs, I
13 don't know his position, but apparently you
14 all teed him up as a person that can talk
15 about this because I don't know enough to
16 actually be the spokesperson for each side. I
17 just know there's a raging debate about the
18 utility.

19 MS. MCCARREN: And, Asa, your boss is
20 sitting right next to the microphone.

21 MR. JOHNSTONE: That's helpful framing.

22 MR. RECCHIA: Yes. I think it's great,
23 but before I start I want to know whether you
24 need help on a bigger issue which is the
25 general concept of cap and trade type systems

1 because this is a version of a cap and trade
2 type system.

3 MR. JOHNSTONE: It will get more
4 complicated.

5 MR. RECCHIA: Do you feel you need two
6 sentences on that?

7 MS. EASTMAN: We need enough to decide
8 whether we should be saying anything about
9 this in the report at all, and then if we
10 think we need to say anything, you know --

11 MR. RECCHIA: Let me start.

12 MS. EASTMAN: How does it fit with our
13 --

14 MR. RECCHIA: Let me start with two
15 sentences on the cap and trade concept and
16 then Asa can take it over in terms of RECs and
17 how it fits in or doesn't fit in, but I'm most
18 familiar with this from a pollution prevention
19 standpoint, and the way this worked is, you
20 know, you could say to people we want you to
21 reduce emissions by x amount everywhere, and
22 that's a standard application of that concept
23 and you can say that's the regulation. We're
24 going to regulate you to these levels.

25 You can do the same with renewable

1 energy. You could say we're going to regulate
2 you to the point where you are putting x
3 amount of renewable energy in and we're going
4 to deny non-renewable energy, and we're going
5 to approve this amount of minimum of renewable
6 energy. We got to get there.

7 The concept of a cap and trade was
8 ironically a business industry proposal to
9 avoid that strict straight across the board
10 regulatory role, and say if you give us some
11 flexibility we can reduce the same amount of
12 pollution, but we want to do it in a more cost
13 effective way. So it says we need to get to
14 this cap. We're currently emitting, in the
15 case of air pollution, we're emitting this
16 much. In the case of renewable energy -- or
17 it would be we are using this much energy in a
18 non-renewable way and we want to lower that
19 cap to a point where we're getting more
20 renewables less pollution. I'll describe it
21 that way, and you say okay. This is going to
22 be the cap. It's lower than where we are now,
23 and you as an individual industry or plant or
24 whatever can decide whether you're going to
25 actually put the pollution controls on,

1 substitute a/k/a or build renewable energy
2 instead of non-renewable, or you're going to
3 buy on the market the value of that, and the
4 market is created by lowering that cap and
5 saying that margin is what some people will go
6 and over control.

7 So I'll put a fancy piece of pollution
8 control on my plant and I'll reduce sulfur
9 dioxide not by the 20 percent that I have to
10 but by 40 or 50 percent, and I'll sell some of
11 the difference, not all the difference. I'll
12 sell some of the difference to those other
13 plants that can't afford to even do the 20
14 percent, and in doing so you actually set a
15 market system where people over control. We
16 have seen it successfully work.

17 I just want to say this about it. We've
18 seen it successfully work in the air pollution
19 control world. If you tell people -- it's an
20 amazing thing. If you say instead of me
21 telling you, you got to get to this level of
22 pollution control, I'm going to say use your
23 creativity. They will actually spend less and
24 control more and more people will put
25 themselves in the role of over controlling

1 than actually buying the credits because they
2 are feeling that from both a public relations
3 standpoint, from a security they are meeting
4 the regulations standpoint, from an economic
5 thing to their boards and their investors,
6 they say hey we can actually sell this.

7 This is what I did with the Hartford
8 Municipal Waste Facility. We put the first
9 nox controls on and the board agreed to that
10 not because they are strict green
11 environmentalists, but because they saw a
12 business opportunity there and we end up
13 exceeding the target, surpassing the target of
14 where you want to go because more people
15 actually want to do the controls than buy the
16 credits.

17 So now I'm going to switch you to the
18 REC market and concept there and say I think
19 the same thing can apply there, but Asa take
20 it away.

21 MR. HOPKINS: All right. And the
22 analogy is good, but imperfect I think between
23 the pollution control piece and the renewables
24 piece because you're counting up instead of
25 down which does change the dynamic a little

1 bit, but fundamentally what's basically
2 happening is five states in New England have
3 requirements on anyone who serves load, namely
4 any utility who actually has end use
5 customers. I'm not quite sure whether this
6 applies to munies, but roughly speaking most
7 of the load in New England has this
8 requirement that some fraction of the
9 electricity they serve to their customers has
10 to be renewable.

11 So then the question arises how do you
12 vouch for and verify that that energy is in
13 fact renewable, and what has developed is
14 certificates or RECs. One certificate
15 corresponds to one megawatthour of energy, and
16 if you have an obligation, you either have to
17 demonstrate that you will own enough RECs to
18 correspond to your obligation or you pay a
19 fine payment usually set to be some high value
20 that you would prefer not to pay if you could
21 get away with it.

22 So I'm a utility. I serve say a hundred
23 thousand megawatthours. I have a 10 percent
24 obligation. So I have to find 10,000
25 megawatthours worth of RECs from somewhere.

1 So getting into the marketplace I can either
2 just build a wind farm myself or biomass plant
3 or solar field or whatever that will generate
4 the right amount of energy, but actually in
5 New England most utilities are discouraged or
6 not allowed to own generation. So instead
7 third parties build those things, merchants
8 build those plants, and sell the RECs to the
9 people who have obligations to meet.

10 What's happening in Vermont that our
11 utilities, which are allowed to build stuff or
12 who do enter nice long term contracts that are
13 almost equivalent to building things
14 themselves, essentially are playing the role
15 of the merchants in that case. Five other
16 states their utilities have these obligations
17 and our utilities can sign contracts for both
18 energy and RECs, peel the RECs off and sell
19 them to folks who have obligations.

20 So the total amount of renewable energy
21 in New England is counted up by all these
22 RECs, and every additional megawatthour of
23 renewable energy generated in the region gets
24 one and gets counted by somebody, and
25 generally speaking that number is going to go

1 up and up or people are going to start paying
2 severe compliance payments which they haven't
3 really started to do yet.

4 So that's what's going on accounting
5 wise. What's happening is that people are
6 selling the rights to call the power renewable
7 in order to be able to go -- in order for the
8 buyer to be able to go and meet their
9 regulatory obligation.

10 What has happened is the sense that if
11 you own that REC you can claim any
12 environmental benefits that correspond to it,
13 that there's a corollary point about what you
14 can actually say. So that then says well okay
15 if a Vermont utility is essentially acting as
16 a free agent merchant in that market -- well
17 imagine you're stepping away from the Vermont
18 utility. Imagine you're an independent
19 developer. You develop a renewable generating
20 plant and you say okay I'm going to sell my
21 energy into the market. I'm going to sell my
22 capacity. I'm going to sell my RECs.

23 You -- as the generator you don't really
24 care whether -- that somehow after you sold
25 all that whether you get to claim what's left

1 somehow is renewable. It doesn't really
2 matter to you whether if you -- whether the
3 energy gets to be called renewable after you
4 sold the RECs to somebody else because you're
5 just playing in these markets.

6 For us our utilities are acting as both
7 merchants and as load serving entities, and so
8 we -- they actually use the energy that they
9 generate or otherwise acquire instead of just
10 passing it on to somebody else like, you know,
11 they serve it to their customers, but they
12 don't generally accept -- you know they do to
13 some extent, but do not retain all of the
14 certificates that correspond to that, and the
15 advantage to that is that people pay real hard
16 cash for those things. You know millions of
17 dollars that Vermont ratepayers don't pay in
18 their rates.

19 The disadvantage is that we are like
20 those generators who have sold off those
21 rights and we don't really get to say that our
22 power is quote unquote renewable any more or
23 potentially claim any benefits associated with
24 that, whether they be global warming benefits
25 or otherwise.

1 So that's the general structure of how
2 we are. We get the development in-state.
3 Pros and cons that go along with that. We get
4 generally energy prices that are more moderate
5 than they might be otherwise. We get to
6 contribute to the region meeting its goals in
7 the same way that an independent developer
8 building a renewable plant contributes, but we
9 don't get the claim that our electric sector's
10 doing everything it can by climate change.

11 MR. JOHNSTONE: And, Asa, is it accurate
12 then so with the RPS what would change is that
13 wherever the percentage is set for a RPS the
14 utilities would each have to have that much
15 renewable generation for which they could not
16 sell the RECs, and only after they surpass
17 that could they then sell the RECs? Is that
18 fair? I'm just trying to distinguish so we
19 get what's what. Is that fair?

20 MR. HOPKINS: Yes. Then we would be
21 more explicitly in the position of like
22 describing where we would be sort of over
23 complying in the sense of we only have to be
24 at four percent but we have nine percent. So
25 we sell our excess to somebody else, and over

1 time when our obligation gets to be nine
2 percent we stop selling them, and now we are
3 essentially in that world. We just have zero
4 obligation.

5 MR. JOHNSTONE: We should expect with
6 that increment for the RPS we would pay a
7 little more for that energy because of the
8 cost of renewables.

9 MR. HOPKINS: Correct.

10 MR. JOHNSTONE: Thanks.

11 MR. HOPKINS: So there's a theory over
12 time that because renewables are generally
13 low, don't have as much fuel cost, more
14 upfront cost, those costs are coming down over
15 time, that the premium you have to pay, namely
16 the cost of a REC or the value of a REC,
17 should generally fall at least in real terms
18 over time as the cost of natural gas and oil
19 and coal and nuclear and whatever rise with
20 inflation, that the difference should
21 disappear over time, and essentially we could
22 go forward at cost parity, but we're not there
23 yet.

24 MR. JOHNSTONE: Thank you.

25 MS. EASTMAN: Gaye.

1 MS. SYMINGTON: So the question for us
2 is whether we include some reference to this
3 in this document, and my concern is I feel
4 like this is a pretty thick issue, and I'm not
5 sure how we would do that because it seems to
6 me there is -- the issue that keeps coming up
7 that Vermont is sort of got -- figured out a
8 system of getting its cake and eating it too
9 in that we're calling all this renewable
10 power.

11 MS. EASTMAN: But we've sold the RECs.

12 MS. SYMINGTON: But we've sold the
13 renewable quality of it. So its renewableness
14 is no longer really there. It belongs to
15 someone else. Someone who is in another state
16 is purchasing that power in order to meet
17 their state's RPS, but our state doesn't have
18 a RPS. We just have the SPEED.

19 So the argument that we've heard is we
20 are enable -- this policy is enabling dirtier
21 power elsewhere by -- and yes they have to pay
22 for that power. They have to pay for the
23 privilege of generating that power, but they
24 are buying the renewable qualities that are
25 sitting on our mountaintops, on our hillsides,

1 and so are we -- that's one level of concern,
2 and then the other piece that I don't
3 understand when I raised this issue is that
4 somehow -- and I know why. I certainly know
5 the history of why we have SPEED. We couldn't
6 pass a RPS.

7 So I mean I understand where that all
8 came from, but I have to say I'm somewhat
9 sympathetic to the notion maybe it's time to
10 transition to a RPS. Maybe it takes four
11 years because we're addicted to this money
12 that our utilities are getting for their RECs.

13 MS. EASTMAN: Because it's keeping our
14 rates down.

15 MS. SYMINGTON: Right. Maybe we need a
16 transition, but it seems to me there's some
17 legitimacy to the underlying argument that
18 comes in front of us. However, it seems to me
19 there's also an interplay here with the
20 standard offer. That there's something that
21 we've -- and I don't understand this, but it
22 seems to me that somehow part of the argument
23 for moving forward with the standard offer was
24 -- as I wasn't in the Legislature last term
25 when there was a discussion of moving to a

1 RPS, and as I understand it the argument was
2 but -- from utilities was but wait a minute,
3 we're doing everything you wanted and we're
4 contributing through the standard offer, and
5 so you're really then doubling up the burden
6 on us if you take away the revenue that we're
7 generating for the RECs and continue to
8 require that we pay for the standard offer. I
9 think there was some concern there.

10 I don't understand all the pieces, but
11 my concern is that we, by referencing this in
12 this plan, are pretending that we understand
13 it all, and that I feel like it's pretty
14 complicated and that we should not have it on
15 our plate, but I wouldn't object to saying we
16 think there is an issue here and that somebody
17 with the time and the jurisdiction should deal
18 with it.

19 MS. EASTMAN: Did RPSs get discussed
20 again this session?

21 MR. RECCHIA: No. Not in this first
22 part. No. Asa, do you have any reaction to
23 anything you have heard or questions from
24 Gaye?

25 MR. HOPKINS: Yes. One I would say when

1 I have thought about the charge for you all,
2 you all have to interpret your own charge, but
3 I have not thought of RPSs as a significant
4 piece, and RECs, whatever, as a real piece of
5 what you should address. That said, if you
6 want to highlight it as an issue that somebody
7 should address, that makes sense to me.

8 A couple responses to things Gaye said.
9 I wouldn't quite characterize everybody they
10 get to keep generating dirty power argument in
11 quite the same way that you did. The same
12 amount of -- you know provided that all the
13 RPSs are actually working, which they are for
14 some reason, the same amount of dirty power is
15 being generated in New England whether we
16 build renewables in Vermont or not. It's just
17 a question of which and where the different
18 generators are. To some extent if we didn't
19 build renewable generation in Vermont, the
20 utilities in other states still have the same
21 obligation. They would find some way to get
22 it from somewhere. So it would be just a
23 renewable generator in some other location.

24 Our situation with respect to siting is
25 pretty comparable to the idea of imagine

1 somebody built a wind farm in New Hampshire
2 and sold all of the power and all of the RECs
3 to a utility in Massachusetts. Then -- yet
4 people in New Hampshire look at that and they
5 say we're not getting anything from that,
6 right. We don't get any renewableness out of
7 that and yet we have to look at it. Right.

8 You know we're in that same boat. The
9 only difference is we're buying the energy
10 from that generator, whereas, in some other
11 place maybe the local folks around the
12 facility aren't buying any of the output of
13 the facility. So, yeah, we're in this funny
14 boat where we are acting kind of like
15 merchants in this case rather than like
16 utilities.

17 The big picture is raising this as an
18 issue that will continue -- it needs continued
19 attention and, you know, but not claiming to
20 know the answers or to solve them while you're
21 solving everything else is a reasonable path
22 to me.

23 MS. EASTMAN: Louise has a question or
24 comment.

25 MS. McCARREN: First I agree with

1 everything that Gaye said, but, Asa, if I am a
2 renewable that's being paid the standard
3 offer, can I sell the RECs out of state?

4 MR. HOPKINS: Yes. So, yeah, let me
5 describe the standard offer a little bit. A
6 standard offer developer, say a 2.2 megawatt
7 solar farm, they sell at some known price all
8 of the output and characteristics of their
9 facility to the ratepayers of Vermont and then
10 it gets allocated around to the different
11 utilities on a load basis. So -- but that
12 means they sell the energy, they sell the
13 capacity, they sell the RECs. Everything goes
14 to the utilities to serve their customers.

15 The utilities acquire energy, capacity,
16 and RECs just the same as if they had a PPA
17 with some generator that gave all those
18 characteristics. Utilities may then aggregate
19 all of those RECs up and sell them if they so
20 choose or they may retain them. It's up to
21 them, but the developers are really just
22 straight up. They are basically merchants in
23 this world. It's just that they are selling
24 everything under a particular kind of contract
25 to Vermont utilities.

1 MS. McCARREN: Okay. So there are
2 merchants with a known price that is being
3 sold to the Vermont utilities, but the
4 utilities are getting energy, capacity, and
5 RECs, and then what the Vermont utility does
6 with the RECs is up to them, and they might
7 sell those RECs hypothetically to reduce the
8 cost under the standard offer. That's one
9 thing that could happen.

10 MR. HOPKINS: Correct.

11 MS. McCARREN: Thank you, Asa. That was
12 excellent.

13 MS. MCGINNIS: I had a question related
14 to how it is related to what you're saying in
15 the report, and that's that if you're going to
16 go with the planning emphasis, and if the
17 State has to say we are meeting specific
18 targets as it relates to renewable energy, it
19 does have some bearing on how you're defining
20 what is renewable energy, and that's where I
21 was confused as to -- and it's been brought up
22 again and again with us, and so if the State
23 and the regional planning commissions have a
24 role in meeting a goal to have more renewable
25 energy in the state, then you have to decide

1 whether you fish or cut bait.

2 MR. RECCHIA: Every now and then you
3 have to look at what is common sense and
4 common understanding, and this renewable
5 energy that we've been developing is in-state
6 renewable energy. The fact we are selling
7 RECs, if you cancelled all the REC sales
8 tomorrow, we would have all that power and all
9 those -- all that renewable energy here.

10 How you want to count it and who
11 actually gets credit for it is in my mind an
12 accounting issue and a policy -- and a
13 declaration of policy between the states that
14 is irrelevant to the fact that this is added
15 capacity on the grid that is renewable.

16 Asa, you can't kick me because you're in
17 the phone.

18 MR. JOHNSTONE: I think that's right.

19 MR. HOPKINS: I would agree with that
20 generally, but the question comes when, you
21 know, one does have to do an accounting at
22 some point and bring those accounting
23 principles to bear to determine whether one
24 has in the end actually achieved some goal or
25 not, and you need to add up if the goal is

1 expressed in numbers, you need to be able to
2 add them up.

3 So to the extent we have aspirations,
4 for example, the 55 going to 75 percent
5 renewable electricity or the 25 by 25, if we
6 wanted to be able to actually sit down in one
7 of those years and determine whether we have
8 actually made those targets or not, we would
9 need to use the accounting type framework and
10 respect the ownership of RECs in order to
11 determine whether we hit those targets.

12 MR. JOHNSTONE: I think that's the
13 trick. We are creating the generation, but we
14 have to respect where the RECs lay when we
15 actually account for where we are currently.

16 You're right. We could decide to change
17 it tomorrow and not sell the RECs any more and
18 then we would be there because the generation
19 would be here, and I would just note I think
20 the recommendation of highlighting this is
21 right, but there is a component of this whole
22 mix that I can't put entirely my finger on,
23 but the thread back to siting, which is a
24 reason to at least mention it in my view, the
25 question to be further studied is some of the

1 draw -- and the -- why the volume of
2 applications has risen so much is in part I
3 think, and I don't know this to be true,
4 because everybody around us has a RPS and we
5 don't so they are looking for anyplace that
6 they can develop something, and so this
7 becomes an attractive place to do business,
8 which meets all the things you just said.

9 We do create local renewable generation
10 that we are not allowed to count while we take
11 the RECs and we can change that in the future,
12 but in the meantime I think it is a pressure
13 point of why we see the volume of applications
14 which one can decide whether they think for
15 themselves that's good or bad.

16 MS. EASTMAN: Annette.

17 MS. SMITH: Two points I want to make.
18 One is I think one piece Asa missed is that
19 the other piece of this so-called double
20 dipping is the utilities or whoever still has
21 the ability to claim credit for the SPEED
22 goals. So all these projects that are being
23 built are being credited towards the SPEED
24 goal, but then the renewables are being sold
25 out of state. So this is the sham that's

1 being talked about.

2 The Public Service Board issued a report
3 to the Legislature on this issue. I just
4 found it and e-mailed it to the Siting
5 Commission. So it explains it very clearly.
6 The executive summary is short. You can read
7 that. They recommend retiring the RECs. So
8 you might want to read that report and support
9 the report.

10 MS. McCARREN: Asa, it's Louise. If we
11 had a rule that said you can't sell the RECs
12 out of state -- you can't sell the RECs at
13 all, just make that up, wouldn't that cause
14 the other states in the New England who have
15 RPS requirements to find others to buy RECs
16 from or build it themselves? Okay.

17 MR. HOPKINS: Right, and they might well
18 find a field in Vermont which is a great place
19 to build their solar farm on and not have the
20 power serve Vermont at all and just have -- to
21 help meet their needs by building facilities
22 wherever they can site them. So it comes to
23 -- it does come back to siting.

24 I would push back a little on -- well
25 definitely the reason there is some of the

1 recent push to build renewables in Vermont
2 that has led to you all being where you are is
3 the existence of these RPSs, but I think a lot
4 of it is in terms of the work load. The sheer
5 number of cases is actually driven by the
6 single sort of gold rush, single standard
7 offer drop all the once, where it's 20 odd
8 people all have to go through the process all
9 at once.

10 MR. JOHNSTONE: I agree with that.

11 MS. McCARREN: Asa, I was going to ask
12 you do you know -- the standard offer was for
13 50 megawatts. Do we know how many new
14 applications we're getting that are not part
15 of the standard offer after we've reached that
16 50 megawatts? And I know that you guys are
17 retooling the next phase of the standard
18 offer, but are we saying -- what are you
19 saying? Are you seeing a huge decline in
20 requests once we fill that 50 megawatts?

21 MR. HOPKINS: We just put out the RFP
22 for the next bid and it's 5 megawatts for the
23 coming year and 5 megawatts for two more
24 years, 7 and a half for three years, and 10
25 for four years. So it will ramp back up

1 again, but realistically, you know, that's two
2 to three to four projects per year getting
3 contracts through that mechanism.

4 Now utilities may well go through
5 another means or merchants or whatever might
6 want to come in and build other things outside
7 the standard offer. That hasn't been
8 something we've seen too much of. There are a
9 couple of pending dockets and there's the
10 projects people are aware of that are
11 approved, but that's about it. We'll get two,
12 three, four, maybe five two-megawatt scale
13 standard offer projects per year for the next
14 little while, and separately there will be on
15 occasion larger projects. Whether they are 10
16 megawatts or 40 or whether they are biomass or
17 natural gas peaker turbine or peak capacity or
18 solar or what we'll have to see as they come.

19 MS. EASTMAN: Okay. Thanks, Asa.

20 MR. JOHNSTONE: Asa, that was really
21 great. Thank you.

22 MR. HOPKINS: Glad to be a help.

23 MR. RECCHIA: You're a rock star.

24 MS. MCGINNIS: Just so I understand what
25 I'm putting in the report I am going to

1 address the issue -- state the issue as it's
2 been described and say it's something that we
3 are aware of, that the Commission is aware of
4 this issue and hopes that someone is going to
5 address it.

6 MS. EASTMAN: And maybe after seeing
7 what the report from the PSB was we might also
8 acknowledge it appears the PSB has recommended
9 to the Legislature already.

10 MS. MCGINNIS: I would love to be able
11 to add that.

12 MR. RECCHIA: Why don't we make that one
13 of our assignments.

14 MS. EASTMAN: We'll look at that and --

15 MS. SYMINGTON: I'm really uncomfortable
16 about going further than saying we recognize
17 this is an issue, but you know I'm happy to
18 read the PSB report. I just don't think it's
19 our purview and I don't think it's fair to
20 think we have given full credit to this issue,
21 and I would like -- I would be very
22 uncomfortable with the report doing more than
23 simply acknowledging this is an issue that
24 really deserves some attention.

25 MS. EASTMAN: I wouldn't mind saying

1 that seeing the Public Service Board is taking
2 it up --

3 MR. BODETT: There are so many things
4 that are in our charge that we haven't
5 resolved yet, I think.

6 MR. RECCHIA: In the spirit of all good
7 committees we're going to talk about stuff we
8 don't need to do.

9 MS. EASTMAN: But it does relate.

10 MS. SYMINGTON: I heard you saying more.
11 You were going to like articulate it as these
12 are the problems it causes, and I don't think
13 we want to go that far.

14 MS. MCGINNIS: So I don't give any
15 description about it at all. Just say we know
16 there's an issue with RECs and RPS and we know
17 the Board is dealing with it. I don't know.
18 So don't describe it at all?

19 MS. SMITH: Maybe you should read the
20 Public Service Board report. You can decide
21 what you want to put in it. It's actually
22 kind of white washed from their draft report.
23 It's very straightforward and it is a
24 recommendation to the Legislature. So I think
25 you might just want to cite it, do what they

1 say.

2 MS. MCGINNIS: If we cite do what they
3 say --

4 MS. SMITH: Encourage the development of
5 most cost effective renewable resources
6 regardless of whether they are located in
7 Vermont or elsewhere, and encourage the
8 development of in-state renewable distributed
9 generation resources to the extent permissible
10 under federal law in order to bolster
11 Vermont's transmission and distribution. So
12 there's limitations they are based on, but
13 they have definitions of renewable in there
14 sort of thing.

15 MS. EASTMAN: Can we look at the
16 paragraph Linda had already?

17 MS. MCGINNIS: It was pretty bland.

18 MS. EASTMAN: It was pretty bland, but I
19 wouldn't take out addressing this issue. It
20 will be critical. We could take out that last
21 sentence and just say I mean that little bit
22 of a description about what it is and then the
23 fact that it's not within our purview. We
24 haven't -- we understand it's an issue.
25 Apparently the Public Service Board -- from

1 the last time.

2 MS. MCGINNIS: Second draft.

3 MS. EASTMAN: We're done, Sheila. We're
4 going to let you go.

5 MS. GRACE: Okay.

6 MR. RECCHIA: Thank you very much.

7 MS. EASTMAN: I think we just have a
8 couple of introductory sentences and what Gaye
9 said and perhaps make reference to the Public
10 Service Board report to the Legislature.

11 MR. JOHNSTONE: We can read the report.
12 If we want to revisit it after we read it,
13 then we can revisit it.

14 MS. EASTMAN: On Tuesday because we're
15 at 3:56.

16 MR. JOHNSTONE: Is there anything else
17 that was really critical for today?

18 MS. EASTMAN: And short.

19 MR. JOHNSTONE: Critical and short, and
20 doing critical things quickly.

21 MS. EASTMAN: The things we talked about
22 before you two got here, Joan is putting
23 together a public comment report and an
24 outline of what that might look like. It
25 won't have the public comments and will

1 probably be e-mailed to you soon. Just all
2 those things get put into places and she's
3 using the format that was used by the
4 Department for the energy conservation plan.

5 MR. RECCHIA: Great.

6 MS. EASTMAN: I think that today we've
7 pretty much talked about Jim's comments and
8 Karen Horne's comments. We talked about the
9 RECs issue. We haven't talked about ag, the
10 nuke issues. I think we need to be sure we go
11 through the 2004 recommendations next time,
12 and the Ridge Protector's comments, Billy.
13 That's what I said, some of the environmental
14 stuff I really want you guys to look at.

15 MR. COSTER: Yes.

16 MS. MCGINNIS: There's Louise raised a
17 number of comments in hers and I need to know
18 how I should incorporate them.

19 MS. EASTMAN: You say they are in here,
20 they are in the April 1 --

21 MS. MCGINNIS: No. She's sent it around
22 and I sent it to you a couple days ago.

23 MR. RECCHIA: So it's not the
24 recommendations on the third draft?

25 MS. MCGINNIS: It's her comments on the

1 third draft she sent around day before
2 yesterday.

3 MS. McCARREN: I believe it was Monday.

4 MS. MCGINNIS: I can go through them
5 verbally because I have them here and she
6 raised a couple of them that I was
7 uncomfortable with them, well, and need to
8 know from all of you how to address --

9 (Multiple voices.)

10 MS. EASTMAN: Linda.

11 MS. MCGINNIS: So if you look at
12 Commission goals, she wanted to have the
13 Commission understands to achieve the state's
14 clean energy goals as they are now
15 articulated, which is mixed sense, we must
16 have the processes for instate permitting and
17 approvals that create public trust and that
18 consider economic benefit and environmental
19 cost. She wanted to add that.

20 MS. SYMINGTON: Could it be and consider
21 economic and environmental costs and benefits?
22 I don't think it's just economic benefits and
23 environmental costs. I think there's costs
24 and benefits to both.

25 MS. MCGINNIS: Okay. Then the next part

1 is the first bullet of the Commission goals
2 the role of an opportunity for public
3 participation and representation. She wanted
4 to have including town planning and zoning.

5 MS. EASTMAN: I'm not going to zoning
6 still.

7 MS. MCGINNIS: I was trying to get in
8 the Commission goals here sort of what the
9 charges tell us, and the charges take at a
10 pretty general -- it's the public
11 participation or representation is what they
12 ask the Commission to do.

13 MS. SYMINGTON: This is just reflecting
14 what we were told to do.

15 MS. MCGINNIS: It's pulling out the ones
16 that you all seem to have been focusing on
17 more, and the ones you have been focusing on
18 the most have been public participation and
19 then the process uniformity, transparency, and
20 efficiency.

21 MS. EASTMAN: Depending upon what we
22 decide about municipal planning I think that
23 bullet will change.

24 MS. SYMINGTON: I was surprised when I
25 read this. I basically thought you were

1 interpreting what we were told to do.

2 MS. MCGINNIS: I was.

3 MS. SYMINGTON: I decided to leave it
4 alone. I was surprised there wasn't a bullet
5 that specifically addressed the increased
6 emphasis on planning and --

7 MS. MCGINNIS: That was not in our
8 charge. So this was trying -- but I'm happy
9 to add it. Planning was nowhere in your
10 charge. It's what came out of your
11 deliberations, but it was not in your charge,
12 but I'm happy to add it here.

13 MS. MCCARREN: Maybe the most efficient
14 way to deal with this is when you guys have --
15 if you don't agree with me, that's just fine.
16 I mean these were meant to be, you know, what
17 my key issues are. A lot of this was kind of
18 cleanup and just some suggestions so --

19 MS. MCGINNIS: I'll take some of them.

20 MS. MCCARREN: Take some and ignore the
21 rest.

22 MS. MCGINNIS: A couple of them are
23 substantive here, and one I have had trouble
24 with all along, and it comes from the charges,
25 is the third bullet which is we were told as a

1 Commission to look at cultural protection, and
2 I've struggled with that all along because
3 we've never once talked about it and yet it's
4 been part of the charges, and I don't know
5 what to do with it.

6 MS. EASTMAN: Are you where now?

7 MS. MCGINNIS: In the Commission goals
8 in the third bullet, adequate environmental
9 and cultural protection is one of the
10 Commission goals, and that's basically taken
11 from the charges.

12 MS. SMITH: For instance, cultural
13 protection could be the protection of the
14 Huntington Battlefield.

15 MS. MCGINNIS: Right. I understand what
16 it means. I don't understand how to write,
17 but it's because we have not once talked about
18 it.

19 MS. EASTMAN: This is where it comes in
20 -- where the planning comes in too.

21 MS. MCGINNIS: You're okay with me --

22 MS. EASTMAN: That will be part of the
23 local planning process.

24 MS. MCGINNIS: So I leave that out
25 cultural because Louise had a question on

1 cultural and it's been one I have had a tough
2 time with as well.

3 So, Louise, you're okay with us not
4 going through the rest of them?

5 MS. MCCARREN: Yeah. I would say you
6 know what my main issues are and I tried to
7 express them in there. The rest of it I think
8 are just suggestions for you. Okay.

9 MS. MCGINNIS: Okay.

10 MS. MCCARREN: Some are editing.

11 MS. MCGINNIS: Those I can deal with
12 really easily.

13 MS. EASTMAN: Is there anything else you
14 want from Louise's comments to date if we
15 haven't talked about it today?

16 MS. MCGINNIS: Well, for example, on the
17 fourth bullet community led does not mean
18 best. It means community accepted. I just
19 want to make sure that everybody is okay with
20 the fourth bullet, which is not in our charges
21 but is something that has seemed to come out
22 of our discussion, that ensuring that the best
23 rather than the easiest sites are selected,
24 which includes encouraging projects that are
25 community led.

1 MS. McCARREN: I was just being really
2 picky, okay, because I spent too much of my
3 life editing documents. I'm just being picky.
4 It says the best rather than the easiest which
5 -- and then the second clause which includes
6 encouraging projects that are community led.
7 They may well not be the same thing so -- and
8 I'm just being -- I'm editing and I'm being
9 picky so you can ignore it if you choose.
10 That's all.

11 MS. EASTMAN: I still want to encourage
12 some of the stuff, the work, that Scott did,
13 you know about when people -- when the wind
14 energy committees are really working.

15 MS. McCARREN: I have no problem with
16 supporting, and I do support, community led
17 projects. I had my editor's hat on.

18 MS. SYMINGTON: My thought was that's
19 two separate bullets because for me ensuring
20 that the best rather than easiest are selected
21 to me the emphasis that's where we were
22 talking about the planning, and so this issue
23 of the community led piece I think is an
24 additional -- it's related to the planning,
25 but it's a whole separate issue. There's

1 something in the way of having more community
2 led projects than, and we would like to
3 address that, but I think they are separate.

4 MS. MCGINNIS: And then just, Louise,
5 for you on the last bullet avoiding unintended
6 consequences, which is something Scott brings
7 up time and again which I think is important,
8 and understanding financial resource
9 constraints, this is what Gaye has brought up
10 and maybe I need to word it differently, but
11 it's making sure we are not having a whole
12 series of recommendations that are going to
13 have enormous financial costs for the
14 government that the government simply doesn't
15 have. That it won't require enormous --

16 MS. MCCARREN: I support that. I just
17 wasn't clear from the language what it meant.

18 MS. MCGINNIS: I'll switch the language
19 it make it clearer.

20 MS. EASTMAN: We talked about I can't
21 put it in place if we can't find a way to fund
22 it.

23 MS. MCGINNIS: Okay. Another broad area
24 we did not get to today, we may need to put it
25 off until the 9th, is the screening process.

1 MS. EASTMAN: I know.

2 MS. MCGINNIS: That's something
3 everybody is a little uncomfortable with, but
4 we need to understand what we want to get out
5 of a simplified tier process and whether or
6 not screening comes into play in that or not,
7 and I'm happy to go either way. It's just
8 that I was told last time to leave it in until
9 we had further discussed it so I'm leaving it
10 in until we further discuss it.

11 MS. EASTMAN: Well, again, okay. So I
12 think that's it for today.

13 MS. SMITH: I have one thing to say to
14 you. Welcome to Rutland County. As you get
15 outside and observe this beautiful area as you
16 look to the west be aware almost every
17 mountain you see from Rutland has been
18 proposed for wind turbines, and it's a really
19 amazing amount of land that's been proposed.
20 So the best place to see it is right by the
21 back entrance to the hospital, but you can see
22 it from right downtown, and just be aware
23 that's one of the things that has been a
24 factor for the many people who will probably
25 come tonight.

1 MR. JOHNSTONE: Point of clarification.
2 I presume that's in the Adirondacks in New
3 York?

4 MS. SMITH: No. It's the Tectonics. So
5 over that way is the Green Mountains.

6 (Multiple voices.)

7 MS. EASTMAN: Wait. We're still on the
8 record. One at a time.

9 MS. SMITH: The Ira project was about
10 5,000 acres owned by Yale endowment, and then
11 the Grandpa's Knob project is the entire
12 length of the ridge. So it goes from
13 basically West Rutland all the way to Brandon
14 and these are the mountains that you see as
15 you're in Rutland.

16 MR. JOHNSTONE: Thank you very much.

17 MS. EASTMAN: Thank you. We're now off
18 the record.

19 (Whereupon, the proceeding was
20 adjourned 4:10 p.m.)

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C E R T I F I C A T E

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2
3 I, JoAnn Q. Carson, do hereby certify that
4 I recorded by stenographic means the Hearing re: Energy
5 Generation Siting Policy Commission Deliberative Session,
6 at the Asa Bloomer State Office Building, 88 Merchants
7 Row, Rutland, Vermont, on April 3, 2013, beginning at 1
8 p.m.

9 I further certify that the foregoing
10 testimony was taken by me stenographically and thereafter
11 reduced to typewriting, and the foregoing 168 pages are a
12 transcript of the stenograph notes taken by me of the
13 evidence and the proceedings, to the best of my ability.

14 I further certify that I am not related to
15 any of the parties thereto or their Counsel, and I am in
16 no way interested in the outcome of said cause.

17 Dated at Burlington, Vermont, this 12th day
18 of April, 2013.

19 _____
20 JoAnn Q. Carson

21 Registered Merit Reporter

22 Certified Real Time Reporter
23
24
25