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## STATE OF NEW HAMPSHIRE

## PUBLIC UTILITIES COMMISSION

January 26, 2011 - 1:35 p.m.  
Concord, New HampshireDAY 3  
AFTERNOON SESSION ONLY

NHPUC FEB14'11 PM 4:02

RE: DE 10-195  
PUBLIC SERVICE CO. OF NEW HAMPSHIRE:  
Petition for Approval of Power  
Purchase Agreement between PSNH  
and Laidlaw Berlin BioPower, LLC.

PRESENT: Chairman Thomas B. Getz, Presiding  
Commissioner Clifton C. Below  
Commissioner Amy L. Ignatius

Sandy Deno, Clerk

APPEARANCES: Reptg. Public Service Co. of New Hampshire:  
Robert A. Bersak, Esq.

Reptg. the City of Berlin:  
Christopher Boldt, Esq. (Donahue, Tucker...)  
Kerian Roman, Esq. (Donahue, Tucker...)

Reptg. Bridgewater Power, Pinetree Power,  
Pinetree Power-Tamworth, DG Whitefield Power,  
Springfield Power & Indeck Energy-Alexandria:  
David J. Shulock, Esq. (Brown, Olson & Gould)  
David K. Wiesner, Esq. (Brown, Olson & Gould)

Reptg. Edrest Properties, LLC:  
Jonathan Edwards

COURT REPORTER: Steven E. Patnaude, LCR No. 52

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**APPEARANCES:** (C o n t i n u e d)

**Reptg. Residential Ratepayers:**

Meredith Hatfield, Esq., Consumer Advocate  
Kenneth E. Traum, Asst. Consumer Advocate  
Office of Consumer Advocate

**Reptg. PUC Staff:**

Suzanne G. Amidon, Esq.  
Edward N. Damon, Esq.  
Thomas C. Frantz, Director/Electric Div.  
George R. McCluskey, Electric Division



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E X H I B I T S

| EXHIBIT NO. | D E S C R I P T I O N   | PAGE NO. |
|-------------|---|----------|
| PSNH 15     | <b>RESERVED</b> (Re: 2015 Rate Effects within certain parameters) | 74       |

## 1 P R O C E E D I N G

2 (Hearing Resumed at 1:35 p.m.)

3 CHAIRMAN GETZ: Okay. We're back on the  
4 record in DE 10-195. And, turning to Ms. Hatfield.5 MS. HATFIELD: Thank you, Mr. Chairman.  
6 Good afternoon, panelists.

7 WITNESS LONG: Good afternoon.

8 WITNESS LABRECQUE: Good afternoon.

9 WITNESS SHAPIRO: Good afternoon.

10 WITNESS LARGE: Good afternoon.

11 BY MS. HATFIELD:

12 Q. Mr. Long, at the end of our morning session you had an  
13 exchange with Mr. Shulock that confused me. And, do  
14 you recall what that exchange was about?

15 A. (Long) No. I'm not sure what you're referring to.

16 Q. I thought you were referring to the new Provision  
17 Number 3 on Exhibit 9 (Rev. 1). And, I thought it had  
18 something to do with, actually, it was the -- it was  
19 the change from Number 9, which had a three -- a Term 3  
20 and a Term 4, and the number 4 related to beyond 2025.  
21 Do you recall that Provision 4 from the original Number  
22 9?

23 A. (Long) Yes.

24 Q. And, then, in Number -- in the Revised Number 9, you

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 had explained that some of the provisions in 3 and 4  
2 had been combined into just number 3, is that right?

3 A. (Long) Yes.

4 Q. And, then, he was asking you, he said something to the  
5 effect of "doesn't the PPA have a date with respect to  
6 the RPS law and -- or with respect to REC purchase  
7 requirements?" And, I think you said "yes". Do you  
8 recall that?

9 A. (Long) Yes. And, I also indicated I would have further  
10 discussions over lunch on that, to clarify the third,  
11 Number 3 matter there.

12 Q. And, now, the PPA, I think what you were both referring  
13 to, but I'm not sure I got it perfectly clearly, were  
14 you two talking about the fact that the PPA requires  
15 REC purchases starting in 2014 for 20 years?

16 A. (Long) Well, I can explain what the issue is, if you  
17 want me to?

18 Q. Okay. That would be great. Thank you.

19 A. (Long) Now I think I know what you're referring to.  
20 Yes, I think the question under Item Number 3 is, when  
21 we refer to "excess RECs", to what law does it apply?  
22 To what New Hampshire REC requirement are we referring  
23 to? And, as written here, it refers to RSA 362-F.  
24 And, the question was, is it that as of the date the

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 PPA was signed or is it that which is applicable at the  
2 time? And, the answer is, it's for that RSA  
3 requirement, which is applicable at the time. Not to  
4 be confused with the Power Purchase Agreement pricing  
5 under the RECs, which has a fixed date for the law, and  
6 the prices are based on that fixed date.

7 But, in regard to this Item 3, which  
8 only applies to certain measurements that would be  
9 applicable to Cumulative Reduction Factor, the RSA  
10 reference here is as it may exist from time to time.

11 Q. And, so, just if I can give you an example just to help  
12 further clarify that, for purposes of Paragraph 3, if  
13 the Class I REC requirement were to either decrease or  
14 increase, that's what you would look at to determine  
15 how this provision is put into place?

16 A. (Long) Yes.

17 Q. Are these all of the conditions that PSNH would be  
18 willing to support in terms of changes to the PPA?

19 A. (Long) I guess the answer is "yes", because I haven't  
20 seen any other.

21 Q. In Provision Number 1 in the Revised Exhibit 9, you  
22 describe this as giving some more clarity to just how  
23 much of the output of the plant customers are committed  
24 to purchase, is that right?

{DE 10-195} [Day 3 Afternoon Session Only] {01-26-11}

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 A. (Long) I think that -- that's correct. I think I would  
2 characterize it as a "cap". You know, the maximum  
3 amount that would be purchased under the Power Purchase  
4 Agreement.

5 Q. And, am I correct that the current PPA required that  
6 PSNH purchase on behalf of ratepayers 63 megawatts of  
7 output?

8 A. (Long) No. But it's Exhibit A, which has a winter  
9 rating and a summer rating. And, what Appendix A says  
10 is "The Facility will be designed to have a net  
11 electrical output at standard conditions of  
12 approximately 64 megawatts (winter) and 61 megawatts  
13 (summer)."

14 Q. And, under the current draft of the PPA, do you believe  
15 that you could have purchased 65 -- excuse me,  
16 67.5 megawatts?

17 A. (Long) I think it's a matter that could be argued,  
18 because it says "approximately 64", and it does not  
19 specify the maximum amount. Whereas, Item Number 1,  
20 this condition does specify a maximum amount.

21 Q. And, do you recall that you were asked by Attorney  
22 Boldt about the possibility of federal legislation that  
23 might impact some of the attributes of the Laidlaw  
24 facility?



[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 A. (Long) Yes.

2 Q. Are you aware of any effort to change the New Hampshire  
3 RPS in the current legislative session?

4 A. (Long) I haven't personally read anything. I was  
5 informed today that there is a bill before the  
6 Legislature. I have not reviewed it.

7 Q. And, do you know if any aspect of that legislation  
8 might impact the types of facilities that qualify for  
9 Class I?

10 A. (Long) Again, I have not read any legislation to date  
11 that may be new or proposed.

12 Q. And, if the definition of "Class I" was expanded to  
13 include, say, large hydro, that might have an effect on  
14 REC prices that would tend to drive them downward,  
15 would you agree?

16 A. (Long) All else being equal, yes, unless the actual  
17 percent requirement was increased along with it.

18 MS. HATFIELD: One moment please.

19 (Atty. Hatfield conferring with Mr.  
20 Traum.)

21 MS. HATFIELD: Thank you, Mr. Chairman.

22 I have nothing further at this time.

23 CHAIRMAN GETZ: Thank you. Ms. Amidon.

24 MS. AMIDON: I've asked Mr. McCluskey to

1       conduct this examination.

2                               MR. McCLUSKEY: Thank you.

3 BY MR. McCLUSKEY:

4 Q.    Mr. Long, I'm going to jump around, not necessarily go  
5        in order. Item 3, "Excess RECs". I think it's been  
6        established that the formula that's reflected in this  
7        revision does not include Schiller, that's correct?

8 A.    (Long) That's correct.

9 Q.    You would agree that there was no agreement among the  
10       parties that discussed the first version of this  
11       exhibit, there was no agreement among the parties that  
12       it was appropriate to exclude Schiller?

13 A.    (Long) Well, yes. I would go beyond that and say  
14        "there's no agreement on any of these." I've just  
15        indicated this is something that the parties to the PPA  
16        could accept as conditions. And, I'm not representing  
17        that anybody else has said they're for or against any  
18        of these conditions.

19 Q.    Okay. And, so that applies to the 2025 issue. The  
20        combining of the 3 and 4 into 3, under the Revised, is  
21        not -- there's no intent to address that 2005 [2025?]  
22        issue here, is that correct?

23 A.    (Long) I think the 2025 issue, if you will, is  
24        addressed by Item Number 3. But I wasn't trying to

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 represent that anybody agrees on it, agrees with this.

2 Q. Thank you. Going to Item 4 -- actually, before I do  
3 that, Item 3 proposes that any payments to Laidlaw in  
4 excess of the market price for excess RECs would flow  
5 into the Cumulative Reduction Account, is that correct?

6 A. (Long) Yeah, I think that's correct. If I can say it  
7 slightly differently, that the actual price paid for  
8 the REC would be compared with the value that was  
9 received for that REC, and any difference would go into  
10 the Cumulative Reduction Factor.

11 Q. Okay. So, potentially, this could build up, the  
12 balance in the Cumulative Reduction Account, relative  
13 to the current form of the PPA?

14 A. (Long) It could build it up or it could reduce it.

15 Q. Okay. If it were to build it up, increase it, it would  
16 still be subject to the market value cap that we  
17 discussed earlier today, correct?

18 A. (Long) Yes.

19 Q. In fact, it would probably increase the risk that the  
20 cap would come into effect and some of this value would  
21 never be realized by customers?

22 A. (Long) Again, it depends on your assumptions and  
23 scenarios for the future. It could go either way. It  
24 could decrease the risk, I suppose, just as easily as

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 it could increase the risk.

2 Q. Okay. With regard to 4, you said you didn't think  
3 there was any agreement among the parties at the tech  
4 session yesterday. But I seem to recall there was  
5 considerable agreement that the change from a \$34 to  
6 \$30 base price would have no material impact on the PPA  
7 prices, is that correct?

8 A. (Long) I guess the way I would say it is that Item 4  
9 all by itself does not result in any change in prices.

10 Q. Thank you. In regard to 2, the interest rate that's  
11 set forth in two, I think is the same interest rate  
12 that was in 2 in the first draft. I don't recall any  
13 discussion on whether that interest rate was  
14 appropriate. Would you agree with that?

15 A. (Long) As I said, no party has represented that they  
16 agree with this, other than the parties to the PPA.  
17 But this is the same interest rate that's specified in  
18 the Purchase Power Agreement.

19 Q. Item 1, this -- I calculate that this increase from  
20 63 megawatts, which we've been modeling this project  
21 on, to 67.5, would add \$114 million that customers  
22 would have to pay over the 20 years of the contract,  
23 assuming the 87.5 capacity factor. Does that seem --  
24 does that comport with your calculations or does it

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1 seem reasonable?

2 A. (Long) Are you saying that, compared to a number of 63,  
3 that we would buy more power and RECs and pay more, and  
4 your calculation yields some number?

5 Q. You would -- if the output of the capacity was  
6 increased, you'd buy more of every product, energy,  
7 capacity, and RECs, at the -- presumably at the same  
8 prices in the PPA. And, that would increase the  
9 revenues that Laidlaw would receive by 114 million.

10 A. (Long) I haven't made that calculation, but the concept  
11 is correct. If you get more product, you pay more.

12 Q. You said that you thought that 67.5 would go somewhere  
13 to resolving the measurement issue. I'm not  
14 understanding that. The existing facility -- my  
15 understanding is that this increase would come about by  
16 the replacement of the existing turbine generator that  
17 was intended in the initial facility with a new steam  
18 turbine. And, so, I'm not understanding why it would  
19 be easier to establish what the output is for a  
20 facility with a new turbine, compared with a facility  
21 with an existing turbine?

22 A. (Long) Well, Appendix A says "approximately  
23 64 megawatts", so someone might argue "67 is  
24 approximately 64." I don't know what position people

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1 might take. But Appendix A says "standard conditions  
2 of approximately 64." So, if they put in a turbine  
3 that theoretically can operate at 67, but it only  
4 operates at 65 or 64 or 63, I would think, you know,  
5 people -- it could well lead to a discussion.

6 MR. McCLUSKEY: I'll hand it over to Mr.  
7 Frantz.

8 BY MR. FRANTZ:

9 Q. Mr. Long, earlier in your testimony, which seems like  
10 weeks ago now, it was probably only yesterday, or  
11 perhaps on Monday, you mentioned that part of the PPA  
12 was to not make some of the mistakes that perhaps you  
13 made in the 1980s with the qualifying facilities and  
14 the orders approving them. Do you remember that?

15 A. (Long) Yes.

16 Q. And, wasn't one of the perhaps errors in retrospect  
17 that the Commission approved orders at certain megawatt  
18 levels that, in fact, when the facilities were then  
19 financed and built were substantially larger than what  
20 was estimated or expected to be built?

21 A. (Long) Yes, that was an issue, in some facilities.

22 Q. So, do you agree that perhaps having a fixed capacity  
23 would help alleviate that? In fact, you just discussed  
24 with Mr. McCluskey that what's approximate would, in

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 fact, vary depending on and be an issue potentially in  
2 this PPA?

3 A. (Long) Yes. It's a potential issue. I agree.

4 Q. Would you agree that prices during some months are, on  
5 average, certainly higher than other months of the  
6 year?

7 A. (Long) Historically, I think higher loads,  
8 winter/summer, tend to yield higher prices.

9 Q. If you were looking to get more value perhaps from this  
10 PPA, and one way to perhaps reduce risk is putting a  
11 cap on megawatts, but couldn't you do the same thing  
12 for output megawatt-hours?

13 A. (Long) There's nothing in the PPA that does that, that  
14 would do that. So, I don't see that as a viable  
15 option.

16 Q. Did you attempt to do that in the PPA?

17 A. (Long) No. No.

18 MR. FRANTZ: That's all the questions  
19 I've got.

20 CHAIRMAN GETZ: Commissioner Below.

21 CMSR. BELOW: Thank you, Mr. Chairman.

22 Good afternoon.

23 MR. SHULOCK: Excuse me.

24 WITNESS LONG: Good afternoon,

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1 Commissioner.

2 CHAIRMAN GETZ: Mr. Shulock, yes?

3 MR. SHULOCK: Before the Commission  
4 begins, may I ask a few follow-up questions, based upon  
5 the clarification that Mr. Long provided, based upon his  
6 discussions over the lunchtime?

7 CHAIRMAN GETZ: Well, I guess we were  
8 going to get some clarification over the lunchtime.

9 MR. SHULOCK: I believe he clarified it  
10 on the stand.

11 CHAIRMAN GETZ: Well, what I wanted to  
12 ask, is that all of the clarification that was going to be  
13 provided?

14 MR. BERSAK: I believe that it is,  
15 Mr. Chairman.

16 CHAIRMAN GETZ: Okay.

17 MR. BERSAK: I think Mr. Long adequately  
18 described what the proposed or potential change in  
19 Paragraph 3 of Exhibit 9 was intended to do.

20 CHAIRMAN GETZ: Okay. I guess we'll  
21 permit inquiry onto that issue. And, I see Mr. Edwards is  
22 now here, and you're raising your hand, sir?

23 MR. EDWARDS: Yes. I was unable to  
24 attend any earlier today. And, I'm wondering, in light of

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1 these changes to the PPA, if I could also cross Mr. Long  
2 with just a few questions?

3 CHAIRMAN GETZ: On the Exhibit 9?

4 MR. EDWARDS: Yes.

5 CHAIRMAN GETZ: Okay. We'll permit  
6 that. Well, let's -- Mr. Shulock, let's bring you  
7 up-to-date, and then we'll give Mr. Edwards an  
8 opportunity.

9 MR. SHULOCK: Thank you.

10 BY MR. SHULOCK:

11 Q. Mr. Long, if I understood your answer correctly, you  
12 said that the term "New Hampshire Class I RECs", in  
13 Section Number 3, is intended to apply the definition  
14 -- the statutory definition of "New Hampshire Class I  
15 RECs" as changed from time to time by the Legislature,  
16 is that correct?

17 A. (Long) Yes.

18 Q. Okay. So, the minimum requirement that you had to  
19 obtain or retire New Hampshire Class I RECs would be  
20 from -- the percentage from the statute, is that right?

21 A. (Long) The percentage as applied to something that  
22 gives you an amount.

23 Q. Okay. By the way, what does "successor requirement"  
24 mean there?

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 A. (Long) Just what we said.

2 Q. And, then, the New Hampshire Class I RECs available to  
3 PSNH from the Lempster PPA, that would be statutory New  
4 Hampshire Class I RECs, is that right?

5 A. (Long) Yes.

6 Q. Okay. And, a statutory New Hampshire Class I REC is a  
7 certificate that can be used for compliance with the  
8 New Hampshire Class I REC requirement, is that right?

9 A. (Long) Yes.

10 Q. Okay. And, it would be the same for Smith Hydro,  
11 statutory?

12 A. (Long) Yes.

13 Q. Okay. And, would it be the same for New Hampshire  
14 Class I RECs purchased from seller, the statutory  
15 definition from time to time?

16 A. (Long) Yes.

17 Q. Okay. So, if the statutory definition of "New  
18 Hampshire Class I RECs" changes, or the eligibility  
19 requirements to produce a New Hampshire Class I REC as  
20 defined in the then current statute changes, would your  
21 facility -- I'm sorry, would the Laidlaw facility be  
22 producing New Hampshire Class I RECs, as defined by the  
23 statute at that time?

24 A. (Long) I'm not sure I follow your question. If the

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1 statute defines it so, then it will. If it does not  
2 define it, then it won't. That doesn't mean that it  
3 won't qualify somewhere else and have value.

4 Q. We're speaking, aren't we, about New Hampshire Class I  
5 RECs that can be used for compliance with the New  
6 Hampshire RPS, right?

7 A. (Long) Yes. But we're also talking about the  
8 disposition of excess RECs.

9 Q. Would you agree with me that, if it's defined as "New  
10 Hampshire Class I RECs", as defined by the statute from  
11 time to time, and the facility is not eligible to  
12 produce New Hampshire Class I RECs at some later point,  
13 either because the requirements change or whatever,  
14 that all Laidlaw RECs would be considered "excess"?

15 A. (Long) It could, you could have that scenario.

16 MR. SHULOCK: Great. Thank you very  
17 much. Oh -- thank you.

18 CHAIRMAN GETZ: Mr. Edwards.

19 BY MR. EDWARDS:

20 Q. Mr. Long, since PSNH and Laidlaw, well, for that  
21 matter, everyone here, is diligently working towards a  
22 PPA that's more acceptable to everyone involved here, I  
23 would anticipate that you're communicating with Laidlaw  
24 regarding everything that can be done to reduce the

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 rate within the PPA, am I right?

2 A. (Long) No, you're not. The PPA has already been  
3 signed. There's no more negotiations.

4 Q. Okay. So, we're not trying to find out any other  
5 further ways of reducing the rate within the PPA at  
6 this point in time with Laidlaw?

7 A. (Long) No. No, that price -- that price is defined in  
8 the signed agreement.

9 Q. Okay. As I mentioned the other day, Mr. Sansoucy's  
10 expert testimony is stating that the infrastructure of  
11 that facility should be saving a considerable amount of  
12 money. And, given those savings, I would think that it  
13 would be important for us to know that Laidlaw has  
14 taken those savings into consideration, the  
15 infrastructure into consideration, in trying to come  
16 together with a price, a rate as low as they can,  
17 wouldn't you agree?

18 A. (Long) Well, I don't know what Laidlaw did or didn't  
19 consider. Again, I'm not Laidlaw. I represent Public  
20 Service Company.

21 Q. Okay. And, for that matter, if there hasn't been any  
22 conversation with Laidlaw regarding economy of scale,  
23 in hopes that that economy has also been reflected in  
24 the PPA, is that right?

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1 MR. BERSAK: Mr. Chairman, I know that  
2 Mr. Edwards was not here this morning, but I thought that  
3 we are now limiting the examination of the panel to what  
4 was in PSNH Exhibit 9. And, I believe that some of the  
5 matters that Mr. Edwards might have been referring to in  
6 his previous question related to portions of testimony  
7 from Mr. Sansoucy that had been stricken. I'm not going  
8 to object, I'm just trying to figure out where you want  
9 this portion of the proceeding to go.

10 CHAIRMAN GETZ: Well, Mr. Edwards, I did  
11 ask if your questioning was going to be relative to  
12 Exhibit 9, you indicated that it would be, and you  
13 indicated that you only had a few questions. So, I need  
14 to get a feel for where you're going, because you're off  
15 of Exhibit 9 it seems at this point.

16 MR. EDWARDS: I guess I don't have any  
17 further questions. I was just curious if, in light of  
18 trying to make this PPA more acceptable to all of the  
19 parties, whether or not some communication between Laidlaw  
20 and PSNH was taking place. Because, unfortunately, we  
21 don't have Laidlaw here to ask.

22 BY MR. EDWARDS:

23 Q. So, based on what you're telling me, there is no  
24 communication between the two parties of the PPA

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 regarding the questions that I asked the other day?

2 A. (Long) Oh, for clarity, because I did say it earlier  
3 today also, the items that are listed in PSNH Exhibit 9  
4 Revision 1 have been discussed between the parties to  
5 the PPA.

6 MR. EDWARDS: I have no further  
7 questions.

8 CHAIRMAN GETZ: Thank you. Commissioner  
9 Below.

10 CMSR. BELOW: Thank you.

11 BY CMSR. BELOW:

12 Q. Let me start with the general rebuttal testimony of the  
13 witnesses. What do you consider to be a long-term  
14 Purchase Power Agreement in general? How many years?

15 A. (Long) Well, to me, it's 15, 20 or more years.  
16 Sometimes I've heard people refer to two and three  
17 years as "long term". But, when I think of "long  
18 term", it's longer than two or three years.

19 Q. Okay. On Page 19, at Line 4, is the statement that  
20 "PSNH would not enter into a long term PPA without the  
21 CRF." Is that a general statement or is it intended to  
22 apply to this PPA? Well, it doesn't say "this PPA", it  
23 says "a long term PPA".

24 A. (Long) Yes. And, in that context, Commissioner, I

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 really was thinking about the "15 to 20 or more". We  
2 have done agreements of two or three years, and there's  
3 far less risk of mismatch between contract prices and  
4 market prices, because you'd have a shorter term quote  
5 from a broker. You know, you know what some of the  
6 alternatives is, but you don't have that sort of  
7 information for a 15, 20 or longer period. And, so,  
8 I'm really referring to the longer long-term  
9 agreements. And, this really gets to what we said  
10 earlier that, because prices are not predictable, we'd  
11 need some sort of protection and some sort of balance  
12 between tying it to market prices, at the same time  
13 providing revenue assurance that would allow financing.

14 Q. Wasn't the Purchase Power Agreement with Lempster Wind  
15 Farm approximately 15 years in length and didn't have a  
16 CRF?

17 A. (Long) No, it didn't. And, as I stated earlier, I  
18 don't think that contract is duplicatable. You know, I  
19 haven't seen any like it, and I don't have any hopes  
20 that a developer today would accept those prices. It  
21 was a unique bilateral discussion, you know, on the  
22 developer that really needed our assistance. And, I  
23 think have actually -- we did quite well in negotiating  
24 those prices of the product that was later sold. But

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 it was really a reflection of the circumstances at that  
2 time with that party.

3 Q. Okay.

4 A. (Long) And, wind, I will say, is less capital-intensive  
5 than a biomass. So, I wouldn't want to compare a wind  
6 contract with a biomass contract, because they do have  
7 different operating characteristics, but certainly  
8 different capital characteristics, different economic  
9 effects on the state.

10 Q. On Page 24, at Line 5, there's the statement that  
11 "Migration is heavily influenced by the price of PSNH's  
12 Energy Service relative to the costs of full  
13 requirement service available via a competitive retail  
14 supplier." And, the next sentence points that its  
15 cycled up and down. Do you have any concern that, in  
16 the short term, if the total price of this product,  
17 once it comes on line, were to be higher than the  
18 competitive pricing, that it could aggravate --  
19 increase the rate of customer migration and potentially  
20 aggravate the problem of rising prices for a shrinking  
21 Default Service customer base?

22 A. (Long) Yes, I do have some concern. And, I think that  
23 does raise, you know, what renewable policy issues in  
24 the state that I think are worthy of discussion. But,

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1 yes, it could have. I don't what the prices will be in  
2 2014 or '15, or whenever this comes into service, and  
3 it goes on for 20 years. So, that concern might not  
4 exist when it actually goes into service, I don't know.  
5 It depends on market conditions at the time. But, yes,  
6 I think it relates to a policy issue of "how do we, in  
7 New Hampshire, particularly in New Hampshire, but in  
8 New England, advance renewables under, you know, low  
9 market price conditions?"

10 Q. On Attachment PSNH Rebuttal 2, which is I guess on Page  
11 39, there's this graph of "Energy Pricing Under Laidlaw  
12 PPA". And, since this is going back in time, I just  
13 wonder if somebody could explain, I know you've touched  
14 on this earlier in your testimony, but explain, I mean,  
15 this is a hypothetical, as if the Laidlaw PPA had been  
16 in effect starting back in what, March of '03. How did  
17 you sort of run the clock backward to try to create  
18 this hypothetical historical comparison?

19 A. (Long) Yes. Quite simply, you know, as we said, we  
20 can't predict the future, but we can at least measure  
21 it against things that happened in the past. And, the  
22 market prices are what they are. They're from ISO, so  
23 they're real, actual data. And, the wood prices are  
24 simply taking the formula that's in the Power Purchase

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1 Agreement, applying the actual wood prices to that  
2 formula, and then plotting them on this chart.

3 Q. So, this is just looking at the energy component,  
4 adjusting the energy -- the base price, based on the  
5 Wood Price Factor and the Wood Price Index, based on  
6 what you -- an historic wood price data series, by  
7 quarter, or a month, or something like that?

8 A. (Long) Yeah, that's the idea. It's purely a  
9 demonstration that, you know, despite, you know, the  
10 beliefs and assumptions of some of the witnesses, you  
11 know, here's how it would have played out, and it would  
12 be highly competitive with the energy market. And, you  
13 know, this is -- that was the time frame in which this  
14 was negotiated.

15 Q. Okay. For Dr. Shapiro. In general, is the sort of  
16 major import of your rebuttal testimony that, even if  
17 you try to account for or make an assumption that  
18 there's a above-market price factor, and, essentially,  
19 the cost to ratepayers of paying that above-market cost  
20 from what they otherwise would have paid for  
21 electricity, and if you account for that in the RIMS II  
22 model, that that negative economic impact of loss of  
23 income, if you will, that can be spent on other things  
24 is still less than the positive benefits on an ongoing

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1 operational basis?

2 A. (Shapiro) Yes. Just to be clear, the estimate of the  
3 26 million of the cost, we disagree with. We've had a  
4 lot of discussion about that. But it was put out and  
5 relied upon in Staff testimony for the analysis. And,  
6 in my rebuttal, I point out that the benefits that are  
7 estimated to come from such a project of this magnitude  
8 directly in a sector this important to the economy does  
9 outweigh, from a modeling perspective, any potential  
10 downside of a price increase. Under that hypothetical  
11 assumption, that's what the price increase would be.

12 Q. On Page 4 of your testimony, at Line 3 and 4, you point  
13 out, as one particular additional benefit, the  
14 expectation that Laidlaw, as stated in their SEC  
15 application, that they would "pay in excess of a  
16 million dollars in local property taxes."

17 A. (Shapiro) Yes.

18 Q. That -- I take it that you didn't model that to reflect  
19 that specific impact, but presumably, assuming that  
20 Laidlaw has a fairly small marginal impact on services,  
21 you know, which is a big assumption, but assuming that  
22 they don't increase the cost for the City of Berlin and  
23 the Berlin school system to serve the public or provide  
24 services, presumably most of that million dollars would

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1 be reduction in property taxes to other taxpayers,  
2 which would mean that those other taxpayers have that  
3 money to spend on other things, is that correct?

4 A. (Shapiro) Yes.

5 Q. As much as --

6 A. (Shapiro) It is.

7 Q. And, there would be, if you put that in the RIMS II  
8 model, that would have some impact of that increased  
9 money available for other expenditures or investments?

10 A. (Shapiro) Yes. The RIMS II really looked at a limited  
11 set of the benefits. It looked, on an operating basis,  
12 primarily at the wood purchase. And, secondly, the  
13 direct 40 jobs from operation. It did not take into  
14 account the total operation expenditures or the  
15 indirect or induced impacts from the 40 people that  
16 would be working there, any of the tax benefits, and  
17 then how that would flow back through the economy, from  
18 reducing taxes to area businesses, the direct benefits  
19 of the funds to the City for further economic  
20 development, or the synergistic development, if they  
21 come forward to collocate a biomaterials facility. So,  
22 the numbers that I based on to come to the conclusion  
23 that any negative impacts of the hypothetical  
24 \$26 million rate increase were still dwarfed by the

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1 positives, were still only a subset of all the benefits  
2 that I raised in my direct and rebuttal.

3 Q. Okay. Turning to the Purchase Power Agreement, I guess  
4 that's Exhibit 2, I've got several questions. First  
5 is, does anyone know whether -- how long the compliance  
6 obligation in other New England states that have an  
7 RPS, all the states other than Vermont, how far they  
8 extend till?

9 A. (Long) It's my understanding that they extend  
10 indefinitely.

11 Q. Okay. And, does -- would the Seller, under the PPA,  
12 have any obligation to qualify their output under the  
13 RPSs of other New England states?

14 A. (Labrecque) Yes. I'm looking for the section. I  
15 believe it's Section 8.1 that begins on Page 12. And  
16 that, at the top of Page 13, states "Seller also  
17 agrees, promptly following receipt by Seller of a  
18 written request from PSNH, to make commercially  
19 reasonable efforts to apply to other programs for the  
20 purpose of increasing the value of the products to  
21 PSNH." It goes on to state that that's primarily  
22 administrative costs of making filings and preparing  
23 data. If they had to install additional equipment or  
24 make any material changes to operations that would

1 increase their expenses, the two parties could discuss  
2 whether or not PSNH could offer to make a payment to  
3 compensate them, in order to receive this increase in  
4 value.

5 Q. And, what if, arguably, it didn't increase the value of  
6 the products to have them qualify under other states'  
7 RPSs, then they wouldn't need to? I mean, they  
8 wouldn't be obligated, if you make the request, if it  
9 didn't increase the value of the products? I mean, I'm  
10 just trying to contrast that with Section 9.2 below,  
11 which explicitly states that "Seller shall...operate  
12 and maintain the facility so that it obtains and  
13 retains its eligibility to produce New Hampshire Class  
14 I RECs, subject to the provisions of Section 8.1."  
15 But, I mean, that's rather explicit, that they have to  
16 maintain it, retain its eligibility to produce New  
17 Hampshire Class I RECs. But they don't really have  
18 that, quite the same obligation under 8.1, because,  
19 first of all, you have to make a written request, and  
20 then, second, it has to presumably increase the value  
21 of the products for them to qualify them.

22 A. (Long) Yes. Commissioner, I would say increase the  
23 value or increase PSNH's flexibility in dealing with  
24 its entire portfolio. You know, I think, generally

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 speaking, if we don't think a REC will have value in a  
2 state, we probably wouldn't request, you know, the  
3 owner of the facility, Laidlaw, to pursue it. But, if  
4 we felt it gave us flexibility or might, in the future,  
5 give us flexibility, or increased value, but -- or the  
6 potential for value, then, you know, we want them to  
7 cooperate with us and register in other states, much  
8 like Schiller is registered in multiple states.

9 Q. Okay. I'd like to try to understand, I'm a little  
10 confused about how some of these provisions would  
11 operate absent a change in law, in particular with what  
12 happens after 2025. And, I understand there's, you  
13 know, there's different legal interpretations, but I'm  
14 trying to understand from a business deal point of view  
15 how this might play out. And, it would perhaps assist  
16 me, if you could look at a common version of the RSA.

17 CMSR. BELOW: Mr. Bersak, could you  
18 assist me in providing your witness --

19 MR. BERSAK: Absolutely.

20 CMSR. BELOW: -- with a copy of an  
21 excerpt from the RSA 362-F:3.

22 (Atty. Bersak handing document to the  
23 witnesses.)

24 BY CMSR. BELOW:

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 Q. And, I think previously, Mr. Long, when you were  
2 referring to it, you were looking perhaps at a version  
3 that was from online or some other source that didn't  
4 have the table with the numbers lined up clearly. Did  
5 you previously, in your testimony, talk about 362-F:3?

6 A. (Long) Yes.

7 Q. Yes. Okay. And, I think you previously testified that  
8 you interpreted this requirement to extend beyond 2025,  
9 not as a legal interpretation, but from your trying to  
10 develop a business arrangement with the seller,  
11 correct?

12 A. (Long) Yes.

13 Q. Okay. Just looking at this, where the first sentence  
14 says "For each year specified in the table below", and  
15 then it talks about the providers of electricity have a  
16 compliance obligation, if you will, to obtain or retire  
17 certificates. And, the table has some columns headed  
18 "2008" through "2015", then it jumps to "2025". And,  
19 there's an asterisk in which, at the bottom of the  
20 table, there's a footnote that talks about "Class I  
21 increases an additional one percentage per year from  
22 2015 through 2025. Classes II through IV remain at the  
23 same percentages from 2015 through 2025". So,  
24 presumably, because that footnote's part of the table,

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1 you know, the 2015 through 2025 are covered. But it  
2 would seem that there's at least some ambiguity as to  
3 what -- or there might be ambiguity beyond 2025. But  
4 let's assume that some court of competent jurisdiction  
5 determined that, without any change in law, with the  
6 way the law reads now, there's no obligation beyond  
7 2025. If one assumes that, then some of the language  
8 in the PPA talks about -- it talks about what happens  
9 if there is a change in law, but, if there's no change  
10 in the law, and the law were to be interpreted to say  
11 "there's no obligation beyond 2025", is it your  
12 understanding that there would still be a basis for  
13 determining the price, because, presumably, there would  
14 be an ACP through at least 2025, and possibly beyond  
15 that? And, I guess the question -- I guess what I'm  
16 trying to understand is, is what -- is there some risk  
17 that, without a change in the law, that there are no  
18 Class I RECs or that the price is -- that there's not a  
19 clear -- that there's not an ACP to index to beyond  
20 2025 without a change in the law? I mean, does the  
21 economic bargain that's being struck explicitly assume  
22 that the obligation in the ACP goes beyond 2025,  
23 irregardless of how the law is actually interpreted or  
24 decided, say, by the New Hampshire Supreme Court what

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1 it means?

2 A. (Long) No, I understand your analysis. And, I think  
3 your premised on "no requirement after 2025". And,  
4 your discussion sort of points to, as you said,  
5 "ambiguity". Because there's other sections of 362-F  
6 that provide for the ACP to continue to be increased  
7 beyond 2025. So, when you look at those other sections  
8 of 362-F, it sort of doesn't make sense that there  
9 would be no requirement, even though Commission review  
10 continues beyond 2025 and ACPs continue to be set  
11 beyond 2025. And, that's part of the reason why I  
12 believe it was not the legislative intent for this to  
13 read that it "ends at 2025". If it does, if that's  
14 somehow found to be the case, then, as you said, the  
15 contract prices would be as set by the contract, and  
16 the value of all the renewable attributes, you know, we  
17 would try to market and obtain them through whatever  
18 means we could.

19 Q. So, if we reference 362-F:10, II and III, and do you  
20 have a copy of that somewhere? I didn't -- oh, it is  
21 actually on the back of what I provided you.

22 A. (Long) Oh, there it is.

23 Q. II of 362-F:10 states, "In lieu of meeting the  
24 portfolio requirements of RSA 362-F:3 for a given

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1 year", and then it goes on and talks about the ACPs.  
2 So, again, I guess the question is whether a "given  
3 year" refers to years -- the years up through 2025 or  
4 might extend beyond that. But, in III, it simply says  
5 "Beginning in 2008, the Commission shall adjust these  
6 rates by January 31st of each year using the CPI", and  
7 it specifies it. So, what you're saying is, for the  
8 purposes of the business terms of the PPA, you're  
9 assuming that 362-F:10, III, because there is no  
10 constraint on the years, that the Commission will keep  
11 adjusting the ACPs indefinitely under current law,  
12 perhaps irregardless of whether there's actually any  
13 compliance obligation beyond 2025?

14 A. (Long) That's why the only way I can read the law in  
15 its entirety is that it goes beyond 2025. Again, you  
16 asked earlier, it's how all other states have set up  
17 their RPS, and many of those states set it up before  
18 New Hampshire did. And, New Hampshire was modeled in  
19 large degree after Massachusetts. And, then, III and  
20 IV, and then there's also another section where monies  
21 are distributed by the Commission. And, they all say  
22 "annually thereafter". None of them say "This ends in  
23 2025." And, so, again, I'm not a lawyer, but, as I  
24 read it, when you read it altogether, this goes on

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1 indefinitely. And, that the Governor's goal and the  
2 State's goal was to reach 25 percent. And, it ramps up  
3 to about that number, 25 percent, in 2025. So, you  
4 know, my interpretation is, the State has reached its  
5 goal, it's hitting 25 percent. I don't think the State  
6 meant to go to zero the very next year. I think they  
7 meant "go get to 25 percent, and at least stay there as  
8 a minimum, as a minimum requirement." It just makes no  
9 sense to me to go from 25 to zero. And, as a business,  
10 it basically tells businesses "don't do anything about  
11 complying, other than take short-term market prices,  
12 because the law tells you you have no requirement in  
13 2026." And, that just is a nonsensical interpretation,  
14 in my opinion.

15 CMSR. BELOW: Mr. Bersak, could you  
16 assist me again with one other document.

17 MR. BERSAK: Absolutely.

18 (Atty. Bersak handing document to the  
19 witnesses.)

20 BY CMSR. BELOW:

21 Q. They're all the same. What this is is a section of our  
22 -- the New Hampshire Code of Administrative Rules, Part  
23 Puc 2503, "Renewable Portfolio Certificate  
24 Obligations". And, Puc 2503.01 is the "Minimum

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 Certificate Obligations". And, I think, if you look  
2 at, under (c), it says "Pursuant to RSA 362-F:3, for  
3 calendar years 2012 through 2025, the percentages shall  
4 be as specified in Table 2500.01 as follows and as  
5 modified pursuant to (d) through (g) below." And, do  
6 you see "Table 2500.01 Minimum Electric Renewable  
7 Portfolio Standards"? Do you see that?

8 A. (Long) Yes.

9 Q. Okay. And, is it apparent that the table only goes  
10 through 2025 and is silent beyond 2025?

11 A. (Long) Yes. That's what it says, because those are the  
12 only years in which it changes. So, you don't need to  
13 show any more, because nothing changes beyond this  
14 table. You know, if you don't show a 2026 that says  
15 "now it's zero", so, since no change is shown, I think  
16 it's fair to say that interpretation could well be and  
17 that's where it is and that's where it stays, you know?

18 Q. But that's a legal question?

19 A. (Long) Yes. I'm just saying, that's the way I read.

20 Q. Okay. And, Puc 2503.02, which is on the flip-side,  
21 "Alternative Compliance Payments", (b) says, "On or  
22 before January 31 of each year, the Commission shall  
23 establish the alternative compliance payment for each  
24 class by adjusting the previously applicable

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1 alternative compliance payment by a percentage equal to  
2 the annual percentage change, as measured from the  
3 preceding ... year, in the Consumer Price Index", and  
4 it goes ahead and specifies which one that is. Is it  
5 -- is there anything there that indicates that that's  
6 only for certain years or just says --

7 A. (Long) No, it goes indefinitely, by my interpretation.

8 Q. Okay.

9 A. (Long) There's no -- there's nothing that says it  
10 should stop in year 2026 or '25.

11 Q. So, irregardless of the compliance obligation, however  
12 that might legally be interpreted, your view, from a  
13 business point of view, is that the PPA can operate,  
14 because it connects what you pay for the renewable  
15 product payment to the ACP ultimately as published or  
16 produced by the PUC, pursuant to this Rule Puc 2503.02,  
17 is that correct?

18 A. (Long) That's correct. But, when I was looking at it,  
19 I wasn't looking at the rule, I was looking at the RSA.

20 Q. Okay. Do you understand that generally rules,  
21 administrative rules have the force and effect of law?

22 A. (Long) That's my understanding.

23 Q. Okay. So, it's part of the application of the statute,  
24 if you will. I think I may be ready to leave this

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 topic. Did you want to --

2 CHAIRMAN GETZ: Yes, I just wanted to  
3 make sure I understand.

4 BY CHAIRMAN GETZ:

5 Q. But, I think, Mr. Long, in responding to Commissioner  
6 Below, you've been focusing on what your understanding  
7 is of how the law will act after 2025. And, I thought  
8 one of the points that Commissioner Below was pointing  
9 out was, in the operation of the pricing under  
10 Section 6.1.2(c) on the Class I RECs, that it looks  
11 like, in your definition of "Renewable Products  
12 Payment" under 1.57, you've anticipated having a  
13 reference point to use if there is a change in law.  
14 And, I thought part of the import of his question was,  
15 "what if it's not a change in law necessarily that  
16 leads to no RECs after 2025, but there is an  
17 interpretation of the law as it exists different from  
18 your understanding of what the law is?" So, "is there  
19 a set that you haven't covered in the contract?" I  
20 think is the question.

21 CMSR. BELOW: That's right.

22 **BY THE WITNESS:**

23 A. (Long) Yes. It's a valid question. You know, I and we  
24 have always believed that the requirement goes on

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1 indefinitely. And, the Power Purchase Agreement was  
2 built on that basis. And, the Item 3 that we present  
3 today is a way of addressing the possibility that there  
4 might not be a requirement, and I think, as you say, an  
5 interpretation that's different than mine. And, that's  
6 what that offer of 3 was intended to address. But, I  
7 think, to me, it's -- if the law is ambiguous, if it  
8 can't be cleared up in some proceeding, then, you know,  
9 maybe perhaps go to the Legislature and then ask them  
10 to clarify it. But -- or maybe the record already  
11 does, maybe the legislative intent record already does  
12 clarify it, I don't know. You know, that could be a  
13 legal proceeding or some sort of review.

14 It just, from a business point of view,  
15 it just makes no sense to me. And, I don't think it  
16 was the intention of the parties, the legislators who  
17 passed that law, that it would just hit a cliff on the  
18 year 2026 and go down to zero. I mean, if that's the  
19 signal they send to the business community and  
20 developers, it's essentially saying "We really don't  
21 want renewables." You know, and I think it's just the  
22 opposite. I think this state has repeatedly and its  
23 officials have repeatedly said "We want to go on a path  
24 of greater renewables." And, I think, as the RPS is

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1 written, it says "minimum". It seems really odd to me  
2 that they would say "The minimum is this, and you can  
3 exceed this minimum, but we're going to make the  
4 minimum zero."

5 BY CHAIRMAN GETZ:

6 Q. But, again, that's going back to how do you --

7 A. (Long) It makes no expense.

8 Q. -- how do you interpret 362-F?

9 A. (Long) Yes.

10 Q. And, this is a very specific question about "is there a  
11 whole in the contract that hasn't been contemplated?"

12 A. (Long) Well, it doesn't change the prices. As you  
13 pointed out, the prices are set in the contract, and I  
14 think that we know what they are or what they will be  
15 in the future. If your question gets to "what is the  
16 value of the renewable attributes that you have in the  
17 contract, and, as I said, the contract is written so  
18 that we get all renewable attributes, not just New  
19 Hampshire REC attributes. But it could be CO2  
20 emissions, it could be cap and trade, it could be a  
21 National Renewable Portfolio Standard that exists  
22 sometime in the future in the history of this thing  
23 that happen way before 2025. And, that's why we wrote  
24 the contract the way we did. We just -- we know that

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1 sometimes there are changes in policies and laws, you  
2 know, but we think the direction is for more  
3 renewables, not less, for more environmental action,  
4 not less, for more action by the federal government,  
5 not less. And, so, we tried to position this thing to  
6 create -- to just continually create opportunities for  
7 value.

8 CHAIRMAN GETZ: Commissioner Below.

9 BY CMSR. BELOW:

10 Q. Turning to PSNH Exhibit 9 (Rev. 1). The opening clause  
11 says, "In response to testimony of the parties, the  
12 developer had indicated that it is willing." Is it  
13 fair to read that as saying "the developer has  
14 indicated and continues to be willing to make the  
15 following changes"?

16 A. (Long) That would be a fair reading.

17 Q. Okay. And, I think, under 1, you've already indicated  
18 that there may be some ambiguity in Appendix A to the  
19 PPA concerning the "approximately 64-megawatt  
20 (winter)", that this would -- is intended to clarify.  
21 I'm trying to understand what it means. It says "for  
22 the purposes of the PPA", which does that suggest that  
23 they could go ahead and build it larger or add to it,  
24 but that you wouldn't be obligated to make purchases

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 beyond, under the terms of the PPA, beyond the  
2 effective output of 60.5 megawatts?

3 A. (Long) Yes. Let me precede that by saying Laidlaw has  
4 gotten a Site Evaluation Committee approval, based on,  
5 you know, specifications they filed with the ISO-New  
6 England based on specifications. So, if this contract  
7 quantity was to be I'll say "capped" or not to exceed  
8 67.5, the way that would work mechanically is, if there  
9 was any hour in the year where the net amount was more  
10 than 67.5, it would not be billable under the Power  
11 Purchase Agreement. We, under the Purchase Power  
12 Agreement, we would not buy the kilowatt-hours, the  
13 capacity, or the renewable attributes. And, that would  
14 be measured every hour. And, if the plant -- the  
15 facility did exceed that amount, then they could do  
16 whatever they want with that additional amount,  
17 including, you know, selling to us under short-term  
18 avoided cost rates, for instance. That's the intent of  
19 1.

20 Q. So, in any one hour, you wouldn't buy more than 67.5  
21 megawatt-hours under the PPA of products?

22 A. (Long) Correct.

23 Q. Okay. And, the base price on energy that, Clause 4 of  
24 this, you're saying it's sort of -- it's a wash,

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1 because changing the initial base price is the same as  
2 if you, you know, the base price at \$83 and \$34 a ton  
3 is equivalent to 75.80 at \$30 a ton, using the 1.8 tons  
4 per megawatt-hour price factor, is that correct?

5 A. (Long) Yes.

6 Q. Okay. Which is just taking that \$4 difference,  
7 multiplying it by 1.8, which is \$7.20, and subtracting  
8 it from the \$83. So, the Wood Price Factor clause in  
9 number 5, that's one that you said could also cut  
10 either way, in terms of impact to Default Service  
11 ratepayers, if you will. To the extent that wood  
12 prices go down further, it would lower the price less  
13 than if it was 1.8, on the one hand. On the other  
14 hand, to the extent wood prices go up, it would raise  
15 the price less under 1.6 than it would under 1.8, is  
16 that correct?

17 A. (Long) That's correct. And, I think the way this works  
18 is, if you're in a period of increasing wood prices,  
19 see if my colleagues agree with me, then customers  
20 would choose both 4 and 5. Because, combined, they  
21 make that the lowest price under the contract.

22 A. (Large) Yes.

23 A. (Labrecque) Correct.

24 A. (Long) And my colleagues agree.

1 Q. Okay. That's good. So, going back to 3, "Excess  
2 RECs", where the reference is "the minimum requirement  
3 of PSNH to obtain and retire New Hampshire Class I RECs  
4 pursuant to RSA 362-F." That, again, if there were to  
5 be an interpretation under current law that requirement  
6 goes to zero for 2026, then there would be 100 percent  
7 excess at that point. And, assuming that they're still  
8 deemed to be Class I RECs, or, in any case, I guess  
9 this is what I'm a little bit confused about, under  
10 that scenario where the current law is interpreted to  
11 have no obligation beyond 2025, presumably they would  
12 all be excess, but they might not be Class -- they may  
13 or may not be Class I RECs. And, I'm just saying "may  
14 or may not be", because I'm not trying to make a  
15 judgment on that, it's just maybe that's another  
16 ambiguity or something that's not -- I'm not presuming  
17 one way or the other in the law. But would this be  
18 intended to extend -- is this conceptually the same as  
19 "Renewable Energy Product" under the PPA?

20 A. (Long) Yes. That's what I wanted to say. I'm not  
21 talking about the intent, and if there is a word here  
22 or there that has to be changed, you know, I think it's  
23 important just to understand the intent. And, you  
24 know, if those -- under your scenario, if all of the

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1 RECs under the -- the product were to be "excess", then  
2 we would market those and get whatever value we could  
3 from whatever market might be available. I think  
4 that's probably the better way to think about it. And,  
5 then, that value would be compared against the contract  
6 price paid, and the difference would go to the  
7 Cumulative Reduction Factor.

8 Q. Okay. I think that's all. I'll just check. Oh, I had  
9 another question. I think, Mr. Long, you testified  
10 previously that you believe biomass currently to be  
11 more capital-intensive than wind, is that correct?

12 A. (Long) Yes.

13 Q. Presumably, you're referring to kind of conventional  
14 onshore wind, such as has been developed in New  
15 Hampshire?

16 A. (Long) Yes. Yes, versus offshore, versus, you know,  
17 whatever additional transmission requirements there  
18 might be if wind is remotely located. What I was  
19 really referring to is the nature of the production of  
20 power. A biomass plant requires a turbine, you know,  
21 requires a boiler, things that a wind turbine do not  
22 require. And, obviously, those things make it a more  
23 capital intensive method of producing energy. But also  
24 a more reliable and more dispatchable source.

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1 Q. How would you compare the operational cost, as a  
2 general --

3 A. (Long) Biomass operational costs are clearly higher  
4 than a wind turbine operational costs.

5 Q. Principally, because they have a fuel cost?

6 A. (Long) A fuel cost and a boiler and a turbine, which  
7 require people to maintain and operate.

8 Q. Okay.

9 A. (Long) And, that goes to the economic benefit, if you  
10 will, to the jobs aspect of it.

11 CMSR. BELOW: That's all.

12 CHAIRMAN GETZ: Commissioner Ignatius.

13 CMSR. IGNATIUS: Thank you. Good  
14 afternoon.

15 WITNESS LABRECQUE: Good afternoon.

16 WITNESS LARGE: Good afternoon.

17 WITNESS LONG: Good afternoon.

18 BY CMSR. IGNATIUS:

19 Q. Dr. Shapiro, can you go back to your benefits for a  
20 moment? And, I know you said you calculated through  
21 the RIMS model only the 40 direct jobs that would  
22 remain for the operation of the plant, correct?

23 A. (Shapiro) I technically added the 40 to what I used  
24 RIMS to calculate the jobs associated with the wood

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1 purchases, yes.

2 Q. All right. Thank you. I think I understood that. So,  
3 let's talk about the jobs that you think are a  
4 reasonable result from the construction and operation  
5 of the plant. You used categories of the "direct",  
6 "indirect", and "induced". And, just go through again  
7 what those categories, examples of each of those kinds  
8 of categories and the numbers that you anticipate are  
9 likely.

10 A. (Shapiro) Okay. Let me just, was there a particular --

11 Q. Yes. I know, in your -- I'm sorry. I know, in your  
12 direct, you started to speak to those on Page -- well,  
13 it's Bates 109, Page 5.

14 A. (Shapiro) Okay. The direct jobs are generally the  
15 people that are directly hired. So, in the  
16 construction phase, it will be construction workers for  
17 site preparation, trades workers, electrical, plumbing,  
18 installation, people working on-site, engineers as  
19 well, people who are overseeing, supervising, there's  
20 administrative backup that goes along with that,  
21 compliance, safety. So, it goes through the whole  
22 trades that are involved in the Project, and then  
23 administrative, engineering and technical that go along  
24 with that. They're considered the "direct" jobs.

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1 "Indirect" are usually the purchases that you're making  
2 from local companies. So, you might purchase concrete,  
3 fill from area places, you might contract out with  
4 transportation companies. So, generally, "indirect"  
5 are the purchases made through companies. So,  
6 sometimes there's a little bit of, "well, which is a  
7 "direct"? Which is an "indirect"? It depends on  
8 whether you're contracting out or you're directly  
9 hiring. And, then, the "induced" is all of these folks  
10 are then additionally spending their money, some  
11 percent that you're paying to them through payroll and  
12 through the services, and then they're turning around  
13 and making additional purchases.

14 Q. And, does "induced" reach out as far as the stopping to  
15 get lunch in the middle of the day or is that even  
16 beyond?

17 A. (Shapiro) No. That would be induced, yes.

18 Q. The quantity of jobs that you anticipate for each of  
19 those categories and the duration of those jobs, can  
20 you summarize please?

21 A. (Shapiro) Yes. The construction phase, I mean, by  
22 definition "construction" are over a period. We have a  
23 significant construction workforce in the state, very  
24 high unemployment, has been hit very hard by the

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1 recession. They go from job to job. That's the nature  
2 of these positions. They may be full time at the  
3 Company they work with, they may not be, depending on  
4 how they're structured within their own company. You  
5 know, sometimes you have seasonal employment, that's  
6 some types of companies, and others are able to carry  
7 some people all year round. It really depends on the  
8 structure and what type of contracts, to the extent  
9 they're going to work with unions, general contractors  
10 and whatnot.

11 So, that period, within the SEC filing,  
12 Laidlaw made representations that there's a ramp-up and  
13 a ramp-down of the workers, then there's a primary.  
14 And that, when you're into the height of the  
15 construction is when you're going to get into the over  
16 300 people on site. So, there's a period over time.  
17 And, what I tried to look at, in order to get at "Well,  
18 what's "indirect"? What's "direct?" "Induced"?" Just  
19 to try and get some global sense of it, has divided  
20 their total costs over the 32-month period to get an  
21 annualized effort. But that's, basically, that's over  
22 the 32-month span. Some jobs might be a couple weeks,  
23 some might be 32 months, it depends on what the nature  
24 of the specific construction is.

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1                   Now, the operations, to go on to answer  
2                   your specific question, on the operation, these are  
3                   more permanent jobs. These are the 40 operation jobs  
4                   that are on-site, involve the myriad of different  
5                   operators involved, the wood handling as well. And,  
6                   then, in terms of the procurement from, you know,  
7                   logging fields, that's all across the chain there.  
8                   You'll have loggers in the field, you'll have people  
9                   trucking. There will be some administrative work  
10                  associated with that and compliance, and purchasers,  
11                  agents, it depends again on the structure that Laidlaw  
12                  sets up. I understand from the SEC filings and the  
13                  agreements through that final order, that they did make  
14                  some specific procurement statements on how they were  
15                  going to go about doing that. So, that will be across  
16                  those types of sectors.

17   Q.   And, the loggers and truckers who are supplying fuel,  
18           they're not part of the 40 workforce at the plant  
19           itself, are they?

20   A.   (Shapiro) No, they're not. That's right. The other  
21           is, in Mr. Sansoucy's testimony, he included a  
22           estimate, which appears to be from the SEC filing, I  
23           must have missed that, in going through all the numbers  
24           that were in there that would be relevant to my

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1 calculus, of \$10 million a year on operation costs.  
2 And, I believe about 2 million was attached to the 40  
3 jobs. So that 8 million of additional operating  
4 expenses, they may be -- a lot of that would be  
5 indirect purchasing from area businesses. Some, I'm  
6 sure, are going to be out-of-state, some will be local.  
7 There will be some mix of that where those operating  
8 expenditures go beyond the payroll.

9 Q. Thank you. I'm not sure where to go next, because  
10 we've been through so many documents. Let's talk about  
11 the Wood Adjustment for a moment. There was just some  
12 discussion about it in the sort of seesaw relationship  
13 with the base fuel price. If -- let's assume that the  
14 wood price is set at \$34 in the WPA as a benchmark.  
15 And, the actual wood purchased at Schiller Station is  
16 \$27, which you said it's been running most recently,  
17 it's dropped down to that in the last month or so. The  
18 energy price paid to Laidlaw, is there a way to do sort  
19 of a quick off-the-cuff calculation?

20 A. (Labrecque) \$70.40.

21 Q. So, you're starting with the base price of 83, and then  
22 using the wood adjustment of 27?

23 A. (Labrecque) So, that would be \$7 a ton, times the 1.8,  
24 would get you \$12.60 to subtract from the 83, leaving

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1 you with \$70.40.

2 Q. All right. And, if the benchmark were at 34, and the  
3 actual price at Schiller Station were \$36, what would  
4 the energy price paid to Laidlaw be?

5 A. (Labrecque) That would be \$2 a ton, times 1.8, is \$3.60  
6 a megawatt-hour, for a total price of 86.60. Right?

7 A. (Witness Large nodding in the affirmative.)

8 Q. If you -- well, standing alone, those two numbers don't  
9 have any impact upon the Cumulative Reduction Factor,  
10 correct? That's yet a different calculation.

11 A. (Labrecque) Correct.

12 Q. You would then take either of those energy prices and,  
13 in fact, your all-in price or just your energy price?

14 A. (Labrecque) Just the energy price.

15 Q. Okay. So, you take your energy price and you would  
16 compare it to the ISO's price for that same period?

17 A. (Labrecque) Hour-by-hour, correct.

18 Q. And, if it is above-market, the fund would reflect the  
19 value of the amount over, say, \$70.40, if that's what  
20 you paid?

21 A. (Labrecque) Yes. Yes. If \$70.40 were greater than the  
22 market in this example, the delta multiplied by the  
23 megawatt-hours in that hour would be added to the fund.

24 A. (Long) And, conversely, if it was under-market, it

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1 would be reduced -- it would tend to -- it would  
2 actually reduce the fund.

3 Q. Well, I wanted to ask you that, because I had I guess  
4 misunderstood. I thought it only went one way, in  
5 terms of the Cumulative Reduction Fund, in that it only  
6 reflected the value of over-market prices, it didn't  
7 adjust for under-market prices?

8 A. (Long) On an hour-by-hour basis, it goes both ways. At  
9 the end of 20 years, it only works one way for  
10 customers. It can only work to customers' benefit. At  
11 the end of 20 years, if the cumulative amount says that  
12 customers paid under-market over that 20 years, then,  
13 effectively, the Cumulative Reduction Factor is zero.  
14 In other words, it doesn't -- there's no more value to  
15 provide, because the customers already got more,  
16 already got prices that were better than market. If  
17 the Cumulative Reduction Factor is a number that says,  
18 on average, customers paid more than market over that  
19 period of time, that's when the purchase option and the  
20 credit against the purchase option come into play.

21 Q. And, when you say "on average", is that spelled out in  
22 the PPA how you define "average" or how you make those  
23 calculations?

24 A. (Long) Yes.

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1 A. (Large) It's really the sum.

2 A. (Long) I say "average", but it's the accumulation, it's  
3 the accumulation hour by hour over 20 years, ups and  
4 down, both positive and negative. You could have a net  
5 zero or negative, if you had, you know, substantial  
6 period of times with under-market, like the last four  
7 days, for instance.

8 Q. And, there was a discussion yesterday regarding force  
9 majeure and wood availability and wood pricing that I  
10 just wanted to clarify. I think it was, Mr. Long, I  
11 think you had said that, "if wood pricing was a reason"  
12 -- well, let me forget what we talked about yesterday.  
13 It's probably easier to say it directly. Does the  
14 force majeure provision that excludes wood from the  
15 definition of "force majeure", the fuel avail -- the  
16 fuel, I think I should find the term, does it include  
17 both pricing issues and availability issues or just  
18 pricing issues?

19 A. (Long) That's my reconciliation. Yes, it includes  
20 both. But I'd have to find the section again to verify  
21 it. It's on the top of Page 21, "applicable fuel", it  
22 talks about "price or pricing structure of any product  
23 or any applicable fuel or energy source." So, it  
24 includes both.

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1 Q. And, tell me how it includes both, because I see the  
2 words "price or pricing structure of a product or any  
3 applicable fuel or energy source." You read that to  
4 mean "price or pricing structure of a product or  
5 availability of applicable fuel"?

6 A. (Long) Well, for instance, if Laidlaw thought the price  
7 of wood was very high, that's not a condition of force  
8 majeure, and they couldn't invoke other terms of the  
9 PPA. But, as I pointed out yesterday, if they don't  
10 produce power, we don't pay. So, we're protected in  
11 that regard. If they don't have a fuel source, if  
12 they're not producing kilowatt-hours, then we only pay  
13 what they actually produce. And, that's, you know, why  
14 this is very different than a cost-of-service type  
15 contract.

16 Q. So, if, for any operational reason, the plant is not  
17 able to generate power, there is no obligation on the  
18 part of PSNH to make payments for its energy output or  
19 sort of what would have been its output?

20 A. (Long) If I heard you right, I think you said "any  
21 operational", and we were referring specifically to  
22 fuel. So, I would have to go back to the beginning of  
23 force majeure, which on Page 20, which sort of defines  
24 the other things that could be force majeure.



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1 Q. Well, those define when you would be considered in  
2 default under the contract. Apart from being  
3 considered in default, if the plant is not able to  
4 generate power for some mechanical reason, are you  
5 obligated to pay for what it would have produced if it  
6 had been operating?

7 A. (Long) No.

8 Q. And, are you required to pay for any of the RECs that  
9 would have been produced?

10 A. (Long) No.

11 Q. Or the capacity payment for that period of time?

12 A. (Long) Capacity payment would be determined on what the  
13 ISO-New England awards.

14 Q. Mr. Long, yesterday I think you made a distinction  
15 between what you consider a "change" in the law, the  
16 RPS law, and the "implementation" of the RPS law. And,  
17 frankly, I forget what the specific question was that  
18 led to that. But it got me thinking, do you consider,  
19 let's say the Legislature this year kept the general  
20 construct of the RPS program in place, but adjusted the  
21 amount of an obligation under Class I, and had it  
22 escalate in later years from 1 percent to 2 percent per  
23 year, let's say, but it's basically the same overall  
24 structure. Is that a change in law or is that sort of

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1 a minor adjustment that you wouldn't consider to be?

2 A. (Long) I would view that as a change in law, but which  
3 does not change the pricing, *per se*. But it is a  
4 change in New Hampshire law.

5 Q. And, so, your obligation would increase to the higher  
6 amount of your -- of increased number of RECs that you  
7 would be obligated to purchase or would not?

8 A. (Long) I think you're hypothesizing that a change in  
9 law increases our requirement --

10 Q. Yes.

11 A. (Long) -- regardless of the Laidlaw contract. And, you  
12 know, if it does, of course, it does. And, it would  
13 probably mean that this excess thing we talked about  
14 this morning doesn't mean much, won't have any real  
15 effect.

16 Q. And, if your -- the legislation were to change and to  
17 cut that, say, to escalate by half a percent, rather  
18 than 1 percent, so your PSNH obligation to attain RECs  
19 has dropped for Class I. Does that have any effect on  
20 your obligations under the PPA?

21 A. (Long) It does not change the price, the price paid  
22 under the PPA. But the change in law says the parties  
23 will do their best to try to work together to obtain  
24 value. And, you know, that could be a case, as a for

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1 instance, where we talked earlier that, if we could --  
2 if it has more value in another state, well, then we'd  
3 ask them to certify in another state, for instance.

4 Q. Or, if there were a national program in place, to try  
5 to become qualified under that?

6 A. (Long) That would be another option.

7 Q. And, I guess the wild card is, if there is no other  
8 program in another state or nationally, or other form  
9 of environmental attribute that has value, then what  
10 happens?

11 A. (Long) Then, we paid more under the Power Purchase  
12 Agreement than what its value is in the market. Absent  
13 the Item 3 that we just talked about, that would be the  
14 end of the story.

15 Q. If that Item 3 provision were ultimately put into the  
16 PPA, how would -- how would it be different, in my  
17 scenario where nothing succeeds?

18 A. (Long) Yes. In your scenario, it's really a "no RPS"  
19 scenario environment. Attributes are not worth  
20 anything in any market anywhere. And, so, we have, you  
21 know, essentially RECs that have no value, but that  
22 we're paying for. We're paying for renewable energy  
23 certificates, but can't actually either use them to  
24 meet an obligation or to realize value in some

1 marketplace somewhere. And, under that case, the price  
2 would be as defined in the Purchase Power Agreement,  
3 and the value would be zero, and the difference would  
4 be -- would contribute to an increase in the Cumulative  
5 Reduction Factor. So, there would still be an  
6 opportunity to get that value back, you know, depending  
7 on the future value of the plant that's been pointed  
8 out and how the two numbers compare.

9 Q. And, in this "doomsday" scenario I'm laying out here of  
10 some final very bad piece of news where the plant  
11 itself didn't have value then --

12 A. (Long) Yes. Yes, I like the characterization of  
13 "doomsday". I mean, if there's a total abandonment of  
14 renewable, then I would not only be disappointed, I'd  
15 be very surprised that that's a direction this country  
16 and this state were going. But, if there was something  
17 as radical as that, then we're all on very different  
18 paths than what we're trying to do here.

19 You know, as an executive of a utility,  
20 all I can do is look at what policies are being set,  
21 the intensity that's being set. As someone mentioned  
22 today, even President Obama has said he wants to  
23 achieve much higher goals than we are as a nation. I  
24 personally believe that's the direction we're going.

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1 You know, and this puts us on that path. And, we well  
2 could be here five years from now saying "wow, what a  
3 wonderful thing this has been economically." It's hard  
4 to say that today, but you sort of have to believe and  
5 accept the State's renewable energy policies. I hope  
6 you realize how serious we are about this, because PSNH  
7 -- this is fully voluntary. I mean, there is nothing  
8 in this for our investors, nothing -- potential may be  
9 in 20 years, and nobody looks that far out, and the  
10 investment community doesn't look that far out. And,  
11 someone asked me "Gary, why are you doing this?",  
12 including my bosses, and I'll say "We're doing this  
13 because we believe in the State policy." Because, as a  
14 regulated utility, if we don't try to implement State  
15 policy on energy, and we don't take it seriously, and  
16 we don't try to be creative and innovative, you know, I  
17 don't feel it's our -- I think that we should, I guess  
18 put it that way. I think that's our duty. I think  
19 that's the duty of this Commission, is to help  
20 utilities do what the State wants us to do.

21 Q. Well, that's a perfect segue to the other area I wanted  
22 to ask you about. And, that's how we, within the  
23 Commission, should find the right balance in any of  
24 these kinds of contracts and how we assess the public

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1 interest. As you say, "it's voluntary". So, these are  
2 choices that you've made to attain additional power at  
3 a certain price and certain construct that you've set  
4 out. We have to compare that against what you might  
5 have done without this contract. Correct? I mean, we  
6 can't decide this in a vacuum as what you might have  
7 done otherwise to procure power. So, why is this  
8 amount of power being procured under these terms meet  
9 the public interest more than other ways of procuring  
10 power that you could have undertaken, since, as you  
11 say, this is a voluntary choice?

12 A. (Long) It's actually pretty simple to me. If we didn't  
13 do this, we'd be doing nothing. We'd be behaving like  
14 the rest of the New Hampshire utilities and most  
15 utilities in New England, who aren't given incentives  
16 or direction by the State to do this. We wouldn't do  
17 anything. We wouldn't have a Power Purchase Agreement.  
18 We wouldn't enter a long-term agreement. And, we  
19 wouldn't be really going with the spirit of the state's  
20 intention to have more renewables. I was asked by one  
21 of the cross-examiners "can we comply with the RPS  
22 without doing anything?" And, the answer is "yes".  
23 Every utility can comply by doing nothing.

24 So, the alternative to this is not

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1 something else, in my opinion, as a person who put on  
2 nearly three years or four years into this effort.  
3 And, if this is not acceptable to the Commission, there  
4 is nothing else, in my opinion. We're not going to  
5 spend three, four, two years on another one. I mean,  
6 if we get a signal that this is not acceptable, and  
7 this is our best effort, and we truly believe it's  
8 competitive, and we certainly believe it has huge  
9 economic value to the state. If, after all this  
10 effort, which produces no value to PSNH, no direct  
11 value to PSNH, if this one isn't accepted,  
12 Commissioner, you won't see us back here with a  
13 long-term contract. You won't.

14 Q. Well, why do you assume that the only way to obtain  
15 renewables in support of the goals of renewable power  
16 are through a contract the way you've structured it?

17 A. (Long) This is a creative contract. There's nothing  
18 like it. So, I don't have any more creativity to add.  
19 We feel that we've addressed the main issues, which is  
20 "find something that's financeable, find a project that  
21 is viable", which we believe this is the most viable  
22 biomass site and project in the State of New Hampshire,  
23 "find a project that creates jobs, particularly in an  
24 area that needs job and that is sustainable over the

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1 long term, that meets our requirements." That, I mean,  
2 look at the effort we're putting into this docket.  
3 This is not a fun experience. And, this is -- this is  
4 not something we're going to do time after time again.  
5 It is -- It takes an incredible amount of resources.  
6 Not to mention what the developer had to do to go  
7 through the Site Evaluation Committee. I mean, if this  
8 state is not going to allow these projects to go  
9 forward, I think it's dead. I think the whole idea is  
10 dead for decades.

11 Q. But you understand, you're asking us to commit  
12 ratepayers to paying for something for 20 years, that  
13 is very different, and that appears, on current prices,  
14 and granted it's a spot review, is considerably more  
15 expensive than current prices. That's a leap you're  
16 asking all of us to make on behalf of ratepayers to  
17 commit them to that. So, it seems to me fair that we  
18 spend an awful lot of painful time in this room to get  
19 to the right decision.

20 A. (Long) And, I'm here voluntarily, Commissioner. And,  
21 how else are you going to get renewable? You know, you  
22 can't -- you can't design something that gives -- you  
23 know, that's at market prices and is financeable. I  
24 mean, you have to find creative methods. And, there is



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1 nothing quite like this. This is a highly creative  
2 method to -- not just through a straight Purchase Power  
3 Agreement, and that's why utilities aren't entering in  
4 them. Because the first question utilities get is  
5 "What happens at the end?" Here, we supported a  
6 project, our customers supported a project, at the end  
7 then the owners have tremendous value and they just  
8 make more money. I mean, look at the existing woods,  
9 that's exactly what they did. For 20 years or 15  
10 years, whatever the term was, they got prices that, in  
11 their case, was very much over-market, and, at the end  
12 of that period, there was no value to customers. In  
13 this case, we think we've priced very close to the  
14 market. And, it has value at the end in case we  
15 didn't. You know, there's not much else we can do to  
16 protect folks.

17 We have this, what's causing people to  
18 have so much hesitation, as I said, if we were in this  
19 room three years ago, probably everybody would support  
20 it. I mean, look at the historical data, this is a  
21 very competitive price. If we're here three years from  
22 now, and we find that there's a shortage of renewables,  
23 we would say "Darn, I wish we would have approved it or  
24 wish I would have accepted it."

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1                   But we're in this very strange time in  
2                   our industry where there's been a overabundance of  
3                   shale gas that has affected New England, and that has  
4                   created some short-term prices, on top of the most  
5                   severe recession that's happened certainly in my  
6                   lifetime.

7                   So, if you want to believe that that's  
8                   the way the world's going to look for the next 20  
9                   years, then, you know, decide accordingly, and it's all  
10                  over, and that's fine. I mean, if that's the way it's  
11                  decided, we have to live with that. That's not my  
12                  belief.

13                  And, so, we feel we've designed a very  
14                  creative agreement. There's ways to address the market  
15                  issue, if you think that -- if you think the market  
16                  prices are going to stay low for the next 20 years, I  
17                  don't think they are. I don't think REC prices are  
18                  going to stay where they are. I mean, the Renewable  
19                  Portfolio Standards are only in their second or third  
20                  year. I mean, we've already testified they go up 1,600  
21                  percent, perhaps 1,800 percent when you take into  
22                  account load growth. Okay? So, how is this state and  
23                  how is this region going to take an 1,800 percent  
24                  increase in renewables without doing things like this?

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 I'm one of those who believes it won't. But I would  
2 like to have New Hampshire in a pretty good position to  
3 have a renewable portfolio for New Hampshire.

4 Q. When would the rate effects of entering into this PPA  
5 first show up in PSNH rates if this were approved?

6 A. (Long) Well, you have to make an assumption of what the  
7 in-service date is. Is it 2014? Is it 2015? So, it  
8 would be sometime after that, because, you know, it  
9 could even be the following year, might be when it  
10 first shows up.

11 Q. And, it would be included in the Energy Service rate?

12 A. (Long) Unless there's a change in policy or law. It  
13 doesn't all have to be in the energy rate, but that's  
14 one approach.

15 Q. Do we have rate calculations, estimates of the rate  
16 impact?

17 A. (Long) It gets down to compared to market, and I can't  
18 tell you what the price will be in '14, '15 or '16  
19 compared to market. I mean, theoretically, it could be  
20 a reduction, it could be an increase. You know, we'll  
21 know when we get there.

22 Q. Well, we know the amount that you would be paying.  
23 It's whether that turns out to be greater or lesser  
24 than what the market is. But, in terms of a rate

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 component, that will be set by the terms of the  
2 contract -- the PPA, wouldn't it?

3 A. (Long) I think, if you're asking "do we know what the  
4 prices that will be paid in the first year of the  
5 contract?" You know, we can estimate that, you know,  
6 based on the year we assume, and that would determine  
7 the REC price. And, then, we'd have to make an  
8 assumption about what we think the wood prices are for  
9 that year. You know, so you can make an estimate, and  
10 it would be that. But you wouldn't know how it  
11 compares to the market.

12 Q. Well, how would you intend to include it in rates?  
13 Would it be on a prospective basis reconciled somehow?

14 A. (Long) Yes.

15 Q. How do you see this playing out?

16 A. (Long) Well, you know, again, unless there's a change  
17 in policy or practice, you know, any Power Purchase  
18 Agreement we have is an expense that is included in our  
19 expenses that are recovered through our Energy Service  
20 rates.

21 Q. And, you don't have a quantification for what that  
22 expense component would be in an Energy Service rate  
23 proceeding?

24 A. (Long) As I said, we can assume what we think the

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 output is, what the megawatt-hours are. We can  
2 multiply that times what we think the CPI-adjusted REC  
3 price is and then discount it. We can go through some  
4 math, and the math would show that, compared to today's  
5 short-term rates, it will be higher. You know, but  
6 compared to what the rates will be in 2015, prices will  
7 be, you know, you could estimate, you could guess, but  
8 you don't really know.

9 Q. And, that's a fair point. And, I'm not asking for a  
10 full 20-year rate trajectory. If it's not already in  
11 the record, and I apologize if it's there and I've  
12 forgotten it, a record request for an assumed rate  
13 impact, and given there are certain things you'd have  
14 to make assumptions about and state what those are, for  
15 the first year of implementation.

16 MR. BERSAK: As Mr. Long said,  
17 Commissioner Ignatius, I think we are missing one piece of  
18 the puzzle, which is, what is to be assumed as the avoided  
19 energy cost? What's the market price of power in that  
20 year?

21 CMSR. IGNATIUS: Do you mean would then  
22 subtract off of what you would need to --

23 MR. BERSAK: Sure. In other words,  
24 suppose that the first year of operation was 2014, and if

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 we did the calculations that Mr. Long talked about, where  
2 we figure out what the alternative compliance price is for  
3 2014, we come with a wood price for 2014. We do the  
4 mathematics and come up with a price of what we would be  
5 paying to the facility, that's fine. But what do we  
6 compare it to? If it turns out there's a shortage of  
7 energy, for whatever reason, all the nuclear plants shut  
8 down, and the market price of energy skyrockets, the  
9 impact from this plant would be a decrease in rates. If  
10 it turns out that the rates are lower, there would be an  
11 increase. And, that's the problem that Mr. Long was  
12 testified to. We could do math, but we don't -- we can't  
13 predict the future.

14 CMSR. IGNATIUS: But, in Energy Service  
15 dockets, we often see rate trajectories for the next few  
16 years that are based on some sort of assumptions, and  
17 perhaps putting in a couple of different assumptions. I'm  
18 fine with that. I'll tell you, my concern is, if somebody  
19 says to me "Well, what's this going to mean for rates and  
20 how are customers going to be able to handle the  
21 increase?" I can't give them the answer "Gee, we don't  
22 know, because we don't know what the market is going to  
23 be." That is true, but that's not the answer. There's  
24 got to be more analysis to show that this is a reasonable

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[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 rate that is sustainable.

2 MR. BERSAK: Could we do an analysis,  
3 Mr. Long, with today's rates ten percent up and ten  
4 percent down from today?

5 WITNESS LONG: Well, sure. I mean, but  
6 I think, you know, Mr. McCluskey has numbers that he has,  
7 a certain set of assumptions. And, I don't know, maybe  
8 Mr. Sansoucy has some numbers with different assumptions.  
9 And, you know, if someone wants to pick the assumptions,  
10 someone can also do the math. But, you know, I could say  
11 that RECs are in shortage at that point and that we, you  
12 know, RECs are below market. You know, is that the  
13 assumption I make or don't make? So, you know, it's kind  
14 of a difficult thing. It's kind of the heart of this  
15 case, because we disagree with people's 20-year market  
16 forecast. We just think there's no basis for it. And,  
17 all they simply did was take one number and escalate it  
18 for 20 years. And, could you have a step increase in the  
19 market two years from now, for all we know. You could  
20 have a step increase in RECs because of supply/demand.  
21 We've put in our testimony supply and demand charges,  
22 which implies there's going to be a shortage. Nobody in  
23 their forecasts considered that, none of the other  
24 witnesses considered that that's a possibility. And, that

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1 certainly doesn't stay a straight line, it says the market  
2 just went up.

3 So, I mean, the thing I always struggle  
4 with is, whatever I will give you will be wrong. And, as  
5 I say, you know, it could be to a point in the future you  
6 say "this is a great deal." There is some pressure in the  
7 early years, there certainly is, and I think that's what  
8 you're getting at. But I think it's a pressure on  
9 everybody right now, because of the drop in natural gas  
10 prices.

11 But, then, if you look at the last few  
12 days, you could say "Gee, I wish I had this power right  
13 now." Because the price for the last few days have been  
14 far above the contract prices. So, and I know they're not  
15 going to last, and I'm not trying to suggest that they  
16 would last. But, I'm just saying, you see the volatility  
17 of gas prices, I'll tell you that I just -- I don't know  
18 if it was today, but yesterday the price of natural gas at  
19 the Newington delivery point was \$20 per million Btu. You  
20 know, and it's normally like in the 7 or less range. So,  
21 that just shows you how much volatility there is in the  
22 market. And, I can't tell you, if load grows, if there  
23 becomes a gas transmission line that fails. As Bob was  
24 saying, if a nuclear plant shuts down or some way delists,

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1 that could change market prices very quickly. And, from  
2 my -- sitting from where I am, I like having a stable -- a  
3 stable, you know, rate from a renewable source that  
4 creates huge economic benefits that I think positions PSNH  
5 very well to meet its environmental renewable  
6 requirements. I mean, that's the way I look at this.  
7 And, I'd be happy to work with the Legislature or this  
8 Commission or anybody to see how we can implement that  
9 renewable policy with the minimum impact on rates. And,  
10 there are ways you can do it. But, if you just pass it  
11 off to the Energy Service rate, and the market prices are  
12 low, well, you know that we have -- everybody in New  
13 England has pressure on that right now. Every generator  
14 certainly has pressure on that right now. But it's not  
15 going to last forever. It can't. It's not sustainable.

16 CMSR. IGNATIUS: Mr. Chairman, if we can  
17 have a record request reserved for, I'd say, the year  
18 2015, and then a number of reasonable assumptions that the  
19 Company wants to state on how it's estimating those cost  
20 impacts. Understood that they're assumptions and only as  
21 good as --

22 MR. BERSAK: We will do that,  
23 Commissioner Ignatius. And, we will state the assumptions  
24 that were made.

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1 CMSR. IGNATIUS: Thank you.

2 CHAIRMAN GETZ: And, that will be  
3 "Exhibit PSNH 16".

4 MS. DENO: Fifteen.

5 MR. BERSAK: Is that 15?

6 CHAIRMAN GETZ: Was 15 the conversion  
7 factor calculation or was that taken care of orally?  
8 That's what I have.

9 CMSR. BELOW: That was taken care of.

10 MR. BERSAK: That was taken care of.

11 CHAIRMAN GETZ: That was taken care  
12 orally?

13 MR. BERSAK: Yes, sir.

14 CHAIRMAN GETZ: Okay. Then, it will be  
15 "Exhibit 15" for the 2015 rate effects within certain  
16 parameters.

17 **(Exhibit PSNH-15 reserved)**

18 BY CMSR. IGNATIUS:

19 Q. Mr. Long, I have got notes, it's either from yesterday  
20 or the day before, that Mr. Edwards asked you a couple  
21 of questions, and that you had stated that "the prices  
22 are fair and competitive", and another point you said  
23 "Laidlaw's rates overall are less than others." And,  
24 I'm wondering how you draw those conclusions, if you're

1 not forecasting rates? How are you determining that  
2 the Laidlaw prices in the PPA are "fair and  
3 competitive"?

4 A. (Long) Well, I went through that in my summary, and  
5 again earlier. You know, we showed you historical data  
6 that showed how competitive the formula is. And, then,  
7 you saw from that chart that, in the recent times,  
8 where the price has declined, it's less competitive.  
9 So, I think it shows that the formula works. It shows  
10 that the price is stable. And, you know, then you go  
11 beyond that into the future. But, you know, just look  
12 at the recent past, the energy price is competitive.  
13 And, then, you can argue over what you think the future  
14 will hold, and that's where we have our disagreements,  
15 at least it seems between us and some of the other  
16 parties. So, that's speculative. But I think that the  
17 demand for renewables only goes up. And, I think  
18 that's -- and, I believe it will be competitive. And,  
19 we have another chart in here that says -- it shows us  
20 why demand really implies there's going to be a  
21 shortage of renewables and RECs. And, so, I think that  
22 also indicates that having highly discounted prices off  
23 of ACP is probably a pretty good design. So, that's,  
24 you know, that's really what I mean, compared to not

1 having it.

2 Q. All right. And, then, your other statement that  
3 "Laidlaw rates overall are less than others." What  
4 were you using to reach that conclusion?

5 A. (Long) Well, yes, I'll let Mr. Labrecque back me up on  
6 that. But, you know, when you go out, he has a table  
7 that shows other prices. Obviously, the one that has a  
8 lot of media is Cape Wind --

9 (Court reporter interruption.)

10 **BY THE WITNESS:**

11 A. (Long) A lot of media on the Cape Wind Project, and  
12 this price is clearly below that. There's a Rhode  
13 Island project, this one is clearly below that. You  
14 know, you may be able to find another one that is less  
15 than this, another renewable one. And, it would  
16 typically probably be some wind projects, because wind  
17 is less capital-intensive, as we talked about, than  
18 biomass, but it won't have the jobs, it won't have the  
19 economic benefit.

20 But, beyond that, Mr. Labrecque can give  
21 you some more information.

22 A. (Labrecque) Yes. Mr. Long was just referring to an  
23 Attachment RCL-2, we put into our initial testimony  
24 that listed some recently announced publicly available

1 pricing for other renewable projects. And, you know,  
2 it shows a range of pricing from the, you know, the  
3 extremes of the offshore wind at over 23 cents a  
4 kilowatt-hour, Cape Wind at maybe 18 to 20 cents now.  
5 There's a few other biomass comparable units that were  
6 offered into a Connecticut-sponsored solicitation that  
7 were in the range of 13 to 15 cents, but, to the best  
8 of my knowledge, those contracts are still being  
9 developed, under dispute, nothing's been constructed.  
10 So, I can't attest that those projects are up and  
11 running. That -- those are just some of the  
12 comparables we put together.

13 A. (Long) And, you know, I think I would caution, you  
14 know, it's probably going to -- it's going to be  
15 misleading for people to simply take numbers and  
16 compare that way. You know, I would ask the question,  
17 "What is the protections in any one of those?" And,  
18 are you paying 15, 20 year contracts, and when it's  
19 over, it's over.

20                   Whereas, in our contract, there could be  
21 a value proposition that to my knowledge doesn't exist  
22 anywhere else. That's the Cumulative Reduction Factor.  
23 So, I think you have to look at that. Then, you also  
24 have to look at the feasibility of the project. A lot

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1 these are ideas and concepts. And, actually, the costs  
2 haven't been fully worked out. And, so, you have to  
3 look at "what is the feasibility?" And, then, you look  
4 at where we are with Laidlaw. They have already gone  
5 through the Site evaluation Committee. They already  
6 have, as I call it, a half-built plant, in that they  
7 have a boiler. You know, they already have their  
8 engineering in progress, they already have their  
9 interconnection study well in progress.

10 So, how does that compare against some  
11 of these over proposals that people make, where it's  
12 kind of a concept in someone's mind right now. So,  
13 it's just -- it's a complicated thing when you're  
14 dealing with new development. A lot of those projects  
15 have a long way to go. This project still has a ways  
16 to go, but it's further along.

17 BY CMSR. IGNATIUS:

18 Q. Your -- I think you've testified, and the "you" is  
19 generally here, because I can't remember who, that the  
20 -- entering into the PPA is consistent with PSNH's most  
21 recently approved Least Cost Integrated Resource Plan.  
22 Can someone elaborate on that please?

23 A. (Large) Certainly. In the Least Cost Plan that was  
24 viewed as adequate most recently, prior to the one that

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 was submitted in September of this year, PSNH submitted  
2 that we believe that, to meet our requirements for  
3 energy, capacity, and RECs, that the construction and  
4 operation of a 50-megawatt biomass facility was the  
5 right thing to do. Now, there was much discussion that  
6 the Commission's finding of acceptance was not an  
7 approval that we could go forward and do that. That  
8 was clearly understood at that point in time. But the  
9 67 and a half megawatt facility, in comparison to  
10 50-megawatt plant that we propose, we deem to be  
11 consistent. The difference being that we propose to  
12 build and own, there are complications to cause that to  
13 be, so it's a substitution of one biomass plant for  
14 another.

15 Q. Although, with a different rate setting and recovery  
16 structure, correct?

17 A. (Large) Yes.

18 A. (Long) And risks.

19 Q. Can you explain more on the risk?

20 A. (Long) Yes. A simple one is, we talked about it  
21 earlier, if the plant doesn't operate, we don't pay.  
22 And, I don't want to get into a long dissertation, but,  
23 you know, if we own a plant, and the plant isn't able  
24 to operate, there's still some costs that are incurred.

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1 Q. Thank you.

2 A. (Large) And, if I may, Madam Commissioner?

3 Q. Please do.

4 A. (Large) We have included the energy, capacity, and  
5 RECs, as anticipated from Laidlaw, in the Least Cost  
6 Plan that was filed in September of this year.

7 Q. Thank you. And, one minor question, I think, and that  
8 does it for me, is on this inability for the plant to  
9 operate, if it's a matter of insufficient transmission  
10 capability, and the plant is not dispatched because of  
11 that, I assume PSNH does not have an obligation to pay  
12 for what would have -- it would have produced if it had  
13 been on line? That that sort of economic dispatch  
14 decision is simply one of the risks that the plant has.  
15 It won't be paid for anything it might have produced  
16 during that period. It's simply energy not produced  
17 and you don't owe them for it, is that correct?

18 A. (Long) That's correct. And, if ISO does not recognize  
19 their capacity, we don't pay for capacity either.

20 CMSR. IGNATIUS: All right. Thank you.

21 CHAIRMAN GETZ: Good afternoon. Just a  
22 couple of questions. And, I think just for you, Mr. Long.

23 BY CHAIRMAN GETZ:

24 Q. I took a look at your direct testimony, Exhibit 3, at



[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 Page 4, there's a discussion that says "PSNH's strategy  
2 in meeting the State's requirements regarding renewable  
3 resources and the State's goals to reduce greenhouse  
4 gas emissions", includes a few actions, one of those  
5 being "entering into strategic renewable resource based  
6 power purchase agreements." And, then, there's a  
7 discussion in the rebuttal, on Pages 27 and 28, that  
8 talks about the drawbacks of an RFP process, and then  
9 cites to the Lempster and Laidlaw PPAs as proof of  
10 successful bilateral negotiations. So, I mean, is it  
11 fair for me to conclude that, you know, the Company's  
12 position is that this opportunistic type of  
13 negotiations is, at least in this area of purchase  
14 power contracts, is superior to the RFP process?

15 A. (Long) Yes. That's exactly what I was trying to say.  
16 You know, we're dealing with development and  
17 developers. RFP processes, we use them all the time in  
18 our purchasing of goods and services. You know, we and  
19 our parent -- I mean, Northeast Utilities use it all  
20 the time. You know, and, of course, those are the kind  
21 of processes you use when you have a mature market for  
22 very definable products, where you have multiple  
23 vendors, multiple sources.

24 When you get into development of new

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1 projects, in a very complicated business and regulatory  
2 environment and market environment, where RFPs will  
3 typically fail, because they're too simplistic and  
4 they're too short-term. You go out for an RFP, you'll  
5 get everybody's idea about their best idea and their  
6 best project. And, you measure it on some criteria,  
7 and it will turn out to be wrong, because it's not a  
8 developed project. You know, you can't go on with  
9 insufficient information. We have been working with  
10 Laidlaw, as I said earlier, almost four years. This is  
11 not an easy process.

12 And, I'll take Lempster Wind as an  
13 example. If we were to have gone out for an RFP, I  
14 don't think we would have gotten anything. What we had  
15 to do was work with Lempster Wind, who had a site, who  
16 already, you know, had a certain degree of feasibility,  
17 and they needed a utility to work with. But, at that  
18 time, there were no other projects in New Hampshire  
19 like it. So, an RFP would have -- would have, if  
20 anything, gotten -- perhaps got us involved with some  
21 out-of-state project, which I don't think meets the New  
22 Hampshire requirement.

23 So, there are limited opportunities in  
24 New Hampshire, we know what they are. And, to be

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1 creative and to tailor a solution to the problem  
2 requires bilateral negotiation. And, we also have  
3 limited requirements, you know, I think as others have  
4 pointed out. There could be a period of time when we  
5 have a little more RECs than what we minimally need,  
6 but it's short-lived.

7 So, it's -- you cannot be unique,  
8 creative, you cannot focus on those which are most  
9 feasible to an RFP. You know, not to belabor it too  
10 much, but I would say that RFPs in Connecticut have  
11 failed, because they issued contracts under a set of  
12 assumptions that turn out not to be true. And, they  
13 only had one party to work with. So, they get  
14 expensive. They find out the assumptions weren't true.  
15 They find out the costs aren't what they thought the  
16 costs were. And, I think, in one case, an explosion  
17 that just has caused all sorts of litigation.

18 Q. Well, let me ask you questions then about on Page 24 of  
19 your rebuttal, on Line 16, there's a question. It says  
20 "Is the development of new renewable generation that  
21 matches PSNH's needs and timing for RECs possible?"  
22 And, the answer says "Yes - but not economically.  
23 Biomass plants tend to be more economic if they are  
24 properly sized. Therefore, the combined costs of two

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1 15-megawatt biomass plants is likely to be considerably  
2 higher than one 30-megawatt facility." And, then, it  
3 goes on later to say, "In order for an economically  
4 sized biomass plant to be built, in the early years it  
5 may produce more RECs than PSNH might need; but, the  
6 alternative is either not to have any new renewable  
7 generation built, or to build more costly,  
8 inefficiently sized plants based on REC needs alone."

9 That sounds like to me, though, it's  
10 presuming that there is a single buyer who's buying the  
11 entire output of the plant. And, I mean, is this  
12 another alternative, that there could be more than one  
13 purchaser for one of these developments?

14 A. (Long) Yes. That's another option. It's another  
15 complication. It's really difficult when you get  
16 multiple buyers in a situation that's unique. And, in  
17 our case, we have the Cumulative Reduction Factor. So,  
18 do you say, at the end of the period, you're going to  
19 have two owners of a power plant project? I think the  
20 trend has been in New England not to have multiple  
21 owners of a power plant. Because you get into  
22 decisions of control, and it just doesn't really make  
23 any economic sense.

24 Also, as I've said before, the best site

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1 and the most feasible project on biomass in the state,  
2 in my opinion, by far, is Berlin. And, it is the size  
3 that it is. So, this answer that we gave, you know, I  
4 think is a little bit awkward, and it's sort of  
5 theoretical. The fact is, you know, you don't have  
6 projects that go necessarily directly under the timing  
7 of when your RPS requirements are. You know, projects  
8 are not easy. I'm not so sure I want to go through  
9 what we've gone through twice or three times. You  
10 know, so, I think, for us, we focus on that project,  
11 which we thought would do the most for the state and  
12 would meet our requirements.

13 Q. So, similar to the question that says about RECs  
14 basically may not be meeting -- the RECs available may  
15 not be meeting PSNH's needs. Similarly, the energy and  
16 capacity available from this project might not be --  
17 match PSNH's needs? Is that a fair conclusion?

18 A. (Long) It's fair. But I think energy is less of a  
19 problem than RECs themselves, just because a larger  
20 base for energy, more options in the marketplace for  
21 energy, as opposed to RECs, which are more limited, and  
22 the requirement is a very fast-growing requirement.  
23 So, it's fast-growing. So, how do you, if we're  
24 growing, you know, multiples each year over the

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 previous year's REC requirements, how do you acquire  
2 that is through a long-term purchase power contract  
3 that can keep up with that fast growth. If this  
4 project were delayed a couple years, we would have a  
5 really good match. You know, but I'm not advocating  
6 that. So, we have to take it as it's available.

7 Q. So, this gets back to your position that, if one were  
8 to issue an RFP, it would probably be something for  
9 something very specific, trying to match the Company's  
10 needs for energy, capacity, and RECs. But your view is  
11 that that's not a -- that just doesn't work in this  
12 area, and it's better to try to take an opportunity  
13 that's available and mold that opportunity in a way  
14 that meets the needs?

15 A. (Long) I think, yes, I think that's correct, what you  
16 described. And, you could -- we could do a short-term  
17 RFP for a year or two, and we could use that as a  
18 method to do some short-term purchases. But, if we did  
19 an RFP, we'd probably be talking to somebody in Maine,  
20 and we'd probably be talking to a wind project in  
21 Maine. You know, and to me, that wouldn't -- that  
22 really wouldn't advance what the State's trying to  
23 advance.

24 And, so, how do you focus on the

[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 requirements of the RSA, and I don't think an RFP is a  
2 good vehicle to focus on the requirements of the RSA.  
3 You have to do arm's length bilateral discussions that  
4 can consider all of the requirements of the State and  
5 the guidelines to price our own needs.

6 Q. When you say "the RSA", you're talking about things  
7 other than price?

8 A. (Long) Yes. Other than price, and located in New  
9 Hampshire, and providing economic value to New  
10 Hampshire.

11 Q. And, so, then, ultimately, your argument is that --  
12 your position is that, to the extent that the energy  
13 prices are above-market, you've created this structural  
14 --

15 A. (Long) Protection.

16 Q. -- mechanism, depending on what happens over time that  
17 may or may not --

18 A. (Long) Yes.

19 Q. -- provide full protection?

20 A. (Long) Yes. And, just as a comparison, I'll bet you  
21 that the Cape Wind Project, which is priced higher than  
22 this, does not have that protection. So, this is  
23 unique. And, it is a way for customers to get value.  
24 And, you know, when you think about renewables and

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[WITNESS PANEL: LONG~LARGE~LABRECQUE~SHAPIRO]

1 customers, I think you have to look at the long term.  
2 You know, a short-term action is, as most utilities, is  
3 do nothing. But, if you do nothing, then three, four,  
4 five years from now, ten years from now, we won't have  
5 what we need. And, the opportunity is there now. And,  
6 our renewable requirements are growing rapidly.

7 (Chairman and Commissioners conferring.)

8 CHAIRMAN GETZ: Okay. Thank you, Mr.  
9 Long. Mr. Bersak, are you going to have redirect?

10 MR. BERSAK: No, sir.

11 CHAIRMAN GETZ: No redirect. Let's --  
12 then we need, I guess today, to address Mr. Boldt's -- did  
13 you describe that as basically your "Motion for Rehearing"  
14 or "Reconsideration"?

15 MR. BOLDT: I would suggest it be viewed  
16 as a "Motion for Reconsideration", so that we can set what  
17 is going to be the accepted testimony and what is the  
18 accepted exhibits of Mr. Sansoucy, so we get the correct  
19 binders to you. We could start on certain things, if  
20 there is time. I also have to, unfortunately, admit that  
21 I approved Mr. Bersak's earlier comment of "we speed up by  
22 slowing down." I gave you an uncorrect collated set of  
23 tables on the Ventyx materials. I've got the correctly  
24 collated materials, so I would like to, in essence, swap

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1 out the three that you have.

2 But my motion is a Motion to Reconsider  
3 your ruling, so that we know the correct rebuttal  
4 testimony that should be in the record.

5 CHAIRMAN GETZ: Okay. And, then, we  
6 would have opportunity for objections to that, I guess.  
7 Ms. Hatfield.

8 MS. HATFIELD: Well, Mr. Chairman, I  
9 guess I would just say that it's one thing for Attorney  
10 Boldt to request reconsideration, and I think he has the  
11 right to do that. But, to suggest that that's necessary  
12 in order for us to understand what's in, I would just  
13 disagree with that. I think, if your ruling stands, I  
14 think we all understand what's in and what isn't. So,  
15 reconsideration is something different. But I fully  
16 understand, if your ruling stands, with the exception of  
17 the Ventyx and Energy Solutions material, I think it's  
18 pretty clear.

19 MR. BOLDT: Based on what was discussed  
20 today, Mr. Chairman, I believe that it is necessary for me  
21 to urge you today, because there are things that were  
22 commented on by Mr. McCluskey, by Mr. Frantz, by the  
23 responses of the PSNH crew that directly go to prove that  
24 what my expert has said on behalf of the City of Berlin is

1 proper rebuttal. Remember, I'm an intervenor, I don't  
2 have a case in chief. There is no burden that I have that  
3 I had to put in my first direct. I'm an intervenor. The  
4 burden is squarely on PSNH.

5 CHAIRMAN GETZ: Okay.

6 MR. BOLDT: We're here to --

7 CHAIRMAN GETZ: Let's hold that off for  
8 a minute. I just want to find out if there is anything  
9 else that we're going to have to deal with today, other  
10 than the motion and responses to it?

11 MR. BERSAK: Just so you're aware, Mr.  
12 Chairman, if we get beyond whatever these procedural  
13 matters are, and if you should decide that Mr. Sansoucy  
14 should at least start his time on the witness stand, that  
15 the Company is ready, notwithstanding what your ruling is,  
16 to do our cross today, to get that done with, so we move  
17 this docket forward.

18 CHAIRMAN GETZ: Ms. Amidon.

19 MS. AMIDON: With the last suggestion by  
20 Mr. Bersak, we would disagree with that. We are not  
21 anywhere near ready to hear the testimony of Mr. Sansoucy.

22 MR. BERSAK: Well, hearing is one thing,  
23 cross-examining wouldn't be until next Tuesday. I'm not  
24 sure where the harm would be if we were able to have time

1 to move this witness forward.

2 MS. AMIDON: Well, with all due respect  
3 to Mr. Bersak, the City of Berlin, and to the Commission,  
4 Staff has been preparing for today, and we have not had a  
5 chance to review the attachments that were provided to us  
6 late in the day yesterday.

7 CHAIRMAN GETZ: Well, I'm not even sure  
8 that we actually would even ever get that far. We're  
9 talking quarter of 4:00. But I think what the -- if I'm  
10 understanding the proposal is that there would be -- there  
11 would be direct, and then the first opportunity for cross  
12 would be --

13 MR. BERSAK: Is us.

14 CHAIRMAN GETZ: -- would be PSNH. So,  
15 that would be a lot to accomplish today.

16 MR. BOLDT: Right.

17 MS. AMIDON: Thank you.

18 MR. BERSAK: Ever the optimist.

19 CHAIRMAN GETZ: And, we could dismiss  
20 the panel. Thank you all very much.

21 (Chairman and Commissioners conferring.)

22 CHAIRMAN GETZ: Okay. Let's proceed in  
23 this manner. We'll give, Mr. Boldt, your opportunity to  
24 make your argument. Go ahead.

1 MR. BOLDT: Thank you, Mr. Chairman. If  
2 I may approach? What we have is a version of the rebuttal  
3 testimony that is marked up to give effect to the current  
4 standing of the Commission's ruling. If we look at  
5 Ms. Hatfield's motion that the Court granted in part,  
6 certain exhibits were put back in by agreement. We now --  
7 so, we have 5, 6, 7, and 8 are in. If you -- those are  
8 Item (a) addressing the exhibits. The exhibits are  
9 scattered throughout. As I said, we are an intervenor.  
10 We added this material in direct response to the testimony  
11 that was filed for the first time on the same day as our  
12 original testimony, by Staff, by OCA, and this is in  
13 direct rebuttal to that.

14 CHAIRMAN GETZ: I'm sorry, say that  
15 again?

16 MR. BOLDT: Our rebuttal testimony is  
17 filed in response to the direct testimony of Staff and  
18 OCA, which was filed originally on the same day as our  
19 direct testimony as an intervenor. So, I can't respond to  
20 them before I've seen it. Our rebuttal is in response to  
21 them. We filed ours on the 18th electronically. So, the  
22 argument that we "should have put everything in  
23 originally" is not fair to us as an intervenor. The  
24 exhibits that are attached directly go to rebut the

1 positions taken by Staff and OCA.

2 And, if I may, let me walk through the  
3 types of issues that are raised in the various (a), (b),  
4 (c), (d) of Ms. Hatfield's motion, and then go to, for  
5 example, Mr. McCluskey's testimony and show why we are  
6 addressing those very same topics.

7 MS. HATFIELD: Mr. Chairman, if I could  
8 just interrupt? This would have been more properly  
9 presented, I think, when Attorney Boldt had an opportunity  
10 to argue against my motion. But is the Commission  
11 considering granting reconsideration, to do this now? Or,  
12 I mean, this is going to take awhile.

13 CHAIRMAN GETZ: Well, we're going to  
14 hear the argument. And, what we do with it is not clear  
15 at this point.

16 MR. BOLDT: And, I appreciate that, your  
17 Honor. And, I will try to go as fast as I can. But I do  
18 respectfully -- I'm sorry to --

19 CMSR. IGNATIUS: That's okay. Finish  
20 your sentence.

21 MR. BOLDT: I do respectfully request  
22 that the Commission remember that Ms. Hatfield filed her  
23 motion at about 5:30 on Sunday evening, and we argued this  
24 motion first thing on Monday morning. This is something

1 that, in due process, we request that it be reconsidered  
2 in part for that. And, let me march through her areas  
3 unimpeded, then give you the evidence that is in or the  
4 positions that are in Mr. McCluskey's testimony. For  
5 example, --

6 CHAIRMAN GETZ: Well, I want to let  
7 Commissioner Ignatius impede first.

8 MR. BOLDT: Of course. I wasn't  
9 intending that as an imposition. My apologies.

10 CMSR. IGNATIUS: I just wanted to  
11 understand the exhibit that you've just shown us, where  
12 some things have cross-outs through and some have gray  
13 over them, --

14 MR. BOLDT: Yes.

15 CMSR. IGNATIUS: -- you know, to be sure  
16 I know what it is we're arguing about and what we're not  
17 arguing about.

18 MR. BOLDT: The cross-outs are the first  
19 Item (b) of Ms. Hatfield's motion. Those are, in essence,  
20 the DR responses. Our position would be, those go to what  
21 is important about the infrastructure, the economic  
22 benefits for the City of Dover [Berlin?], why this process  
23 makes good sense. It wasn't a -- for example, no other  
24 person responding to an RFP could have those items.

1 CMSR. IGNATIUS: Wait. Now, let's not  
2 get into the merits of the testimony. I just -- a simple  
3 question.

4 MR. BOLDT: My apologies.

5 CMSR. IGNATIUS: Are you not concerned  
6 and not challenging the decision to strike the sections  
7 with the lines through them? And, you are challenging the  
8 parts that grayed, but not the stricken, not the lines?

9 MR. BOLDT: I tried to distinguish the  
10 categories by the lining. We are objecting to all of it  
11 being stricken.

12 CMSR. IGNATIUS: Thank you.

13 CHAIRMAN GETZ: Try to get through  
14 unimpeded.

15 MR. BOLDT: Feel free to ask any  
16 questions, because I know I am long-winded. Item (b), as  
17 I said, those are the items that are highlighted by  
18 strike-throughs. Those are, in essence, the DR responses.  
19 And, those are, in essence, going to the issues that are  
20 unique to Berlin, why this is in the public interest, why  
21 this is not something that is another RFP responder could  
22 provide, not something that is -- a comparable project  
23 could provide. Those are lines of testimony that came in  
24 today.

1                   Item (c) on Ms. Hatfield's list deal  
2 with capacity.

3                   MS. HATFIELD: Mr. Chairman, would it be  
4 okay to respond to each other issue, because it would be  
5 easier for me?

6                   MR. BOLDT: May I get through my list,  
7 and it may speed up the ultimate thing, because certain  
8 items are duplicative that she has stricken. And, if I  
9 may present my motion?

10                  CHAIRMAN GETZ: I'd like to hear it  
11 completed.

12                  MR. BOLDT: Thank you, Mr. Chairman.  
13 Item (c) is regarding approximately five pages dealing  
14 with capacity issues. Similarly, Item (d) deals with  
15 capacity issues. That is why it is important for this  
16 body to consider the capacity pricing and the potential  
17 upsides to the ratepayers as a result of this. This is  
18 one area where Staff gives a very brief paragraph saying,  
19 in essence, "We don't have time to analyze it. We haven't  
20 analyzed it." But OCA says, in essence, "It's \$11 million  
21 under-market for that element of the pricing." Mr.  
22 Sansoucy's testimony goes to analyze why capacity is so  
23 important. Certain of the exhibits address the impending  
24 retirement of various other plants in the New England



1 area, and what this would do for the ratepayers of New  
2 Hampshire to have a lock-in of this amount of capacity.  
3 That is a vital issue for this Board's consideration.

4 Section (e) of Ms. Hatfield's materials  
5 deal with the natural gas and electric market analysis.  
6 In part, that is the Ventyx and Energy Solutions materials  
7 that were held in abeyance by this body yesterday -- or,  
8 Monday.

9 Item (f) deals with the REC pricing, as  
10 does (g) and (i). Included in those REC pricings are  
11 things such as the wisdom of the purchase option, the  
12 wisdom of the Cumulative Reduction Factor, things of that  
13 nature, which we have heard testimony from the panel  
14 today, we have heard testimony -- or, cross-examination,  
15 rather, of Mr. McCluskey today on certain of those issues.  
16 It is important for this Board to have the City's evidence  
17 at balance to evaluate this important issue in the PPA.

18 Item (g) is the Cumulative Reduction, I  
19 believe I just mentioned that. Item (h) deals with the  
20 output of the plant, again, capacity. Those are all items  
21 that are addressed, in part, in Mr. McCluskey's testimony.  
22 For example, an example only, if you look at Page 14 of  
23 Mr. McCluskey's testimony, he deals with the -- whether  
24 there are going to be excess RECs, and how is -- what's

1 the market for those? At Page 18 of Mr. McCluskey's  
2 testimony deals with exceeding market price.  
3 Mr. Sansoucy's testimony addresses that specifically, on  
4 how do we have above-market prices.

5 CHAIRMAN GETZ: Excuse me.

6 MR. BOLDT: Mr. Chairman?

7 CHAIRMAN GETZ: Can we just hold for one  
8 second?

9 MR. BOLDT: Certainly.

10 (Chairman and Commissioners conferring.)

11 CHAIRMAN GETZ: Before -- let me just, I  
12 want to ask this thing, because I'm concerned about some  
13 fundamental fairness issues here. I'm assuming you've got  
14 a little more to say?

15 MR. BOLDT: Yes, but I can be -- I'll  
16 try to be as succinct as I can, Mr. Chairman.

17 CHAIRMAN GETZ: That's fine. What I'm  
18 more concerned about is, this is essentially a Motion for  
19 Rehearing or Reconsideration under RSA 541. We're going  
20 to treat that, you know, with the same standard under the  
21 Supreme Court cases, whether we've mistakenly conceived  
22 something or overlooked something, and to give other  
23 parties an opportunity to object. I think part of the  
24 problem is, folks are hustling to try and put down

1 everything you've said. I think we've got a transcript  
2 that's available. I'm going to ask Mr. Patnaude to be  
3 able to at least give out a rough transcript of what you  
4 have said that will be available to the other parties, and  
5 then that we can convene tomorrow afternoon to permit the  
6 opportunity for oral objections to this, rather than put  
7 people under the pressure of trying to respond to all of  
8 these issues, which I assume they haven't heard, right  
9 here today, which I think would be unfair.

10 MR. BOLDT: And, for the record, Ms.  
11 Hatfield and I have discussed these basic broadbrush  
12 principles. The details of pages, obviously, we have not.  
13 But I'm fine to show up tomorrow afternoon, and we can  
14 conclude that portion. And, I'm fine to proceed with a  
15 little bit more to get my side of the aisle done.

16 CHAIRMAN GETZ: Yes, I want to get you  
17 the opportunity to make all your arguments. Ms. Hatfield,  
18 did you have something?

19 MS. HATFIELD: Well, I'd be willing to  
20 try to dispose of this today, Mr. Chairman, so we don't  
21 have to come back tomorrow. And, I could do that just  
22 after a short break, just to make sure that I did  
23 understand. But I certainly don't need a whole day  
24 myself. I can't, obviously, speak for anybody else.

1 CHAIRMAN GETZ: Okay. Well, let's  
2 finish your argument please.

3 MR. BOLDT: I believe I was on Page 18  
4 and 19 of Mr. McCluskey's testimony that addresses his  
5 allegation that there's an exceeding of market price in  
6 the PPA. Page 20 begins some testimony on the impact of  
7 gas prices that -- and a reference to a Synapse report for  
8 Class I RECs. Those are exactly things that are countered  
9 by Mr. Sansoucy's testimony. And, Page 25, for example,  
10 we again have some testimony from Mr. McCluskey on  
11 over-market price projections and the impacts of that.  
12 Long-term price projections on Page 27 and 28. Those are  
13 directly countered by Mr. Sansoucy's testimony that was,  
14 in part, stricken. Page 47 gives Mr. McCluskey's  
15 summation that it is "not satisfying the public interest".  
16 Mr. Sansoucy's testimony goes directly to that.

17 Mr. Frantz's testimony -- Frantz's  
18 testimony deals with public interest and economic  
19 benefits. Mr. Sansoucy's testimony goes directly to rebut  
20 those assumptions and conclusions.

21 Also, Mr. Traum's testimony addresses  
22 things like, just for example, his Exhibit 10, on the  
23 fluctuation of market gas prices and how much, what are  
24 the projected futures of that. Mr. Sansoucy's testimony

1 addresses those types of issues.

2 In short, Mr. Chairman, members of the  
3 Board, what is important for the City of Berlin to have  
4 considered by this Board is the impacts not only to our  
5 taxpayers and ratepayers, but the residents of the North  
6 Country and the state as a whole as a positive of this  
7 project. You do not have testimony directly before you  
8 yet, without Mr. Sansoucy, of the potential of this PPA  
9 showing not a negative to the ratepayers, but actually a  
10 \$300 million positive for the ratepayers. That has to be  
11 brought into the mix for balance. And, it is important  
12 for us, and may I suggest allowing it in, and then giving  
13 whatever weight in your mix that you wish to give it.  
14 But, I think by striking it at this stage, you potentially  
15 have created a reversible error that then has the Supreme  
16 Court saying, "because other parties were not able to  
17 cross-examine Mr. Sansoucy on these topics, we have to  
18 come back and do this again", which nobody wants to do.

19 We respectfully request that you  
20 overturn your motion to strike. Allow us to have all of  
21 the rebuttal testimony and its exhibits in, save for those  
22 segments that deal, at the very end there are two  
23 questions that are stricken, because they dealt with  
24 responding to Concord Steam. Those we agree should be

1 out. So, Commissioner Ignatius, I apologize, I had meant  
2 to say those earlier. That, yes, we agree that that is  
3 out. But all else, that is either in the strike-through  
4 of the first eight ages or the shading or the highlighted  
5 sidelines that are the bullet points from the Energy  
6 Solutions materials, all of those materials should come  
7 back in.

8 And, we ask this Board to overturn its  
9 prior ruling, in the interest of fairness, in the interest  
10 of justice, in the interest of balance, so that this body  
11 can come to a just, true, and proper decision. And, I  
12 truly appreciate your time.

13 CHAIRMAN GETZ: Thank you. Okay. So,  
14 opportunity to respond. Mr. Bersak?

15 MR. BERSAK: Did you say something, Mr.  
16 Chairman, about coming back tomorrow or how are we going  
17 to deal with this?

18 CHAIRMAN GETZ: Well, I guess, why don't  
19 we hear if anybody has any objections. I was assuming  
20 that on this was -- this is a motion to strike originally  
21 by the Consumer Advocate, who should, I think, have an  
22 opportunity to go last on this issue. And, I suspect is  
23 adverse to the position just taken. So, I think I've  
24 heard from Ms. Hatfield that we need not come back until

1 tomorrow, but I'm going to leave it to her discretion,  
2 based on it's her motion that we're --

3 MR. BERSAK: I can certainly give you  
4 the Company's position. Which is that, you know, we've  
5 heard through the testimony of our panel that's been up  
6 there now for two and a half, three days, that the issues  
7 in this proceeding are wide-ranging, they are  
8 comprehensive, they deal with all the public interests  
9 that were set out in the Renewable Portfolio Standard law.  
10 They deal with environmental issues, economic issues, job  
11 issues, pricing issues, capacity, energy, REC, and they go  
12 across the board. It's very difficult to contain the  
13 testimony that the City of Berlin put in and say "it  
14 doesn't respond to something that was included in other  
15 testimony and therefore is not proper rebuttal."

16 Now, in addition, you know, the practice  
17 before this Commission has been that, when you get to the  
18 stage of the hearing, I wouldn't say "anything goes", but  
19 things, you know, you're allowed to bring things in that  
20 came out of nowhere. Today, we were offered an exhibit  
21 with respect to the New York Economic or Energy -- ERDA,  
22 whatever that is in New York, that Mr. McCluskey was  
23 asking the panel, "Aren't you familiar or are you familiar  
24 with in New York how they do this?" That was nowhere to

1 be found. But now that's an exhibit inside this  
2 proceeding. To say that those kinds of things that come  
3 in spur of the moment on that kind of examination are in,  
4 but Mr. Sansoucy's testimony is not in, seems to be a bit  
5 arbitrary and unfair.

6 CHAIRMAN GETZ: Well, isn't it a very  
7 large difference between materials brought in through  
8 cross-examination as to prefiled testimony or rebuttal  
9 testimony?

10 MR. BERSAK: I would much rather have  
11 things filed, and so we can look at it and be prepared for  
12 it and deal with it, rather than have to deal with it on  
13 the fly, and not even know what the basis of the study is  
14 that's being brought in. So, yes, there are pluses and  
15 minuses.

16 But, frankly, what the Company's  
17 position is, is that we probably think, on balance, that  
18 the City of Berlin has a point. And, clearly, the  
19 Commission can give it whatever weight you think it is  
20 due, and that we would recommend that you consider  
21 favorably the City's motion.

22 CHAIRMAN GETZ: Thank you. Mr. Edwards,  
23 do you have a position?

24 MR. EDWARDS: No.



1 CHAIRMAN GETZ: And, Mr. Shulock?

2 MR. SHULOCK: Well, first of all, I  
3 don't see -- it was difficult to follow the entire  
4 discussion, because Mr. Boldt speaks quite quickly. But I  
5 didn't hear anything that met the standard of anything  
6 that had not been discussed prior and that you had  
7 overlooked or failed to consider. So, I don't think it  
8 meets the standard for granting rehearing to begin with.

9 But, secondly, I think that this type of  
10 position invites gamesmanship, in terms of how processes  
11 -- how the process goes. You do have this established  
12 procedure of filing direct testimony, which is to contain  
13 a party's case in chief. We all knew at the outset that  
14 the issues in this case were wide-ranging. And, if we had  
15 substantial testimony on those issues, we should have  
16 filed them directly. Our rebuttal testimony is simply to  
17 respond to the arguments made on a -- by another party,  
18 and that may include something that we didn't say in  
19 direct, but not to the extent that has been provided by  
20 the City.

21 And, I can speak directly to the issue  
22 that involves the wood IPPs in this testimony, which is  
23 the attempt to bring in through testimony a data -- a  
24 response to a data request that we made. We asked the

1 data response and we also asked for the backup in that  
2 data response. We were stonewalled on that, and told that  
3 "All of that information is public record. Go find it."  
4 And, that I think is the essence of their answer. "The  
5 requested information, [which includes XYZ], are all  
6 public information available at the PUC or the City of  
7 Berlin." There is no real attempt to answer the discovery  
8 request on the testimony that they have submitted as  
9 rebuttal.

10 And, so, I see this essentially as an  
11 abuse of that rebuttal testimony process. And, I don't --  
12 I'm not saying that's an intentional abuse, I'm just  
13 saying it's one that the Commission should not invite  
14 through its orders.

15 CHAIRMAN GETZ: Thank you. Ms. Amidon?

16 MS. AMIDON: While I'm sympathetic with  
17 the fact that Mr. Boldt does not practice before this  
18 Commission, I don't think that excuses him from complying  
19 with the normal rules. And, I was very concerned when I  
20 heard him characterizing Staff's testimony. They haven't  
21 been on the stand yet. And, also characterizing Staff's  
22 questions and testimony today as something that is -- he  
23 is able to rebuttal through testimony that he filed some  
24 time ago, and which did not comply with what rebuttal

1 testimony is.

2 I'm inclined -- I know I heard Ms.  
3 Hatfield say that she would like to take a short recess  
4 and resolve this today. But, given the many things that  
5 Mr. Boldt said, I'm inclined to agree with the Commission.  
6 It may be appropriate for Mr. Patnaude to provide us with  
7 a transcript that recites Mr. Boldt's objections as he  
8 stated them today, so that we can prepare a fully informed  
9 response for the Commission, an objection for the  
10 Commission tomorrow. But we will be making an objection.

11 We don't believe rebuttal testimony  
12 should be used to include responses to data requests to  
13 address what's perceived as an omission from someone  
14 else's testimony or to be used to supplement direct  
15 testimony, where the party subsequently finds that they  
16 failed to include material which they, you know, may have  
17 wanted -- may have overlooked at the outset.

18 So that I think I would leave it to the  
19 Commission. If you would like us to take a short recess,  
20 I will follow the Commission's directive. I'm just  
21 saying, I think I'd prefer to see exactly what was said,  
22 so I can prepare an appropriate response for Staff.

23 CHAIRMAN GETZ: But your basic position  
24 nonetheless is you object to the motion?

1 MS. AMIDON: Correct.

2 CHAIRMAN GETZ: Ms. Hatfield, are you  
3 prepared to go ahead now?

4 MS. HATFIELD: Sure. Thank you.  
5 Actually, I agree with everything that Attorney Shulock  
6 and Attorney Amidon said. So, I'll try not to be too  
7 repetitive. But I do agree that Attorney Boldt's Motion  
8 for Reconsideration I don't think meets the standard of  
9 541, that the Commission either made a mistake or  
10 overlooked something.

11 He specifically said, as Attorney Amidon  
12 just stated, that I think that one of his bases for his  
13 motion is that Mr. Sansoucy needs to respond to Staff's  
14 cross today, and I don't believe that his written rebuttal  
15 is necessary for that. He will be on the stand and he  
16 will be crossed. And, if the Commission agrees with Mr.  
17 Boldt that the Commission needs certain information from  
18 him, the Commission itself can cross him on a wide range  
19 of issues.

20 As Attorney Shulock said, we all knew  
21 the issues at the outset. You know, the fundamental issue  
22 being whether this is in the public interest. And, Mr.  
23 Sansoucy certainly spent a lot of time in his testimony  
24 discussing whether it was in the public interest, and

1 that, in our view, is just clearly more appropriate for  
2 direct testimony.

3 With respect to all of the information  
4 about siting, I don't believe that Staff or the OCA had a  
5 single mention of those types of issues, about whether  
6 Berlin is the best place for the plant or anything like  
7 that. So, I certainly understand that is a strong view of  
8 Mr. Sansoucy, and I think that that will come out in his  
9 time on the stand, but it's not appropriate in his  
10 rebuttal.

11 And, with respect to the items that  
12 you've held in abeyance, Mr. Bersak talked about, you  
13 know, last minute things coming in, and the nice thing  
14 about prefiled testimony being that we can be prepared for  
15 the hearing. But I'll just point out again that that's  
16 really the problem with that whole section that you've  
17 held in abeyance, which is my Paragraph 12(e). You know,  
18 we still aren't sure if we have the complete materials.  
19 And, we remain of the opinion that those should be struck  
20 as well. We don't think that the parties have a  
21 meaningful opportunity to review those materials in order  
22 to cross Mr. Sansoucy. So, we do object to the Motion for  
23 Reconsideration.

24 The one area that I think is less clear

1 in my mind than some of the others is -- are the exhibits  
2 and related testimony, I believe in my -- I believe I  
3 reported to the Commission yesterday morning that I had  
4 overlooked a few issues, and I revised my motion. And,  
5 Mr. Boldt has added in another new exhibit, Exhibit 5.  
6 And, I wouldn't object to that being in. That's a  
7 capacity growth-related issue, which I think it could be  
8 argued is related to some of those other exhibits. So, I  
9 wouldn't object to that. And, I think that's it.

10 MR. BOLDT: May I respond very briefly?

11 CHAIRMAN GETZ: One second please.

12 (Chairman and Commissioners conferring.)

13 CHAIRMAN GETZ: Mr. Boldt.

14 MR. BOLDT: Very briefly, your Honor.

15 It seems as if parts of the testimony that are in is  
16 because I framed the question correctly in the eyes of  
17 Staff and the OCA. Whereas, some of the evidence that is  
18 stricken is because the question is improperly framed in  
19 their eyes. That should not be the standard for just and  
20 proper consideration of this case. I believe you have  
21 overlooked and misconstrued the substance of our testimony  
22 and the rebuttal nature of it against the testimony that  
23 is prefiled by Staff.

24 My comment concerning the questions of

1 Mr. McCluskey and today's panel go to the concept of  
2 opening the door. If they think it is something worthy of  
3 cross, then it should be in on all witnesses and allow all  
4 parties to cross upon it. By opening back up and allowing  
5 the prefiled rebuttal testimony of Mr. Sansoucy to stand,  
6 this Board has all evidence in front of it that is proper,  
7 and all parties can have a meaningful cross-examination of  
8 it. We are now coming back on Tuesday for consideration  
9 of Mr. Sansoucy. Everybody will have more time to  
10 consider all of the evidence that is there.

11 And, I must say, this is the first time  
12 Ms. Hatfield has said that I've not given her now the  
13 complete materials that had been referred to. I don't  
14 know what she's talking about. We've given the Ventyx  
15 report, the most recent, and the most recent of the Energy  
16 Solutions, as well as the prior reports, backup, tables,  
17 that go -- that could be anything that Mr. Sansoucy was  
18 considering on the Ventyx materials we've provided.

19 And, I'd like the Board's ruling as soon  
20 as possible, so that we know how to prepare for the  
21 materials to be presented to this Board.

22 CHAIRMAN GETZ: Ms. Hatfield.

23 MS. HATFIELD: If I could just response  
24 to that? What I was referring to was, at the beginning of

1 this afternoon Mr. Boldt approached the Bench and switched  
2 out some documents with you, and I just didn't know if he  
3 needed to do that with us as well? And, I --

4 MR. BOLDT: No, you --

5 MS. HATFIELD: And, I haven't had a  
6 chance to confer with him.

7 MR. BOLDT: Okay. For the record, the  
8 materials that I provided to Staff and OCA before leaving  
9 for lunch are the correct set. The Board had already  
10 left. I had asked the Clerk if those could be retrieved,  
11 and it couldn't be at that time. So, that's why we  
12 approached at this time. So, we will give the -- thank  
13 you for reminding me, Ms. Hatfield. I'll give the Board  
14 the corrected sets as soon as we conclude.

15 CHAIRMAN GETZ: Okay. Then, what we  
16 will do is take this matter under advisement. And, our  
17 goal is to deal with this in writing by close of business  
18 Friday at the latest, so that everyone can be prepared for  
19 next week, and just how much testimony will be entered by  
20 Mr. Sansoucy and an opportunity to prepare cross.

21 MR. BOLDT: Thank you, Mr. Chairman.

22 CHAIRMAN GETZ: Ms. Hatfield.

23 MS. HATFIELD: Did you already tell us  
24 what time on Tuesday?



1 CHAIRMAN GETZ: I'm looking at 9:00  
2 Tuesday, February 1st. And, recognizing, I don't know how  
3 long, if we're going to be able to get through on Tuesday,  
4 the 1st, everything that still needs to happen, we have  
5 reserved on our calendar Tuesday, February 8th, as well,  
6 if we need to go over.

7 MS. AMIDON: Thank you.

8 CHAIRMAN GETZ: Is there anything else  
9 today?

10 (No verbal response)

11 CHAIRMAN GETZ: Hearing nothing, then  
12 we're adjourned until next Tuesday. Thank you, everyone.

13 MR. BOLDT: Thank you.

14 MR. BERSAK: Thank you.

15 **(Whereupon the hearing was adjourned at**  
16 **4:20 p.m. and the hearing to reconvene**  
17 **on February 1, 2011, commencing at 9:00**  
18 **a.m.)**

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