In Re:

DE 10-195

PSNH/LAIDLAW BERLIN BIOPOWER

DAY 6

February 9, 2011

STEVEN E. PATNAUDE, LCR NO. 52

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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

February 9, 2011 - 9:16 a.m. DAY 6
Concord, New Hampshire

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...)
Keriann 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)

Reptg. Clean Power Development:
James T. Rodier, Esq.

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

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

I N D E X

E X H I B I T S

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P R O C E E D I N G

CHAIRMAN GETZ: Okay. Good morning, everyone. We'll resume the hearing in DE 10-195. We were still working our way through Mr. Bersak's cross-examination of the panel. But I understand correctly that there's someone who would like to make a public comment? Sir.

MR. DAMMANN: Good morning. My name is James Dammann. With me is my partner, Robert Berti. We're licensed foresters in the State of New Hampshire. We're co-owners of North Country Procurement, a business -- we've been in business for 25 years. We have 70 years of experience in forestry and procurement combined. NCP services nine wood plants all around New England, responsible for the delivery of 1.3 million tons, from some 250 wood suppliers. Four of our clients, well, actually, now three, are intervenors in this docket. Concord Steam, with Concord Steam withdrawing, we had submitted written testimony, and that testimony was not heard. We want the Commission to understand the impact this PPA could have on the wood markets, and specifically the wood IPPs.

There's one aspect of wood procurement that we would like to make sure you understand. Wood is a

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distinctly dispersed resource. The greater the demand for wood, the further one must reach to get the fuel. Thus, the larger the facility, the greater will be the cost of wood to a particular facility, all else being equal. Thus, one would expect Concord Steam's cost of wood to be below the wood IPPs', and the wood IPPs' cost of wood to be below Schiller and potentially Laidlaw's, everything else being equal.

The Laidlaw PPA shifts 100 percent of the fuel risk onto ratepayers because of the Wood Price Adjustment clause. PSNH implies there is protection for ratepayers, because they control the price at Schiller, but that's not the case. All the factors that affect the market for wood, including diesel fuel prices, pulpwood markets, firewood markets, pellets, and, in particular, the weather affect all plants, including Schiller. In fact, since Schiller is such a large plant, and half of its wood procurement area is in the Atlantic Ocean, Schiller consistently pays more for its wood than any other plant because of its size and location.

Yesterday, I was here and I heard Mr. Bersak show that Concord Steam's historical wood price in the 2004 to 2010 period was comparatively very low compared to Schiller, and, he argued, this indicates that

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Laidlaw's energy price could be much lower than is projected by Staff and others. The reason Concord Steam's wood price is so low is it is a comparatively very small facility, using only 10 percent or even less than 10 percent of the wood that Schiller uses annually. It is the nature of the wood business that Concord Steam's wood cost should be significantly lower than Schiller's, due to the small size of Concord Steam.

PSNH says they are paying $27 a ton for wood. I want to make the Commission aware that they are being somewhat misleading. They're paying between $27 and $29 per ton for wood, the majority of their wood, depending on the distance the wood is coming from. Above 40 miles, they're paying $28 for wood, and, above 80 miles away, they're paying $29 for wood. The majority of their wood is being -- they're paying $28 plus, because the majority, to the best of my knowledge, is coming from outside of 40 miles. These prices went into effect on January 17th of this year, one day before PSNH submitted their rebuttal testimony in this docket. For the three years before January 17th of this year, they paid an average of $34 a ton for their wood. In fact, Schiller is now having some difficulty attracting enough wood at the $27 to $29 a ton price. So much so, they have begun

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opening Saturdays in order to get wood -- an adequate supply of wood to the plant. We believe the past four year average of $34 per ton is the best indicator of the price of wood at Schiller upon which Laidlaw's power price should be assessed.

When Schiller entered the market in 2006, the market price for wood rose between 12 and 15 percent. This is a natural occurrence, as a major new demand for wood enters the market, the price will rise, until the supply infrastructure grows enough to meet the new demand. In the case of Laidlaw, we project the market price would rise again by at least 15 percent. Laidlaw's testimony at the SEC stated that they will reach at least 100 miles out for their fuel. That means they will reach south as far as Rochester, New Hampshire. Schiller now reaches north as far as Conway for some of their fuel. We know this, because we compete with it. Thus, Laidlaw will compete directly with the other IPPs and with Schiller in a wide area of the middle of the state. Laidlaw's entrance into the market will cause Schiller's wood price to rise, resulting in more expensive power coming out of Laidlaw.

The Wood Price Adjustment clause in the PPA is distinctly anti-competitive. It's anti-competitive because at some point wood prices will escalate for any number of reasons. Rising wood prices will affect all plants, including Schiller. Schiller can pass those costs onto ratepayers, and Laidlaw can pay more for their wood, because their revenue will increase when Schiller pays more for its wood. The existing IPPs have no way to pass along increased wood costs, and thus will be unable to compete.

The existing wood IPPs can produce power considerably cheaper than Laidlaw, basically because they're smaller facilities and they don't need to reach out nearly as far for their wood.

And, finally, approving this PPA as filed will put the existing wood IPPs under even more financial stress, as their wood costs will go up should Laidlaw be built. It does not make sense to jeopardize 90 megawatts of dispersed wood power located in six different municipalities, which can produce power cheaper, with one huge 70 megawatt plant whose power is more expensive. Each of these six plants employees 120 people directly and indirectly. That would be 700 people directly and indirectly employed by these plants. In our view, it does not pass the test of being in the public interest. Thanks for the opportunity to talk.

CHAIRMAN GETZ: Thank you. Is there anything further before we turn back to Mr. Bersak?

(No verbal response)

CHAIRMAN GETZ: Okay. Hearing nothing, then, Mr. Bersak.

MR. BERSAK: Thank you, Mr. Chairman. Just one thing about the public comment that you just heard. I recognize it is now deemed to be public comment, but I'm sure the Commission recognizes that Mr. Berti did, in fact, file testimony in this proceeding, that was withdrawn when its sponsor withdrew as an intervenor. And, to now reintroduce that testimony is somewhat peculiar, I suppose is a good word, but I'm sure you'll give it the weight to which it's due.

Good morning again, Mr. Frantz, Mr. McCluskey.

WITNESS McCLUSKEY: Good morning.

WITNESS FRANTZ: Good morning.

THOMAS C. FRANTZ, previously sworn
GEORGE R. McCLUSKEY, previously sworn
CROSS-EXAMINATION (resumed)

BY MR. BERSAK:

Q. I was wondering if you had any success finding the lost RECs last night?

A. (McCluskey) Well, there's certainly plenty to come from the Laidlaw plant that I'm sure we'll find them.

Q. All righty. You testified on Page 21, at Line 12 of your testimony, --

A. (McCluskey) Page? Page?

Q. Page 21, Line 12. "Once acquired, PSNH's investment in the facility will presumably be added to its generation rate base." Yesterday, you were discussing a hypothetical with respect to your testimony regarding the violation or your alleged violation of the "used and useful" standard of ratemaking. And, in your hypothetical, you're saying "suppose, hypothetically, there was no PPA." Do you recall that testimony from yesterday?

A. (McCluskey) I do.

Q. Isn't it true that the PPA is a requirement, a condition for this plant going forward?

A. (McCluskey) That's my understanding, yes.

Q. So, if there is no PPA, there is no facility, and, therefore, the hypothetical from the start is just not valid, is it?

A. (McCluskey) I disagree. We were simply -- the hypothetical was stating that PSNH could at any time come to the Commission and say "we would like to acquire a renewable resource at some point in time, and this is the way to do it. It could do that without the current PPA ever being developed. The hypothetical could be proposed to the Commission at any time.

Q. But your hypothetical dealt with the fact that -- that monies that were going into the Cumulative Reduction Fund were deemed to be violative of the "used and useful" standard?

A. (McCluskey) In the hypothetical, there was no Cumulative Reduction Fund. There would just simply be a request for the Company to charge customers a premium, so it could build up a fund, which it could use in the future to purchase a facility or purchase part of a facility, depending on the cost of the facility and the balance in that fund. That was the hypothetical.

Q. But that's not the case that we have here, is it?

A. (McCluskey) I think the hypothetical is very close to what we have here. The difference in the hypothetical is that PSNH would actually be retaining the 10 percent premium dollars. In this case, the above-market payments are actually going to Laidlaw. Laidlaw is sitting with those dollars, and is agreeing to allow a discount to the purchase price, depending on the

balance in the Cumulative Reduction Account. So, I think the two -- I think the hypothetical is very close to what you have proposed in this PPA.
Q. Isn't it true that the PPA, if approved, will be a wholesale power sales agreement, subject to FERC's jurisdiction under the Federal Power Act?
A. (McCluskey) That's my understanding.
Q. So, you're looking through the FERC tariff and picking and choosing pieces that you like and don't like, and attributing them to different categories of costs.
MS. AMIDON: Objection. Is there a question there?
BY MR. BERSAK:
Q. Are you?
A. (McCluskey) I'm not looking at any FERC tariff. I'm looking at the PPA as filed. This Commission has jurisdiction to determine whether the PPA is in the public interest. We are simply analyzing the various components of it and stating what we consider to be reasonable and unreasonable.
Q. I see. I suppose that the ultimate question is, is compliance with a FERC approved and filed tariff violative of "used and useful" ratemaking standard?
A. (McCluskey) There is no -- as I just said, Mr. Bersak,

there is no FERC approved tariff in front of us today. There's a PPA being submitted to the Commission for its approval. It can apply whatever ratemaking principles it deems to determining whether that PPA is in the public interest.
Q. True. But, if it was approved by this Commission, and if it was a FERC jurisdictional tariff, and if PSNH paid the amounts under that tariff, would there be a violation of the "used and useful" standard?
MS. AMIDON: I think he answered the question.
MR. BERSAK: I'm not sure that he did.
CHAIRMAN GETZ: Well, it seems to me that your real question is, "does this FERC tariff preempt state action?" And, I mean, it sounds to me like you're calling for a legal conclusion from Mr. McCluskey in that respect.
MR. BERSAK: Well, I think that he made the legal conclusion in his testimony, saying that this was "violative of the "used and useful" standard." So, I'm just probing to find out, one, you know, if the Commission --
CHAIRMAN GETZ: Well, I think he's been making the distinction all along between the ratemaking

principle of "used and useful", and without invoking the CWIP -- the anti-CWIP statute.
MR. BERSAK: I think it was Mr. Traum with the anti-CWIP. I think Mr. McCluskey is "used and useful".
CHAIRMAN GETZ: I believe that's what I just said.
MR. BERSAK: Okay. I'm sorry. Well, we'll move on.
BY MR. BERSAK:
Q. If you turn to Page 24 of your testimony, on Line 10. Your testimony reads, "PSNH has said that the process of negotiating the pricing provisions in the PPA was not directly influenced by the price of other renewable projects. This response, when considered in isolation, suggests that cost minimization was not high on the Company's list of objectives for the PPA." What do you mean by the phrase "when considered in isolation"?
A. (McCluskey) Well, just with respect to that particular response, the question that we asked the Company in discovery was "did you compare the PPA prices with other -- with the prices of other comparable projects?" And, the Company effectively said "no." And, so, just focusing on that particular response, I wrote what you

just read into the record. So, in isolation, considering just that one test, comparing the PPA prices with other comparable projects or the prices of other comparable projects, then it would suggest that cost minimization was not high on the Company's list. And, I think I'll leave it at that.
Q. Your testimony was filed after we filed our petition in this proceeding, which was accompanied by the Direct Testimony of Mr. Long, is that correct?
A. (McCluskey) That's correct.
Q. So, when you testified that "cost minimization was not high on the Company's list of objectives for the PPA", were you directly countering Mr. Long's testimony, his direct testimony, on Page 4, where he says "PSNH's desire is, of course, to meet these goals in a cost competitive manner from a customer's viewpoint"?
A. (McCluskey) Yes. I am countering that, if that was the word that you used. In addition to not comparing the PPA prices with the price of the comparable projects, the Commission -- the Company chose not to use a competitive solicitation. PSNH also rejected lower price offers from CPD and Concord Steam. PSNH's own financial analysis showed that Laidlaw investors would receive unreasonably high returns under the PPA. PSNH

has agreed to purchase RECs that it doesn't need. PSNH agreed to have customers take the risk that the RPS terminates in 2025. PSNH's comparison of PPA energy prices with the forecast of market energy prices shows the former to be well above market. And, PSNH has agreed to have customers take the risk that the plant will have little value at the end of the term. All of these facts demonstrate, in my view, that cost minimization is not high on the Company's list of objectives.
Q. So, are you saying that Mr. Long's testimony was untruthful?
A. (McCluskey) I'm not saying it was untruthful or not. I just disagree with it, based on the facts that I just entered into the record.
Q. On Page 26, Line 12, of your testimony, you reference your "Exhibit GRM-12".
A. (McCluskey) Yes.
Q. The figures on GRM-12, are they based on a wood price of $27 per ton?
A. (McCluskey) Just one moment. The first column in Exhibit GRM-12 has the energy prices from Mr. Labrecque's attachment. And, it reflects a $34 per ton fuel price, escalating at 2.5 percent per annum.

Q. Would you agree that a greater than 20 percent drop in the price of wood would have a significant effect on the data included in your exhibit?
A. (McCluskey) I think it's already been established that the actual energy prices in the PPA will reflect the actual fuel costs at the time. So, if there is a decrease or an increase in fuel costs relative to $34 a ton, then the prices shown in the first column of Exhibit 12 will change.
Q. Are the figures included in this exhibit used throughout all the other calculations in your testimony?
A. (McCluskey) Well, I'm not sure what calculations you're referring to. Here, this exhibit is designed to compare the PPA prices with a forecast or benchmark or projection, whatever you want to use, of market energy prices going forward. This, the second column, the "Adjusted Market Energy Prices", uses the PSNH methodology that produced an earlier price forecast. And, it's simply updated to reflect more recent NYMEX electricity and natural gas prices. And, the third column is the difference between the two. And, it's -- I'm not sure where I would -- where else I would use the information in this exhibit elsewhere in my

testimony. It is certainly the basis of the statement in my testimony that the energy prices in the PPA are of the order of $290 million above market. This calculation, the calculation shown here, is the basis of that number. Other than that, I don't recall using these prices elsewhere.
Q. So, what I gathered from what you just said, let me know if I'm incorrect, you used the data on this page to determine your over-market calculations?
A. (McCluskey) Over-market -- the over-market energy costs, that's correct. Obviously, there's a separate calculation for over-market REC costs.
Q. If you turn to GRM-13, did you similarly use the information, the data that's on GRM-13, to provide calculations with respect to the over-market estimates of REC purchases?
A. (McCluskey) Yes. Let me just explain how Exhibit 13 works, what's going on here. The first column --
Q. I really didn't ask that question, Mr. McCluskey. If the figures on either of these exhibits were inaccurate for any reason, would you agree that your over-market energy or your over-market REC calculations were also inaccurate?
A. (McCluskey) "Inaccurate", you mean --

Q. In error.
A. (McCluskey) In error? If it's demonstrated that there's an error, then the resulting difference would be in error, and the above-market estimate for REC prices would be in error. That's correct.
Q. Now, just a couple minutes ago you were talking about your criticism of PSNH for not comparing the PPA to other renewable projects, do you recall that?
A. (McCluskey) Yes.
Q. Turn to Page 28 of your testimony.
A. (McCluskey) Which line?
Q. Or, actually, I'm sorry. Twenty-six. My mistake, I'm sorry.
A. (McCluskey) And, the line number?
Q. Let's see here. Well, it begins on 26 and goes into 27. Inside your testimony, you have comparisons to the Company's -- of the PPA with the Company's contract with Lempster Wind, is that correct?
A. (McCluskey) That's correct.
Q. Do you consider the Lempster Wind development to be a renewable project comparable to the proposed Laidlaw biomass facility?
A. (McCluskey) Yes. Under this PPA, PSNH is proposing to purchase three products; energy, capacity, and RECs.

Under the Lempster PPA, you're actually purchasing those three products. Both facilities will qualify for Class I REC status. It just so happens the difference is that they're using different technologies. So, from the standpoint of the products delivered, you can acquire them with wind or you can acquire them with biomass.
Q. Do you disagree with Mr. Sansoucy's testimony where he described the significant differences between a biomass form of generation and a wind form of generation?
A. (McCluskey) They certainly have different characteristics, different capacity factor, for example. They've certainly got different cost structures. But they produce the same products. And, I guess that's why they're both in the same class for the New Hampshire RPS. You may, in order to acquire the same amount of energy and RECs as this particular project, you would have to have more wind projects. But I suspect there are benefits to having fewer REC purchases, because of the particular needs of PSNH at this time. So, I think a wind project might actually better fit the REC requirement profile that the Company will be looking at over the next 10 to 15 years.
Q. Last Tuesday, and again yesterday, during your

testimony, or last Tuesday it was the "unanticipated surrebuttal", as the Chairman described it, you testified about what you called "successful competitive programs in Massachusetts and New York to obtain renewable generation." Do you recall that testimony?
A. (McCluskey) Yes.
Q. So, it would be my understanding that you tend to follow what is happening in nearby states regarding renewable energy costs and development?
A. (McCluskey) Not costs. I've, in preparation for this particular proceeding, I've reviewed the structure of the RPS in New York and Massachusetts. And, I think I testified that I reviewed testimony submitted by James Daly for NSTAR, describing the results of a particular solicitation in Massachusetts. And, I've also described a Summit Blue study, which surveyed developers in New York, with regard to their preferences for long-term contracts and various other things. One of the things that the Summit Blue study was addressing was why the PPA -- why the REC prices in New York were quite a bit lower than in the neighboring states. So, I think that was the summary of the testimony that I gave with regard to those two states.
Q. Do you have your response to PSNH Data Request Number

52 available?

MR. BERSAK: Mr. Desbiens can pass that out and have that marked as our next PSNH exhibit, which is?

CHAIRMAN GETZ: Twenty.

MR. BERSAK: Twenty. Thank you, Mr. Chairman.

(The document, as described, was herewith marked as Exhibit 20 for identification.)

BY MR. BERSAK:
Q. Let me know when you have that data response, Mr. McCluskey.
A. (McCluskey) I've got it. I've got that.
Q. In response to PSNH Data Request 52, you indicated that you do not consider the Cape Wind Project to be a comparable renewable project. You were also asked whether you "compared the PPA to any of the three biomass PPAs executed pursuant to a competitive solicitation under the Connecticut Project 150 process?" And, is it true that your response was "No. Mr. McCluskey...has no familiarity with the Connecticut Project 150 process"?
A. (McCluskey) That's correct.

Q. You testify that you based some or a great deal of your analyses on the report by Synapse Energy Economics entitled "Avoided Energy Supply costs in New England 2009 Report", is that correct?
A. (McCluskey) No. I said very clearly that my analysis of the REC prices in the PPA are based on a projection developed by Synapse, a long-term projection. So, I don't recall comparing the other components of the PPA with anything that was in the Synapse study. I certainly used the REC prices from the Synapse study as a benchmark for the PPA REC prices.
Q. During last Tuesday's testimony, though, didn't you criticize PSNH's view that "the Synapse Report might not be reliable, because the short-term REC prices have proven to be inaccurate"?
A. (McCluskey) Yes, I did. Reading the study, they clearly state that the first few years of the long-term projection, they're actually based on REC quotes, as opposed to the results of the long-term supply/demand model that Synapse developed. So, simply pointing out that the current market prices are lower than the early year prices in the Synapse study is not necessarily an indication that the results of the modeling exercise that Synapse did is faulty.

Q. Last Tuesday, in fact, didn't you chastise Mr. Labrecque by stating "Well, in fact, if you actually read the Synapse Report, they state clearly that there's two components to their long-term price forecast"?
A. (McCluskey) Well, I have no intent to chastise Mr. Labrecque. I was simply -- we're in a proceeding, we have different views. I think I have the right to comment on what Mr. Labrecque is testifying to. It's not personal. I'm simply stating my view of what's in the Synapse study.
Q. So, you've actually read the Synapse Report, Mr. McCluskey?
A. (McCluskey) I've certainly read the section recently, and, as I developed my testimony, regarding the REC prices, I've also read other sections extensively, as part of what is called the "DER proceeding" that involves Unitil, Distributed Energy Resource proceeding. The Synapse study figured heavily in that particular case. Some of which had to do with energy prices, some of which, particularly, the carbon forecast that was in the Synapse study.
Q. That Connecticut Project 150, which you responded in the data request you have no familiarity with, are you

aware that in the Synapse Report it's referred to eight times?
A. (McCluskey) It may well be. This, until I received this data request, I wasn't even familiar with the Connecticut Project 150. So, it's quite possible that I read the Synapse study and just glossed straight over any statement regarding this particular process.
Q. Mr. Sansoucy has relied upon market data produced by Ventyx. Do you think that the Ventyx information is reliable?
A. (McCluskey) I've testified that I was not familiar with Ventyx, as a company or the product that it produces. I have no basis to say that it's reliable or unreliable. Based on the testimony of Mr. Sansoucy, I understand it's a large concern. So, I suspect it produces good work.
Q. You just referred to your testimony of last Tuesday, where you testified "I've never even heard of Ventyx before the hearings." Do you recall that?
A. (McCluskey) That's correct.
Q. Are you aware that in seven places in the Synapse Report they refer to and rely on data from Ventyx?
A. (McCluskey) Again, I haven't -- hadn't heard of Ventyx. So, again, I could have read the Synapse Report, seen

the reference to "Ventyx", and it wouldn't have meant a thing to me.
Q. Regarding your criticism that "PSNH did not compare the PPA to other renewable projects", isn't it true that Mr. Labrecque testified that "PSNH conducted research to discover the pricing terms included in other recently announced and publicly available long-term contracts for renewable generation facilities"?
A. (McCluskey) My question to the Company in discovery was whether they "had compared the PPA pricing being negotiated with comparable projects to determine whether the prices were reasonable before they entered into the agreement?" The data that Mr. Labrecque provides in his second attachment relates to projects that, in some cases, the Company could not have known the results at the time it negotiated the agreement, which I understand was in 2008.
Q. You referred to the "second attachment to Mr. Labrecque's testimony", that's RCL-2, correct?
A. (McCluskey) Correct.
Q. Isn't it true that, in RCL-2, Mr. Labrecque included 13 comparable renewable resources, including three biomass proposals that were part of the Project 150 process that you claim unfamiliarity with?

A. (McCluskey) I don't have it in front of me, but I accept what you say.
Q. That Project 150 process was created by Connecticut statute, and involved the issuing of request for proposals, excuse me, from developers for at least 150 megawatts of renewable energy capacity. Wouldn't you deem the results of such solicitation for renewable energy to be somewhat comparable to the Massachusetts and New York processes you referred to in your testimony?

MS. AMIDON: Well, objection. I mean, Mr. McCluskey has already testified that he's not familiar with the Connecticut 150 Project.

MR. BERSAK: My question to him was, by statute, it mandates a competitive process to acquire generation. I'm asking whether such a process would be comparable to the Massachusetts and New York processes that he's testifying to?

CHAIRMAN GETZ: We'll allow the question, if you have an answer.

BY THE WITNESS:

A. (McCluskey) I think it's always good to look at as much data as is available. But I'm simply making the point that, when we asked you "what did you, PSNH, use to compare with the PPA prices?" You said nothing. "We didn't use any prices from comparable projects." And, I'm testifying that it would have been a good idea to use prices from, if available, from projects in New York, from Massachusetts, from Connecticut.

And, I'm simply saying, with regard to Connecticut, I am not familiar with that process. And, now, bear in mind, Commission, this has been a fairly tight schedule. There's only -- I think we made a valiant effort to review this PPA and describe our concerns about it. We didn't have an infinite amount of time to research this PPA. And, maybe if we had, we would have looked more closely at Connecticut. We just simply didn't have the time to do it. But, I agree, if there's useful data in Connecticut, then Staff should have used it, and I think the Company should have used it to benchmark the PPA prices.

BY MR. BERSAK:

Q. When did PSNH file its petition in this proceeding? Subject to check, July 26, 2010. It's now February --

A. (McCluskey) Yes.

Q. -- 2011, is that correct?

A. (McCluskey) Yes.

Q. Would you -- this morning you testified that the

competitive process would be superior to the bilateral negotiations that PSNH entered into to create the Laidlaw PPA. Do you recall that?

A. (McCluskey) I do.

Q. Would you turn to Attachment RCL-2 in Mr. Labrecque's testimony that you referred to earlier. You see the first entry "Plainfield Renewable Energy"?

A. (McCluskey) Give me a moment. Yes.

Q. According to the Connecticut Department of Public Utility Control's January 30, 2008 order in its docket 07-04-27, the Plainfield plant was expected to begin operation in July 2009. Do you know whether this facility is in operation?

A. (McCluskey) I don't.

Q. Do you even know if it has started construction?

A. (McCluskey) No, I don't.

Q. Do you see "Clearview" facility on Attachment RCL-2?

A. (McCluskey) Yes.

Q. According to that same DPUC order, the Clearview facility was expected to begin operation in October of 2009. Do you know whether that facility is in operation?

A. (McCluskey) I don't.

Q. Do you know if it has started construction?

A. (McCluskey) No.

Q. Do you see the "Watertown" facility on that same exhibit?

A. (McCluskey) I do.

Q. According to that same order, it's projected operation date was May 3rd of 2010. Do you know its status?

A. (McCluskey) I don't.

MS. AMIDON: Objection. Mr. McCluskey said he is not familiar with the Connecticut 150 Project. If these are related to that, then, obviously, he would not have any knowledge about this. So, perhaps we could move on.

CHAIRMAN GETZ: Do you have other questions?

MR. BERSAK: No. No other questions about that.

BY MR. BERSAK:

Q. Are you aware of any new biomass generation being built in Connecticut over the last few years?

A. (McCluskey) I can't recall a specific project. I'm sure I've read references to renewable projects, such as biomass, being developed in all of the New England states. But I couldn't, today, put a name to any of those.

Q. Would you be surprised to learn that the Connecticut Project 150 statute has been the law since 2006, and not one project is actually under construction?

A. (McCluskey) Would I be surprised? I have no information which would help me say "yes" to that question.

Q. I would guess that then, from your answers to the previous questions, that you're not aware of a different DPUC Docket, 03-07-17, Reopener 05, that the Clearview and Watertown facilities recently petitioned that department to change the terms of their contracts that they entered into following their RFP process because those contracts are not financeable?

A. (McCluskey) I'm not familiar with that.

Q. Are you familiar with, to something closer to home, are you familiar with the now shut down paper mill in Gorham, New Hampshire?

A. (McCluskey) Yes.

Q. Hasn't that mill been in and out of bankruptcy over the past decade?

A. (McCluskey) That's my understanding.

Q. Are you aware that part of the financial viability of the Clean Power Development project was the sale of thermal products to that mill?

A. (McCluskey) I understand there was a thermal element to their proposal.
Q. If the mill is not likely to be a thermal customer of CPD, would a combined heat and power design for that plant be cost-effective?
A. (McCluskey) I couldn't comment on that.
Q. If a combined heat and power design would not have been cost-effective, because of loss of its thermal customer, is it likely that CPD could not have met the terms of its offer to PSNH, winding up like the Project 150 developments?
A. (McCluskey) We simply have too little information to say "yes" or "no" to that question. Who knows how CPD would have responded with the loss of the thermal load.
Q. Are you aware that Concord Steam or Concord Power & Steam, LLC, has not been able to find buyers it needs in order to move ahead with its new facility?
A. (McCluskey) I don't know in detail. I did hear that they had entered into contracts for the majority of the output. They -- apparently, they had 4 megawatts that they were still looking for a buyer. That was within the last couple of weeks that was told to me. So, I think that answer is a little -- is not consistent with what you just indicated through your question.

Q. They did join in a complaint docket against Public Service of New Hampshire before this Commission, didn't they?
A. (McCluskey) I was not involved in that docket. I really don't know whether they did or not.
Q. Their facility, if and when it's built, will be connected through the Unitil system to the entire New England grid, correct?
A. (McCluskey) It's in the Unitil Service area. So, I would expect it to use the Unitil system at some point, in order to get out of that service area.
Q. Once they're interconnected, they would have the availability of every member of NEPOOL to be a potential customer?
A. (McCluskey) For the output?
Q. Yes.
A. (McCluskey) Yes. They could sell it into the short-term market, they could enter into contracts for anyone who either wishes to market energy or has a load to serve.
Q. So, if they were having difficulty trying to find buyers for their product, would reflect that nobody in the NEPOOL region has an interest in buying the products at the price they're offering to them?

A. (McCluskey) I have no idea what prices they are seeking, so I can't comment on whether that is the case.
Q. I think you started off your testimony by saying that "the purpose of this proceeding is to determine whether the PPA is in the public interest." Do you recall that?
A. (McCluskey) I think that's the primary objective for the Commission.
Q. And, you testified, at Page 9, Line 20, "The stated purpose of RSA 362-F, New Hampshire's RPS, is to stimulate investment in low emission renewable generation technologies." Do you see that?
A. (McCluskey) Yes.
Q. Isn't it true that the RPS law, in fact, at RSA 362-F:1, states that "It is therefore in the public interest to stimulate investment in low emission renewable energy generation technologies in New England and, in particular, New Hampshire, whether at new or existing facilities"?
A. (McCluskey) Yeah, could you repeat that, the reference.
Q. RSA 362-F:1.

CHAIRMAN GETZ: The last sentence.

MR. BERSAK: The last sentence. Thank

you, Mr. Chairman.

BY THE WITNESS:

A. (McCluskey) Yes, it does.

BY MR. BERSAK:

Q. And, isn't it also true that, when enacting the RPS law, the Legislature expressly found that "The 2002 State Energy Plan recommended establishing a renewable portfolio standard to support indigenous renewable energy sources, such as wood and hydroelectric, to encourage investments in renewable power generation in the state and to allow New Hampshire to benefit from the diversity, reliability, and economic benefits that come from clean power"?
A. (McCluskey) That's correct.
Q. The reference to that, you probably don't have that in the statute. That was in the session laws, at 2007, Chapter 26, Section 1. When the Legislature said its purpose is to "stimulate investment and encourage investment in new renewable power generation", would you agree that these public interest statements mean the actual building of generation, and not just having developers invest significant sums in SEC, permitting PUC, and litigation expenses?
A. (McCluskey) The question again was what?

Q. When the Legislature said its purpose is to "stimulate investment and encourage investments in new renewable power generation", would you agree that the Legislature's intent was the actual building of generation?

MS. AMIDON: Objection. I mean, there's no way Mr. McCluskey can know what the legislative intent is. And, furthermore, the public interest in this particular proceeding is governed by RSA 362-F:9, which has five criteria, which -- whereby the Commission determines whether a long-term PPA is in the public interest.

CHAIRMAN GETZ: I'm going to allow the question, because the door's been opened with respect to what the purpose of the statute is, and this is further inquiry along that line.

BY THE WITNESS:

A. (McCluskey) I think it's a reasonable interpretation that the Legislature would hope that facilities will actually be built. And, as you said, not just all the parties to this proceeding and the Commission spinning their wheels listening to all the arguments for and against. And, I have to say again that that is why the Staff has taken the position in support of this project

and its location in Berlin. We simply feel that the prices are excessive and that they should be reduced in order to achieve the public interest. So, Staff is not proposing anything which is contrary to the intent as you've described in the legislation.

BY MR. BERSAK:

Q. About ten minutes ago you testified that you "based some of your analysis", I believe the REC analyses, "on the Synapse Report", is that correct?

A. (McCluskey) Correct. I took the Synapse long-term prices and made an adjustment to them, and used that as the benchmark for comparing the PPA REC prices. And, that was in Exhibit 13.

Q. Do you recall the cross-examination yesterday with respect to -- it was the new exhibit, Staff -- I think it was Staff 14. Was Staff 14 the spreadsheet that you put in that compared the Ventyx numbers, with and without carbon?

A. (McCluskey) Staff Exhibit 14, correct.

Q. In this Synapse Report, doesn't Synapse state that their analyses include three cents per kilowatt-hour for carbon externality costs in all of their analyses?

A. (McCluskey) You're referring to the wholesale electricity prices?

Q. Yes, sir.

A. (McCluskey) Yes. I believe they do make some assumptions with regard to carbon.

Q. If they removed carbon externality costs from their analyses, wouldn't it have the result of having to drive the cost of the RECs higher than what they have in their report?

A. (McCluskey) It would.

Q. You've testified that the REC prices forecast by Synapse in the short-term have proven to be too high, isn't that correct?

A. (McCluskey) Correct. I've stated that the current market price for Class I RECs is of the order of $16.

Q. I'd like to refer you to your footnote on Page 28 of your testimony. You acknowledge that inaccuracy in that footnote, when you say "Given that current market prices for New Hampshire Class I RECs are below $20, the near term adjusted Synapse prices could reasonably be described as being too high." Do you see that?

A. (McCluskey) That's correct.

Q. Isn't it true that PSNH asked you a data request regarding this footnote? I'll refer you to PSNH Question 23.

MR. BERSAK: And, hand it out, Mr. Desbiens.

(Mr. Desbiens distributing documents.)

BY THE WITNESS:

A. (McCluskey) Yes. That's correct. PSNH-23.

MR. BERSAK: All right. Mr. Desbiens is just distributing that. For the record, would like to mark that as the next PSNH exhibit, I believe that's 21 please.

CHAIRMAN GETZ: So marked.

(The document, as described, was herewith marked as PSNH Exhibit 21 for identification.)

BY MR. BERSAK:

Q. In that data request, you see PSNH asked "How do actual conditions in the current REC market differ from those assumed in the Synapse Report?" Referring back to the footnote we just read, correct?

A. (McCluskey) Correct.

Q. And, your answer was "See Attachment 1-22(b) to PSNH 1-22 for the assumptions in the Synapse...Report." Is that correct?

A. (McCluskey) Correct.

Q. Isn't what you supplied as Attachment 1-22(b) the

entire Synapse Report?
A. (McCluskey) Correct.
Q. So, despite including in your testimony a reference regarding alleged differences you had with the Synapse Report, when asked for information regarding those differences, your response was "See the Synapse Report", without any particular reference therein?
A. (McCluskey) Well, the Company and other discovery requests asked for the report. You're asking a question about what's in the report. And, I think it's reasonable to say "Well, read the report." I'm not trying to hide the ball.
Q. Yesterday, you criticized the ISO-New England RPS Needs Chart, that was attached to PSNH rebuttal testimony as "Attachment PSNH Rebuttal 6". Do you recall that?
A. (McCluskey) I certainly commented on it. I'm not sure whether I would describe it as "criticism". You asked me to comment on it, which I did.
Q. I believe you said that "the Synapse Report was a much more sophisticated analysis than what ISO-New England had done"?
A. (McCluskey) Yes. I believe that's the case.
Q. In the Synapse Report -- do you have a copy of the Synapse Report available, Mr. McCluskey?

A. (McCluskey) Not with me.
Q. Would you like a copy?
A. (McCluskey) Sure.
Q. This was provided to the Company in response to PSNH Data Request 1-22. If you turn to 2-9 of the Synapse Report, where they are talking about their 2009 forecast. Isn't it true that Synapse says that "Beyond 2018, we extrapolate using the long-term compound annual growth rate reflected in the CELT 2009 forecast. For context, ISO-New England's 2009 long-term annual average rate of summer peak growth [in] the ISO-New England Control Area is 1.17 percent."
A. (McCluskey) Okay.
Q. Do you agree with that?
A. (McCluskey) Yes.
Q. That I read that?
A. (McCluskey) That's what it says.
Q. So, at the end of the period, of the forecast period, Synapse adjusted its forecast using something like an inflation factor, correct?
A. (McCluskey) I think -- I think we're talking about the load forecast, is that correct?
Q. Yes.
A. (McCluskey) We're not talking about the prices then?

Q. No, I'm talking about the load forecast.
A. (McCluskey) Okay. That appears to be what they're saying here.
Q. And, last week you said, using those exact same words, that "that technique is hardly a sophisticated analysis."
MS. AMIDON: Objection. I think he was referring to the analysis of the need for renewable facilities, but I'll let --
BY THE WITNESS:
A. (McCluskey) No. The analysis I was referring to was the development of the REC prices, using a sophisticated supply/demand model. Here, we're talking about something totally different. We're talking about a load forecast.
BY MR. BERSAK:
Q. I believe, when you made that reference last Tuesday, Mr. McCluskey, if I recall, you were criticizing the Levitan report. Because, at the end of the forecast period, it just uses an inflation factor to adjust the capacity in the later years, exactly what Synapse has done in its report here?
A. (McCluskey) That's correct. So, I'm talking -- my testimony was regarding the sophistication of the

supply/demand model. I was not testifying on the sophistication of the rest of the report.
Q. And, one more thing. Isn't it true that Synapse based its load forecast, as I just read, on the ISO-New England data?
A. (McCluskey) That appears to be the case.
Q. On Page 27, Line 18 of your testimony, do you have that, Mr. McCluskey?
A. (McCluskey) Yes, I do.
Q. You state that your "analysis of above-market energy costs was based on an energy market price forecast that is approximately 30 percent lower than the energy price forecast used by Synapse." Is that correct?
A. (McCluskey) That's correct.
Q. So, it appears to the Company that you based your REC analysis on a report that you say has "proven wrong in the short-term", and whose energy assumptions you disagree with over the long term. Is that correct?
A. (McCluskey) Could you give me the question again.
Q. Sure. It appears that you based your REC analysis on a report that you say has "proven wrong in the short-term" and whose energy assumptions you disagree with over the long-term. Is that correct?
A. (McCluskey) No. The market energy prices, conditions

in the energy market change. And, so, depending on when an analysis is done, you're going to produce a different price forecast. If someone developed a forecast at the height of the power market in 2008, one would expect that the forecast would tend to indicate some of the conditions that they were experiencing at that time. If they repeated the forecast several years later, and the market conditions have changed, one would expect the long-term forecast to increase or decrease, depending on how conditions in the market change.

I'm simply stating that the analysis that I was doing was trying to use the most current market price information, and that the Synapse study was done at a prior time. Hence, I had to recognize that, if I was going to use the Synapse price data, I needed to adjust that price data for the fact that market conditions are changed and so what I actually did was to increase the REC prices to be consistent -- to have my analysis consistent. It would have been unreasonable to use the unadjusted Synapse REC prices along with a current forecast of energy, which I developed. So, I was trying to get the REC projections, as developed by Synapse, on a consistent

basis with the market energy prices, which I developed using the PSNH model and the updated NYMEX data.

Q. You testified on Page 28 that a substantial portion of what you think will be the "above-market cost of RECs would be avoided if PSNH purchased only the RECs it needs to meet its RPS obligations." That's on Line 8. Do you see that, Mr. McCluskey?

A. (McCluskey) I do.

Q. Over the term of the PPA, do either you or PSNH know for each year what PSNH's actual REC needs will be to meet its RPS obligations?

A. (McCluskey) We will not know until it happens, but we can make reasonable projections of what PSNH's REC needs will be based on using reasonable assumptions as to the Company's load, the migration from regulated service to competitive market, and also obviously using the percentages of retail load that are required, that are specified in the RPS law. So, I think it's -- while we will not know for certain, we can make reasonable estimates. And, I think it's reasonable to use those estimates in determining whether this PPA is in the public interest.

Q. Do you have an opinion as to whether the PPA would be financeable, if it includes such a provision limiting

REC purchases to whatever the needs were in a particular year during the term of the agreement.

A. (McCluskey) Well, it really depends on -- Staff has recommended that there needs to be changes to the pricing. Clearly, in the early years of the PPA, we've calculated that PSNH has very little need for RECs from Laidlaw. If that resulted in Laidlaw receiving only market-based prices for its RECs, then it's possible that, certainly, in the early years, they will be unable to meet the coverage ratios. And, therefore, it may not be financeable.

The problem is, the parties need to put their heads together and come up with a pricing approach that produces a more reasonable result for customers, and also ensures the project is financeable. We've had -- we had one day of settlement discussions. I can't go into the details of what was addressed. But, had we had more time, I truly believe that this issue of need and the impact on the Company's revenue -- on Laidlaw's revenues, and its ability to finance the project, would have been front and center in the discussions. I think there are -- Staff certainly has ideas as to how to overcome that problem. So, just to say that "PSNH doesn't have a need, hence Laidlaw is

going to have no REC revenues", is really too simple.

Q. I'm not sure whether I heard an answer to the question as to whether such a provision would be financeable or not?

A. (McCluskey) Well, I think I did address the financeable issue. And, the way to address it is to have a pricing structure, perhaps a two-part pricing structure, which has prices for what is needed and prices for what's not needed.

Q. If you could turn to your testimony on Page 28, Line 16. You testify that "Exhibit GRM-14 shows that over the 20-year term the capacity prices in the PPA are about 55 percent lower than Levitan's projections of FCM prices." Do you see that?

A. (McCluskey) That's correct.

Q. And, is it true that your Exhibit GRM-14 states "Nominal Savings $40,143,600"?

A. (McCluskey) Just one moment. That's correct.

Q. What does that mean?

A. (McCluskey) Well, it's the same type of analysis that I did for energy and RECs. That I compared the PPA prices with, in this case, Levitan's capacity market price projections and determined whether the prices are above or below. And, the resulting calculation for the

full 20-year term indicates that the prices in the PPA would be beneficial to customers, relative to this view, Levitan's view of the market.
Q. But you kind of ignore that statement, don't you, by testifying that, "As for the capacity product", you know, this "is not conclusive". That's on Page 29, Line 4, correct?
A. (McCluskey) That's correct.
Q. On Page 28, Line 19, you testify that you "had insufficient time to review the Levitan [capacity] price projections." Correct?
A. (McCluskey) That's correct.
Q. And, you recall last Tuesday you testified that "PSNH was not responsive to Staff's data requests for information concerning capacity projections." You testified last Tuesday "In the first set, we asked them for any price projections on capacity and any associated reports and analyses. They provided a price projection, but didn't provide the analysis behind it, who developed the projection, and any report associated with it." Do you recall that testimony?
A. (McCluskey) I do.
MR. BERSAK: I'd like to mark as the next exhibit responses to Staff Data Request 1-3 and 1-7

by PSNH. That would be "22".
(The document, as described, was herewith marked as PSNH Exhibit 22 for identification.)
BY MR. BERSAK:
Q. Mr. McCluskey, if you can please take a look at Page 1 of -- which has been marked as "PSNH Exhibit 22" for identification. That is a cover letter from PSNH's Richard Labrecque, to Staff Attorney Amidon, dated "October 18, 2010", forwarding responses to Staff Data Requests, Set 1, is that correct?
A. (McCluskey) Correct.
Q. Take a look at PSNH -- some responses to Questions 1-3 and 1-7 provided on that date. Do you see that PSNH provided you with the Levitan capacity prices as parts of those data request responses?
A. (McCluskey) I see -- you're referring to the attachment?
Q. Yes.
A. (McCluskey) And, the column headed "Capacity (dollars per kilowatt-month)"?
Q. Talking about on Attachment, which was, I believe, marked as "Page 3" of that exhibit, on Footnote 4 does it mention the Levitan model for capacity?

A. (McCluskey) Yes.
Q. And, on Page 4 of that exhibit, does it again mention the Levitan exhibit for capacity?
A. (McCluskey) Correct.
Q. And, on Page 5, in the third column of that exhibit, does it talk about the "Levitan FCA Price"?
A. (McCluskey) Correct.
Q. And, if I get to the response to PSNH -- response to Staff 1, Question 7, you will refer to our filing in the Least Cost plan docket, which I believe you are the Staff person working on?
A. (McCluskey) I'm assigned to work on it. I've yet to set foot into that proceeding.
Q. If you look on the attachment to that data request, Page 2 of 3, which is Page Number 8 of this exhibit.
A. (McCluskey) Yes.
Q. Doesn't it say on "Sources", "Capacity price forecast developed by Levitan & Associates"?
A. (McCluskey) It does. And, --
Q. You testified last Tuesday, "PSNH didn't provide information with who developed the capacity price projection." Does that testimony appear to be correct?
A. (McCluskey) I believe my testimony was that Staff initially asked for "any wholesale market energy price

projections and natural gas price projections reviewed or considered by PSNH." That was the first question to Staff 1-3. You just indicated you also provided some capacity numbers. And, I think, in a subsequent question, we also asked for "any capacity price projections that the Company used in its analysis of the PPA." And, the Company did provide some numbers. Staff followed up several times. We wanted the report, the background to the development of the prices. Eventually, in Set 6, the Company stated that the report submitted by Mr. Levitan is in the Least Cost Plan proceeding. And, they state in that response that the study that he did for the Company actually only ran through 2020. It was only six years of the term of this agreement. And, they state in the response that they, the Company, asked Mr. Levitan to extend the analysis, which he did, through to I believe 2025, and then he just extended it further using some CPI index. So, after three rounds of questioning on this issue, the Staff still does not have in this docket the report that Mr. Levitan developed. Nor do we have the explanation and description of the methods that Mr. Levitan used to extend the forecast developed for the Least Cost Plan through to 2025. Even though, in the response, the Company states clearly that he actually did do a write-up explaining how the extension happened. So, Staff still does not have the material to analyze whether the price forecast is reasonable. And, it's because of that we received that response to the -- I think it is 6-5, Ms. Amidon?

MS. AMIDON: That's correct.

BY THE WITNESS:

A. -- 6-5, we received that response two weeks before testimony was due. We simply did not have time to go off and seek again from the Company the explanation for the extension that we were looking for. So, had the Company provided this, then most certainly we would have addressed whether we thought the forecast was reasonable.

BY MR. BERSAK:

Q. Your testimony last Tuesday was "They provided a price projection, but didn't provide the analyses behind it, who developed the projection, and any report associated with it." Didn't you just see on the exhibit that the consulting firm of Levitan was mentioned about five times as to who developed the projection?

A. (McCluskey) But our question --

Q. That's an easy question. That's a "yes" or "no"

question.

A. (McCluskey) I don't think it is. And, this is the answer, Mr. Bersak. The question was "what capacity price forecasts were available to the Company for its use in comparing -- in determining whether the PPA prices that you were negotiating were reasonable?" Those prices were negotiated in 2008. The Levitan study, if you read the study, which I've now read, it's clear that it couldn't have been filed with PSNH until August of 2010. So, the study that Levitan did for the Least Cost Plan could not have been the support for the numbers that you're indicating in the response that you've identified.

CHAIRMAN GETZ: Mr. Bersak, I need to take stock of where we are. It's 10:30. And, it may be time for a brief recess. We had been hopeful that we would complete today, and I thought I had made clear yesterday that we're going to -- we're going to need to take a substantial break around noon. So, --

MR. BERSAK: I am trying, Mr. Chairman.

CHAIRMAN GETZ: How much --

MR. BERSAK: We are going at glacial speed.

CHAIRMAN GETZ: I understand how we're

going. But how much more cross do you anticipate?

MR. BERSAK: At this speed, two, two and a half more hours.

CHAIRMAN GETZ: Okay. Well, then, I think we're going to take a brief recess. And, I would suggest that the parties then talk during the recess about when we would have an additional day of hearings, and how we're going to wrap this up. Because we have to take a substantial break to attend to other business at around lunch time.

I do notice one other thing. Mr. Edwards has submitted a closing statement in writing. Does anybody have any objection or concern about that?

MR. BOLDT: I haven't seen a copy, but --

MS. AMIDON: We haven't seen a copy, but I'm assuming that he -- did he file it this morning or --

CHAIRMAN GETZ: Well, what he must have done is submitted this to the general PUC website, so that must be how it got circulated. So, we'll make it available. But what he says at the beginning is "Staff attorney has stated that due to the fact Edrest Properties can not attend today's final hearing on the above referenced docket, Edrest may submit to Staff attorney a

closing statement as follows." And, then, there's about a page and a half. But we'll make it available. And, then, I guess, after the break, you can tell if there's any problem with it. Ms. Hatfield.

MS. HATFIELD: Thank you, Mr. Chairman. Just to facilitate our discussion on an additional day, does the Commission have a sense of your availability over the next week or so?

CHAIRMAN GETZ: Next week is very difficult. I think we may have to take a look at schedules during --

MS. AMIDON: I recall, and excuse me for interrupting, I recall February 22nd, I know that's sometime in the future, but I recall that that date had been available at one point.

CHAIRMAN GETZ: Because what we need to address at this point is conclude cross, questions from the Bench, redirect, I guess your -- a decision, it doesn't sound like it's been reached on a request for rebuttal witnesses, dealing with exhibits, if there's any outstanding arguments about what should be admitted into evidence, and then closings. I think that's what we need to deal with. But let's take a brief recess in any event.

(Whereupon a recess was taken at 10:33

a.m. and the hearing resumed at 10:58 a.m.)

CHAIRMAN GETZ: Okay. Let me get back to some of the procedural issues. Took a look at the calendar, and think we can be available this Friday afternoon, and as well as next Thursday. But let me address some of the subsets of this, because I would dearly love to complete this at least this week.

MR. BERSAK: Yes.

CHAIRMAN GETZ: So, two subsets of this. One is the evidentiary issues. And, I think what we're going to try to do now is go through from -- it's almost 11:00, go through to 1:00, and hopefully we'll be at a place where we can then break for the day, rather than have you all waiting around while we try to get some other things done, come back Friday afternoon.

But, between now and then, if the parties could talk about exhibits, so I'm not surprised, and we don't go into a long discussion on Friday about what's admitted and what's not admitted, if the parties could at least narrow those issues down, so we'll know what we're dealing with. And, you know, of course, best case, there's full agreement on what's in and out.

The other thing is on closing

statements, whether to emulate Mr. Edwards and have everyone put in a closing statement in writing, with a pretty quick turnaround, because I don't want it turning, you know, de facto into briefs.

MR. BERSAK: Right.

CHAIRMAN GETZ: So, those are the two suggestions I have about the subsets. Does anybody want to address these procedural issues in any way?

MS. AMIDON: I think that -- I think the written closing sounds fine, and we would be agreeable to -- Staff would be agreeable to a quick turnaround. You know, I think, unfortunately, the Commission may end up with some evidentiary issues. But, to the extent we can resolve anything, we'll try to do that ahead of time, or at least identify for the Commission what it is that we're looking for.

MR. BERSAK: I was still hopeful that we could actually complete this today, especially if we do written statements in lieu of any kind of an oral closing statement. I will do my best to not spare the horses and move this thing along smartly. I can represent that it is extremely unlikely that we are going to call any witnesses back to the stand, so that would limit the need for that.

CHAIRMAN GETZ: Okay. Then, if there's

nothing else -- Ms. Hatfield.

MS. HATFIELD: Mr. Chairman, one issue that has come up today is the public comment that we heard, which, obviously, is not testimony and is not under oath, but it does directly contradict testimony that PSNH witnesses gave under oath, when I specifically asked them about the $27 wood price. And, I think the Company either needs to be back on the stand to explain that or refute it or they can provide that in writing. But it seems to me we have, you know, two completely different pieces of information about the Schiller wood price. And, I would like to get more information on that. But, obviously, it's up to the Commission, if they would like it.

CHAIRMAN GETZ: Okay. Well, I guess, let me try to address that as directly as I can. As you said, we have witnesses from the Company saying "X" under oath, you have some other individual saying "Y" not under oath. There's always the issue of how much weight that is given. Even if they had been under oath and said "Y", then it would be up to us to resolve any of the conflicts in the testimony. I don't think it's a basis for recalling. Because, if they had said "Y", I guess it would have been after the PSNH, and there's still an issue of weighing the evidence.

MS. HATFIELD: And, if I can just -- I agree, and I thank you for that. I guess I would just add that, if PSNH has anything additional on the issue, then they have an obligation to bring it forward.

(Chairman and Commissioners conferring.)

CHAIRMAN GETZ: All right. Mr. Bersak.

MR. BERSAK: Yes, sir.

CHAIRMAN GETZ: Continue cross.

MR. BERSAK: Thank you.

BY MR. BERSAK:

Q. Mr. McCluskey, is it likely to expect any significant new renewable generation to be built in New Hampshire without a long-term PPA?

A. (McCluskey) I think -- I think it's reasonable to assume that there's a need for a long-term PPA, not actually 20 years, but there's certainly a need for a PPA, certainly with respect to RECs. I don't think it's -- I think New York had demonstrated that you don't actually need a PPA with regard to energy and capacity.

MR. BERSAK: I'd like to hand out what's been marked -- we will mark it as "PSNH Exhibit Number 23", which is your response to PSNH Question -- Data Request Number 30.

(The document, as described, was herewith marked as PSNH Exhibit 23 for identification.)

BY MR. BERSAK:
Q. We asked you the same question on data requests, about "the need for a long-term PPA for renewable independent power production." And, your response at that time you were "unable to respond meaningfully to this question without knowing the specifics of the renewable generator (i.e., is it a wind facility, a solar facility or a biomass facility), the term of the PPA, whether [it's a] long-term PPA relates to all or some of the products produced by such renewable generator." Is that correct, Mr. McCluskey?
A. (McCluskey) Correct. And, I think that is by and large consistent with what I just testified. I've, in my oral response, I addressed the question of whether it needs to be 20 years. You don't specify in your question whether you're talking about a 20 year PPA. You don't specify in your question whether you're talking about the PPA applying to all of the products or just to RECs. And, I've stated that, certainly, with regard to RECs, I believe that's the case. But not necessarily with regard to energy and capacity.

Q. I'd like to return to your testimony regarding the Synapse Report on Page 27, Line 18. Where you stated, "Because my analysis of above-market energy costs was based on an energy market price forecast that is approximately 30 percent lower than the energy price forecast used by Synapse to calculate [its] premiums, I have increased the Synapse REC price forecast for New Hampshire by [that] same percentage." Do you see that?
A. (McCluskey) Page 27, what line?
Q. Line 18.
A. (McCluskey) Eighteen. Yes.
Q. That seems to indicate, as you testified earlier today, that you relied on the Synapse Report to benchmark your REC prices, is that correct?
A. (McCluskey) I started with the Synapse REC prices, and made an adjustment to reflect the fact that, based on my analysis, market energy prices have changed relative to the prices that were in effect at the time the Synapse study was conducted.

MR. BERSAK: Okay. I'd like to mark, as our next exhibit, this number "24, "PSNH Exhibit 24", some extracts from that Synapse Report, which you provided to us in response to PSNH Data Request 1-22.

(The document, as described, was

herewith marked as PSNH Exhibit 22 for identification.)

BY MR. BERSAK:
Q. On Page 1-2 of that Synapse Report, it indicates that "Sustainable Energy Advantage (SEA) provide estimates of renewable energy credit demand, supply and price." Do you see that?
A. (McCluskey) Yes.
Q. And, if you turn to Page 6-43 of the Synapse Report, do you see "Exhibit 6-31", entitled "REC Premium for Market Entry (in dollars per megawatt hour)"? Do you see that, Mr. McCluskey?
A. (McCluskey) I'm sorry, where is that?
Q. On Page 6-43, Exhibit 6-31.
A. (McCluskey) "6-31".
Q. That's an "Exhibit 6-31"?
A. (McCluskey) So, it's on the last page, is that correct?
Q. I believe it may be.
A. (McCluskey) Yes. "Exhibit 6-31".
Q. Right.
A. (McCluskey) I'm on the page.
Q. If you compare the numbers that are contained in that Exhibit 6-31 in the Synapse Report, they appear to be the same values that appear in your Exhibit GRM-13, in

the column captioned "Synapse Market REC Price Projection". And, it appears that there are some minor rounding errors, is that correct?
A. (McCluskey) Yes, I believe that's the case.
Q. Now, if you go right back to the Synapse Report, following that table, the Synapse Report states "These results are highly dependent upon the forecast of wholesale electric energy market prices, including the underlying forecasts of natural gas and carbon allowance prices, as well as the forecast of inflation used by SEA. A lower forecast of energy market prices would yield higher REC prices than shown, particularly in the long term." Okay. Do you see that inside the report?
A. (McCluskey) Yes.
Q. Now, if you go to Page 1-6 of the Synapse Report, is it true that Synapse says "The forecast REC premium is based upon an estimate of the cost of new entry of Class I renewables from 2012 onward and the forecast annual wholesale electric energy price." Is that your understanding?
A. (McCluskey) Yes.
Q. Thank you. Similarly, on Page 2-46 of the Synapse Report, they state "Sustainable Energy Advantage, LLC

(SEA) estimate REC prices for new renewables RPS tiers in the longer term (after 2012) based on their analysis of the cost of new entry" -- or, "the cost of entry of new renewable energy resources." Is that correct?
A. (McCluskey) Correct.
Q. And, then, we're trying to understand what they did in the report, and we go turn to Page 6-40 of Synapse. You see where it states "we assume that, after a few years of transition, the price of renewable energy will be set at the cost of new entry." Is that correct?
A. (McCluskey) That's correct.
Q. Then, finally, on 6-41, and I think we've set the stage here, the Synapse Report states "For each generator, we determined the levelized REC premium for market entry by subtracting the nominal levelized value of production consistent with the AESC 2009 projection of wholesale electric energy prices from the nominal levelized cost of marginal resources." Then, it's got some bullets: "The nominal levelized cost of marginal resources is the amount the project needs in revenue on a levelized dollars per megawatt basis" -- "megawatt-hour basis." Second bullet: "The nominal levelized value of production is the amount the project would receive from selling its commodities (energy,

capacity, ancillary services) into the various wholesale markets." And, the third bullet is "The difference between the levelized cost and the levelized value represents the additional revenue the project requires to attract financing."

And, finally, "Unless the revenue from REC prices can make up that difference, the project is unlikely to be developed." Okay. Is that correct from the Synapse Report?
A. (McCluskey) That's correct.
Q. Now, similarly, you had referred to the "New York Energy Resource" -- "Research Development Agency, do you recall that, a report that you put in I believe as "Staff Exhibit Number 10"?
A. (McCluskey) Correct.
Q. Inside that report, it's not in the extracts that you provided, but there's a provision inside there I'd like to just read. I think it's basically similar to what we just read from the Synapse Report. In that report it says "RECS are considered the premium that a project needs to receive in order for it to meet the target ROI. At a fundamental level, investors evaluate the other revenues and expenses that make up a project's economics to determine the premium necessary to achieve

that ROI. RECs are the last piece of the financial package for renewable energy. In essence, RECs are the linchpin of renewable energy investments for most of the United States. If REC revenues fail to make a project's economics hold, then the project is not built." Do you recall seeing that in this New York report?
A. (McCluskey) I do.
Q. So, it appears that both the Synapse Report and the New York Energy Research and Development Agency report use the cost of new entry of a new generating facility to determine the REC premium. That is, how much premium above the other products, basically energy, is needed so that the total equals the cost of new entry, is that correct?
A. (McCluskey) No, I disagree with that.
Q. Why is that?
A. (McCluskey) Clearly, the modeling done by Sustainable Energy Advantage uses a model which calculates the REC price in the way that you just described. And, so, these are model based prices. In New York, the REC prices are the result of a competitive bid. The report, the Summit Blue report, is describing the mechanics of how the market works. How developers may

look at their costs, the revenue requirements for their project, they look at -- they estimate what kind of revenues they're going to get from the energy and capacity markets. And, they recognize that, in order to make it financeable, they're going to have to have a bid price accepted that will make up that difference, that peak efficiency. So, in New York, they're not doing any modeling like it's done in the Synapse Report. In New York, it's the real world. The REC prices are established by competitive forces. Here, we're going through -- "here", meaning the Synapse Report, we're going through a modeling exercise.

So, while the theory behind both approaches is the same, one is producing estimate of prices, another one is producing real-world prices.
Q. Okay. And, it was -- the real-world prices were in New York, is that correct?
A. (McCluskey) That's correct.
Q. And, the Synapse Report is, what I think we just said, is based upon modeling?
A. (McCluskey) It's based on modeling. In New York, the rubber hits the road there and the bidders need to put in prices that are going to make their projects achieve the target return. And, at the same time, they're

going to be lean enough in order to win the bid.
Q. Okay. So, in your analyses of RECs, did you utilize the Synapse numbers or the New York numbers?
A. (McCluskey) Well, I've already testified that I used the Synapse numbers.
Q. Okay. I just wanted to make sure. I just wanted to make sure that we're on the same page. And, Synapse said that, for their modeling, that they based their analysis of REC prices on what's necessary for a project to meet the cost of new entry, is that correct?
A. (McCluskey) Correct. That's essentially on Page 6-41, the first bullet item that you mentioned, "the nominal levelized cost of the marginal resource". In regulatory parlance, that is the revenue requirement. And, so, the modeler develops an estimate for each of these resources what the revenue requirement is, then they estimate what revenues that they're going to get in the New England ISO market, and out pops the required REC price from the model.
Q. You testified that your "analysis of above-market energy costs was based on an energy market price forecast that is approximately 30 percent lower than the energy price forecast used by Synapse." Is that correct?

A. (McCluskey) That's correct.
Q. And, then, you continued by testifying that, "Because [your] analysis of above-market energy costs was based on an energy market price forecast that's approximately 30 percent lower than the energy price forecast used by Synapse to calculate in premiums, I have increased the Synapse REC price forecast for New Hampshire by that same percentage." Is that correct?
A. (McCluskey) That's correct. I'm trying to get the REC prices to be consistent with the market energy prices that I used for the above-market energy costs.
Q. So, if the energy price in Synapse was 8 cents, you said you reduced that by 30 percent, and you thought that the appropriate energy price would have been 5.6 cents, is that correct?
A. (McCluskey) Something to that effect, yes.
Q. And, if the REC price, say, was 2 cents, you increased that price by 30 percent to get up to 2.6 cents. Would that also be correct?
A. (McCluskey) That's correct.
Q. So, let's hypothetically suppose that the cost of new entry for a development totals 100. I mean, it could be dollars, euros, pounds, pick your currency; it's 100. And, let's assume that the components of revenue

necessary to make up that 100, cost of new entry are 80 for energy and 20 for RECs, so that the revenue stream is a total of 100, meets the cost of new entry for that developer. Do you understand the hypothetical?
A. (McCluskey) Yes.
Q. Okay. Now, suppose, as you did, that the energy price is really 30 percent lower. So, instead of 80, your energy price is 56, correct?
A. (No verbal response).
Q. But the total cost of entry is still 100. So, according to Synapse, the REC premium would have to rise to 44 to meet the cost of entry hurdle of 100 to be met, because you're getting 56 from energy, you need to make up the rest of the cost of entry, so the REC premium would have to be 44, correct?
A. (McCluskey) Correct. Under this hypothetical.
Q. In your testimony, you said you adjusted the REC price up by 30 percent, to accommodate your 30 percent decrease in energy price?
A. (McCluskey) Correct.
Q. So, in my example, your calculation would raise the energy price of 20, by your 30 percent increase, up to 26. When you add the energy price of 56, to your new REC price of 26, you only get 82. 82 is insufficient

to meet the cost of new entry, and nothing would be developed under that hypothetical, correct?
A. (McCluskey) Well, under this hypothetical, you said that, of the $100 of revenue requirements, 20 percent was met through RECs and 80 percent through energy. And, it's because you have that significant difference that produces the results that you've just indicated.
Q. For your mathematics to work, would -- the energy price and the REC price would have to be equal. Because, in order to get to the cost of new entry of 100, if those numbers -- if the REC price and energy price are not equal, when you start taking percentages, you're doing multiplication, when the formula is addition?
A. (McCluskey) Correct. And, I understand where you're going. That is a -- in this hypothetical, that's an important issue. But the technology is also important. I think, behind your question is the technology that was assumed in these calculations is a biomass facility, where you would have a significant amount of revenue coming from energy relative to RECs, with other resources, for example, wind, that could be very different. And, my understanding is that the vast majority of the renewable resources that Sustainable Energy Advantage was looking at were wind projects.

Why? Because that's where the majority of the resource comes from. And, so, that will have a totally different mix of REC and energy revenues in order to cover the revenue requirement.
Q. Maybe. But the model, as we just discussed earlier, that Synapse used is a premium above basically energy price to meet the cost of new entry?
A. (McCluskey) For resources at the moment.
Q. Let's take a look at your Exhibit GRM-12, if you may please. Let's turn this to real numbers.
MS. HATFIELD: Mr. Chairman, I apologize in advance if I'm out of order. But the statute does not require that -- it does not say anything about the "cost of new entry". So, in the interest of time, it would be most helpful, I think, if Mr. Bersak would focus on what the statute requires. All of this testimony that goes to the "cost of new entry", I don't believe that the Commission considers that under 362-F:9. I understand that it's an important point for the Company and for the City and for Laidlaw, but I'm not sure if this is going to be useful.
MR. BERSAK: If you'll indulge me for four minutes, you'll see where I'm going.
BY MR. BERSAK:

Q. Take a look at GRM-12, Mr. McCluskey. Let's take the first line, or "2014". You see the column "Adjusted Market Energy Price Projection (dollars per megawatt-hour)"?
A. (McCluskey) Correct.
Q. And, you see a price there of "$53.12"?
A. (McCluskey) Correct.
Q. That is the energy price that you used for your calculations, which you testified was 30 percent lower than that used in the Synapse Report?
A. (McCluskey) That was based on various calculations that I did. That was my conclusion.
Q. Okay. So, to get back to a full Synapse number, the mathematics would be "divide this by 0.7", correct? If you divide 53.12 by 0.7, you get up to an approximation or maybe even exactly the Synapse energy level, which, in that calculation, would bring you up to $75.89 per megawatt-hour. Would you accept that?
A. (McCluskey) Yes.
Q. According to the Synapse Report, as we discussed earlier, the cost of new entry would equal the energy price, plus the REC premium. Your Exhibit GRM-13 indicates that the Synapse REC price for 2014 was $28.62, in 2009 dollars, which you adjusted for a time

value of money up to $32.38, in 2014 dollars, is that correct?
A. (McCluskey) Correct.
Q. So, the total cost of new entry per Synapse in 2014 would be the time-adjusted REC price of $32.38 per megawatt-hour for the RECs, and $75.89 per megawatt-hour for energy, for a total of $108.27 per megawatt-hour. Correct?
A. (McCluskey) I accept that, yes.
Q. Okay. So, now, you decreased the energy by 30 percent to get to that $53.12 shown on your GRM-12. That's a $22.17 per megawatt-hour decrease from that Synapse number that we calculated earlier, the $75 one.
A. (McCluskey) No, I didn't decrease the energy prices. These energy prices that are shown on Exhibit GRM-12 are the result of a different methodology. I've said I used the methodology developed by PSNH, --
Q. True. I agree.
A. (McCluskey) -- and updated it. It's got no connection with the prices that are in the Synapse Report.
Q. And, we accept that. But that price is 30 percent lower than the equivalent price of Synapse, that was your testimony?
A. (McCluskey) Correct.

Q. Okay. So, it's 30 percent less. And, that 30 percent less is, in this particular case, for this particular year, a $22.17 difference from what Synapse would have shown as an energy price, correct?
A. (McCluskey) Correct. My 30 percent was overall. It wasn't --
Q. That's fine. We're just taking that as an example.
A. (McCluskey) It wasn't in reference to a particular year.
Q. In your Exhibit GRM-13, you increased the 2014 figure for RECs from "32.38" to "42.10", is that correct?
A. (McCluskey) Correct.
Q. That's an increase of only $9.72. So, the shortfall under the Synapse model to make up the cost of new entry for RECs was $22, you increased your REC price by short of $10. Leaving a developer far short of meeting the cost of new entry, correct?
MS. AMIDON: Again, I think I would have to object. "Cost of new entry" is not one of the criteria in the statute.
MR. BERSAK: No, Mr. Chairman. Where I'm going is that Mr. McCluskey inaccurately and incorrectly adjusted the REC prices in his exhibits, which affect all of his calculations. Instead of adjusting one

down by 30 percent and one up by 30 percent, as Mr. McCluskey agreed the Synapse model is, they came up with the REC premium by saying "here's how much it cost, 100, to build a new plant. That's the cost of new entry. And, you need to get to that 100. Mr. McCluskey has said, "I don't agree with their energy prices. I'm reducing my energy price by 30, by 30 percent." So, he made an adjustment to increase the REC prices by 30 percent. But that mathematics only works if the REC price and energy price are equal, which they are usually not. What he needed to do was figure out what the absolute difference that he changed the energy price down to. Like in our example, using his figure from 2014, where the difference between his price and the Synapse price was a difference in absolute dollars of $22.17, he would have had to have increased the REC premium by 22.17 in order to reach the cost of new entry. By making this mathematical error, his REC prices are wrong, and it goes throughout the entirety of his testimony.

CHAIRMAN GETZ: Well, I'm going to permit the inquiry along this line. And, I understand your characterization of it. But we'll allow the cross-examination on this issue.

BY MR. BERSAK:

Q. If you accept my mathematics, Mr. McCluskey, if you look on GRM-13, where you have an "Adjusted Synapse Market REC Price Projection" of "42.10", if you did what Synapse called for in its model, to say that this REC premium has to be enough to make up the cost of new entry, that price should have been your original 32.38, plus the $22.17 difference in energy price, the absolute difference, making the 2014 adjusted Synapse market REC price $54.55, is that correct?

A. (McCluskey) No. What we don't know here is what the revenue requirement is for these particular projects. The REC price is going to be established by that level. So, if energy prices are lower, and you need a higher REC price as a result of that, at the end of the day the REC price is going to be capped by the revenue requirement for the particular project. The market, even though we're talking about a model here, the market is going to ensure that the REC prices are not going to exceed the revenue requirements for a particular project.

Q. So, now you're rejecting the Synapse model, which you just agreed was energy plus REC equals cost of new entry. Just because the energy price decreases, does not decrease the cost of new entry for a developer,

does it?

A. (McCluskey) It doesn't. And, what -- and, the unknown here is the cost of new entry. And, so, what is not known is what is required through the REC price in order to meet the cost of new entry, which is defined as the revenue requirement, plus the target return. And, so, it doesn't actually follow that, if energy prices -- if energy prices go down, there will be some -- there will be some response with regard to the REC prices. But it doesn't actually follow that there has to be a one-to-one relationship. The revenue requirement is what determines the final price.

Q. Sounds to me now that you're rejecting Synapse's model?

A. (McCluskey) Not at all. I'm not rejecting it.

Q. The energy price goes down, does that impact how much it costs to develop a new plant?

A. (McCluskey) No, it doesn't. That's fixed.

Q. So, if that's the cost of new entry, if the energy price goes down, and you need a sufficient revenue stream to make it up, it's got to come from the REC?

A. (McCluskey) It does, to the extent that sum equals the revenue requirement.

Q. And, if you assume that Synapse's cost of new entry model is correct, you would need, in 2014, according to

the calculations, $54.55 for a REC price. If you compared 54.55 to the price of RECs under the PPA that's before this Commission for approval, which is in the first column of your Exhibit GRM-13, which is less expensive? The REC price from Synapse, according to my mathematics, or the PPA's price?

A. (McCluskey) Give me those figures again. The REC price --

Q. The price of RECs under the PPA, according to your tables, are $53.80. The cost of the REC, according to the Synapse cost of new entry model, would be $54.55.

A. (McCluskey) According to your testimony.

Q. According to my calculations.

A. (McCluskey) And, based --

Q. I'll make it easy for you. Is $53.80 less than $54.55?

A. (McCluskey) Yes.

Q. Thank you. You testified earlier that the figures in this exhibit and in -- that's Exhibit 13 and Exhibit 12 were used throughout your testimony to calculate your over-market energy prices and your over-market REC prices. Do you recall that testimony?

A. (McCluskey) I don't believe I said that. I said --

Q. You did. You also testified --

CHAIRMAN GETZ: Well, let him finish his

answer.
MR. BERSAK: I'm sorry.
BY THE WITNESS:
A. (McCluskey) I said that the adjusted market energy prices we used to calculate the above-market energy costs. And, the adjusted Synapse REC prices were used to calculate the above-market REC cost. That, I believe, was the extent of what I used these numbers for. So, they weren't used throughout my testimony.
BY MR. BERSAK:
Q. Earlier today you talked about an "NSTAR proceeding", where a Mr. James Daly testified in Massachusetts before the DPU. Do you recall that?
A. (McCluskey) Yes.
Q. And, last Tuesday, you referred to testimony in that DPU Docket 10-71, is that correct?
A. (McCluskey) Yes.
Q. You testified that Mr. Daly's testimony was about "the winning bid from an open and competitive bidding process." Is that correct?
A. (McCluskey) Correct.
Q. Do you know whether the winning bid was a biomass plant?
A. (McCluskey) No. I think I said it was a wind project.

Q. That's correct. Let's go back to Mr. Daly's testimony that you referred to last week and earlier today. Isn't it true that, in that testimony, Mr. Daly testified "The Company acknowledges that the contract provides power at a price higher than its consultant's forecast of market prices for conventional energy and RECs"?
A. (McCluskey) Could you give me a reference.
Q. That would be Mr. Daly's testimony, Page 3, Line 15.
A. (McCluskey) That's correct. That's what it says.
Q. Isn't it also true that Mr. Daly testified on Page 9, Line 7, of his testimony, "Any delay in approving the contract would jeopardize the project's ability to qualify for the tax credit, resulting in either the inability to finance the project or increase prices to ratepayers if the project had to rebid in a later RFP."
A. (McCluskey) Page 9, line what?
Q. Seven.
A. (McCluskey) Line 7. Yes, that's what it says.
Q. And, is it also true, on Page 9, later on, at Line 22, Mr. Daly testified that "DOER's", which is the Department of Energy Resources, "predominant concern is that the multitude of potential intervenors may compromise the legislative objective of an expeditious

process for the approval of long-term contracts to facilitate the financing of renewable energy generation."
A. (McCluskey) That's what it says.
Q. Mr. Daly goes on, on Page 24, Line 5, testifying "Overall, the costs for energy and RECs under the contract are higher than market prices by $12 million nominal over the life of the contract." Isn't that correct?
A. (McCluskey) That's correct.
Q. And, you testified earlier, this is for a wind facility and a 10-year contract, is that correct?
A. (McCluskey) That's correct.
Q. And, wind has a substantially smaller capacity factor than biomass, is that correct?
A. (McCluskey) Yes.
Q. Isn't it finally true that, in Mr. Daly's testimony, that he compared the price of the NSTAR deal to the alternative compliance price, testifying on Page 25, Line 3, "The costs for energy and RECs under the contract are lower than the energy and ACP for the entire term of the contract by $31 million nominally. The ACP rate is the amount that customers are required to pay in the event there are insufficient RECs in the

marketplace to satisfy the RPS. The ACP could be regarded as the maximum customers should be expected to pay for RECs over time. Forecasts of supply and demands for RECs vary. However, as a threshold issue, should the market be in shortage, due to the inability to supply enough RECs, this contract will serve as a hedge against such exposure, thereby reducing ratepayer costs versus paying the ACP. By this measure also, the contract is cost-effective." Is that correct?
A. (McCluskey) That's correct.
Q. Do you understand Mr. Daly's point that, if RECs are in short supply, and the price of RECs goes up to the ACP, that a contract locking in prices of RECs at less than that ACP value could serve as a hedge against paying full ACP prices?
A. (McCluskey) That's correct. And, hedges are not necessarily least cost. And, it's quite possible that the Company would be entering into a hedge and substantially overpaying for the product relative to the actual market price.
Q. You recall yesterday we discussed how your old employer, LaCapra, stated that "one of the purposes of an RPS Program is to act as a hedge against price volatility"?

A. (McCluskey) I think any long-term contract with fixed prices is going to have a hedge. You don't have to have a renewable resource behind it to do that.
Q. If you were to compare the $31 million figure testified to by Mr. Daly for the NSTAR contract, that is, if REC prices were at the ACP for the duration of the contract, under the Laidlaw PPA, would you be surprised to learn that the cost for energy and RECs are estimated to be lower than the energy and ACP by over $256 million nominal?
A. (McCluskey) Could you give me that question again.
Q. Can you recall the $31 million figure that Mr. Daly testified to on Page 25, Line 3?
A. (McCluskey) Yes. Yes.
Q. Would you be surprised that a similar number, if calculated for the Laidlaw PPA before this Commission, would be $256 million?
A. (McCluskey) Well, I can't comment on that. I don't know what the assumptions are.
Q. Do you also recall you testified that the NSTAR process was superior, because "NSTAR's customers are not obligated to pay in the event of a change in the Massachusetts RPS law"?
A. (McCluskey) I don't recall saying that it was

"superior". I certainly did identify the particular provision in Mr. Daly's testimony, the particular statement in Mr. Daly's testimony which says that "customers are not at risk if the law is changed."
Q. Let me go back to the transcript and make sure I wrote it down correctly. "Answer: (McCluskey) Yes. Mr. Daly's testimony to the DPU stated that NSTAR's customers are not obligated to pay for RECs if, as a result of a change in law, the facility fails to qualify as a Class I resource." Is that correct?
A. (McCluskey) Is that a question?
Q. Do you recall that testimony?
A. (McCluskey) Yes.

MR. BERSAK: I'd like to mark as the next PSNH exhibit an extract from the Massachusetts Code of Regulations. That would be "25", "PSNH Exhibit 25" please, Mr. Chairman.

(The document, as described, was herewith marked as PSNH Exhibit 25 for identification.)

BY MR. BERSAK:
Q. PSNH 25 is from 220 CMR, and it says on the top "Department of Public Utilities".

MS. AMIDON: Mr. Chairman, where are we

in terms of exhibit numbers, because I seem to have lost track of 22 and 23?

MR. BERSAK: 23 was the response to PSNH Data Request 30 from Mr. McCluskey. And, --

MS. AMIDON: Mr. Chairman, I just -- I'm looking at this document that PSNH just proffered, and I'm not sure how it's relevant to this proceeding. It looks like it's something from another jurisdiction.

CHAIRMAN GETZ: Well, let's hold off for one second here. Let's straighten out one thing at a time. So, you asked for what's Exhibit 22 and 23 marked for identification. I have, as "Exhibit 22", is the responses under a heading of a letter dated "October 18", from Mr. Labrecque.

MR. BERSAK: That's correct, Mr. Chairman.

CHAIRMAN GETZ: And, "23" I have as Request PSNH-30, regarding the long-term PPA. And, then, "24" is the Synapse extract. And, then, "25" would be this extract from the Mass. statutes.

MR. BERSAK: That's correct.

CHAIRMAN GETZ: And, now, you're raising a question about the relevance of this?

MS. AMIDON: Correct. Because this is a

New Hampshire proceeding, I'm not sure how regulations for the Department of Public Utilities for Maine -- Massachusetts could be relevant to this proceeding.

CHAIRMAN GETZ: And, let me just correct, I said "statute", apparently, they're rules.

MR. BERSAK: That is correct.

MS. AMIDON: That's correct. Rules for Massachusetts.

CHAIRMAN GETZ: And, Mr. Bersak, response?

MR. BERSAK: The response is that Mr. McCluskey testified how superior the results in the contracting process in Massachusetts was, and why one of the things that's better in Massachusetts is that they have the ability there to protect customers from risks in change of the RFP law. And, as an offer of proof, if you take a look on the second page of that exhibit, under Section 17.08 of the Mass. DPU's regulations, under (3), it says that "If RPS requirements terminate, a distribution company's obligation to solicit long-term contracts shall also cease. However, contracts already executed and approved by the Department will remain in full force and effect." Which seems to be somewhat different from Mr. McCluskey's testimony and understanding about the risks that are borne by Massachusetts customers under the NSTAR process and what the risks are to customers under the PPA that's been provided to this Commission for approval.

WITNESS McCLUSKEY: Could I comment on that, Mr. Chairman?

CHAIRMAN GETZ: Well, first, I need to overrule your -- the objection by your counsel, and permit inquiry along these lines. So, now you may respond.

MR. BERSAK: There's no question yet, though.

CHAIRMAN GETZ: Was he anticipating your question?

MR. BERSAK: Let's see how good you are. It's like Carnac. Okay. I'll just ask the question.

BY MR. BERSAK:

Q. Are you aware of this provision of the Massachusetts regulations?
A. (McCluskey) I am now.
Q. You are now. Okay. Thank you. So, it appears that that successful competitive program that you've testified about in Massachusetts apparently places the risk of a change in RPS laws on customers, correct?
A. (McCluskey) My testimony, are you saying? "The risk is

placed on the developer" is what I testified to.
Q. Yes. But this regulation shows that, if a contract is in force and effect, a change in law will not affect that contract, and that contract will continue despite the change in law?
A. (McCluskey) That's what that says. But what I'm saying is that the contract that was entered into with the wind facility apparently had a provision which said that that risk would be borne by the developer. And, so, if that is, in fact, the case, I can't find in the testimony at the moment the reference to this risk. But I'm assuming that NSTAR entered into a contract which places that risk on the developer. And, according to this regulation, that that contract will remain in full force and effect if the RPS terminates.
Q. Isn't it true that under Massachusetts Green Communities Act that the DPU and Mass. DOER shall "provide for an annual remuneration for the contracting distribution company equal to four percent of the annual payments under the contract to compensate the company for accepting the financial obligation of the long-term contract, such provision to be acted upon by the Department of Public Utilities at the time the contract is up for approval"?

A. (McCluskey) I'm not familiar with the particular regulations. But I'm certainly familiar with this issue from my reading of certain documents in the Cape Wind proceeding. This was a big issue in that proceeding. So, yes, that's my understanding. That the utility can profit from entering into such contract.
Q. Is there any such profit or remuneration built into the Laidlaw PPA for PSNH?
A. (McCluskey) No. Other than the potential, at the end of the 20-year term, for the Company to place into rate base the generation asset.
Q. Finally, Mr. McCluskey, do you recall testifying in Docket Number DE 09-137, that's Unitil's petition for approval of investment in and rate recovery of Distributed Energy Resources?
A. (McCluskey) I did testify in that proceeding.
Q. And, that proceeding, the hearing of that took place less than a year ago, is that correct? March 3rd, 2010, subject to check?
A. (McCluskey) Subject to check, yes.
Q. In that proceeding, didn't you testify that "Staff assumed that the price of RECs would rise from the existing level at the rate that the ACP rose"?

A. (McCluskey) I don't believe -- I don't recall testifying to that. The actual market price, is that what you're saying that I testified --
Q. I'm just reading from your testimony, Mr. McCluskey. "Staff assumed that the price of RECs would rise from the existing level at the rate that the ACP rose." That testimony, if, in fact, you made it, is 180 degrees different from the steadily decreasing REC prices upon which you based your calculations in Exhibit GRM-13 in this proceeding, isn't that correct?
A. (McCluskey) If that's what I said, for the purpose of some calculation, then that's what I said. It doesn't actually mean that the resulting prices, REC prices are higher in the DER proceeding. If you start from a low level, and increase them by a certain percentage, I can tell you now that they are going to be considerably lower than the REC prices that are in the PPA.

MS. AMIDON: Mr. Chairman, it might be helpful if Mr. McCluskey had the context of that statement, because it was one sentence read out of I think quite extensive testimony that he filed in that docket. And, I think the analysis that he did in this docket -- in that docket is not comparable or transferable to this docket, without him having a chance to examine the context. That would be my opinion.

MR. BERSAK: It would seem that prices are either going to go up or going to go down, I don't think it needs a lot of analysis. But, Mr. Chairman, I am done. Thank you very much. Thank you, Mr. McCluskey. Thank you, Mr. Frantz.

WITNESS McCLUSKEY: Thank you.

CHAIRMAN GETZ: Commissioner Below.

BY CMSR. BELOW:

Q. Mr. Frantz, do you have a reason to believe that Laidlaw's direct economic impact, as stated in the Site Evaluation Committee proceedings and as used by Dr. Shapiro in her testimony, rebuttal testimony, were inaccurately stated?

A. (Frantz) Not inaccurately stated. I'm sure they were stated correctly. Whether the actual effects will be what's the -- whether the full effects that are mentioned in that testimony I think are questionable.

Q. I believe you testified that you questioned her rebuttal testimony to the effect that, when you account for the economic impacts of the Laidlaw development, both the development stage and the ongoing, that that more than offset the negative impacts that you had described in your direct testimony, concerning the

increase in rates above market, based on Mr. McCluskey's estimate of those above-market costs. And that, in your response to a question, you indicated that you believe that Dr. Shapiro's calculation would change, if those numbers were changed from the SEC proceeding, what was stated in the SEC proceeding. So, I guess I'm trying to understand, were you asserting or saying that there would be otherwise, that you otherwise have reason to disagree with her conclusion in her rebuttal testimony, other than what the assumptions are that went into that?

A. (Frantz) No. No.

Q. Okay. And, on Page 6 of your direct testimony, at Lines 5 and 6, you stated that "Dr. Shapiro makes no provision for the fact that this contract's prices are above market", and then proceed at Line 9 to say "Based on Mr. McCluskey's testimony". I presume you -- is it fair to say that you were using the word "fact" in sort of a figurative way, in terms of a forecast, or are you stating just as a fact that, as of today, the contract's prices are above market?

A. (Frantz) It was probably a word that could have been -- a different word probably would have been perhaps better. But, based on Mr. McCluskey's analysis, which

I think we spent a lot of time on here, to the extent it's above market, that would certainly affect the results of the economic model. Whether that's a fact or not, I think it's a little too early to tell.

Q. Okay. And, I think, on that topic, sort of a question for both of you. When we're trying to make a judgment, either the Commission or Staff or the Company, about the future, and whether an action today is prudent or in the public interest or a wise decision today, is it your belief that you need to do some forecasting of various future events, prices, and that it makes sense to do a range of forecasts, based on various plausible assumptions, in order to test the reasonableness of a proposed action?

A. (Frantz) That's normally what happens. And, Mr. McCluskey can jump in. But, normally, you'd look at a forecast, you have a base forecast, and then you run scenarios around that forecast. And, give some sensitivity to and a comfort level to those numbers to that forecast.

A. (McCluskey) And, if I could add. Another question was to deal with forecasts, but there are several standard tests that can be employed to determine whether something is cost-effective. Forecasting of energy and

REC prices are just one of the tests that I used. Comparing with other projects is another standard approach that's referred to as a "comparables approach". Doing financial analysis of projects like this is another well-documented approach.

In Vermont, for example --

(Court reporter interruption.)

BY THE WITNESS:

A. (McCluskey) In Vermont, any renewable project is actually fully rate regulated in that state. They don't use competitive bids, they don't have bilateral negotiations. They essentially hand out long-term contracts to specific projects, and they develop the appropriate prices for different technologies based on cash flow analysis of the type that were described in my testimony. And, so, they're using estimated inputs for the main variables. The goal being to ensure that the developer gets a targeted -- can achieve a targeted rate of return. So, there are different approaches.

With regard to the forecasting, it is common to do sensitivity analysis. But sensitivity analysis is only as good as the assumptions that go behind it. Sometimes it's complicated. If you have several variables, which are behind the development of a forecast, and if you start to look at something other than the base case assumptions, the thing can become very complicated very quickly. So, while that is done, the other approach is to just use a base case forecast and supplement it with different tests.

BY CMSR. BELOW:

Q. Well, I guess I'm still a bit confused about what your response to Mr. Bersak, relative to GRM-12 and 13, where I think you suggested you started with the Synapse numbers for estimating REC prices for purposes of developing a forecast, and you adjusted those based on adding 30 percent after having developed a set of energy price numbers that turned out to be approximately 30 percent lower than the Synapse numbers.

A. (McCluskey) Uh-huh.

Q. And, you were suggesting that this was consistent with the Synapse forecasting model, but then you seem to disagree as to applying the methodology used in the Synapse model of taking the cost of new entry, subtracting out energy revenue, to come up with a forecast of the REC price for new entry?

A. (McCluskey) Yes. I'm not questioning the Synapse model. All I'm doing in Exhibits 12 and 13 is, because

the market energy prices were developed using a different methodology, we didn't use the market energy prices from the Synapse study, we used a different methodology. And, we updated the methodology to reflect reasonably current NYMEX prices. So, we have a set of market energy prices that are based on reasonably current inputs. And, then we have a set of REC prices from the Synapse model, which are based on -- which one of the factors that goes into developing those are the wholesale prices. And, I recognize that there is a difference between the wholesale prices that we used to develop the REC prices in the Synapse model and the prices that I've used to develop the above-market energy costs. So, I just felt, to have consistency in the two calculations, that there was a need to make an adjustment to the Synapse REC prices. And, the adjustment I made was 30 percent.

Q. Would you consider another reasonable way to make that adjustment to be to take the -- your adjusted market energy price projection, to give a delta between that and the Synapse energy price projection, and apply that difference to the Synapse market REC price to come up with an adjusted Synapse REC price?

A. (McCluskey) That's a possibility. I'll certainly

consider that. And, perhaps we can address this on redirect. That's something I will -- I'll consider.

Q. So, you would consider that that might be a reasonable alternative?

A. (McCluskey) That -- well, whether it's a reasonable alternative will depend on after I give it some consideration.

Q. Okay. I believe -- what was the migration rate you assumed for your analysis?

A. (McCluskey) The migration rate was used to address the issue of REC need. What I used there was the only figure available, was the 31 percent that PSNH had testified to I believe in the migration docket. And, at the time I wrote my testimony, 31 percent was the only figure that Staff had available. So, I did that analysis assuming that the migration rate would stay at 31 percent over the term of the PPA.

Q. And, Mr. Sansoucy I think testified that he thought that was at or near the upper limit, in terms of elasticity, that most of the customers who had had the inclination or ability or scale to migrate, had likely already migrated. And, I think he testified that he didn't think that would go much higher. Do you have a view as to whether -- do you agree with that or

disagree as to whether there's an upper limit to the price elasticity of Default Service customers migrating to competitive supply, to the extent there's a difference between Default Service price and competitive alternatives?

A. (McCluskey) Well, I think I've got two answers. The first one is a factual answer. As I testified today or the day before, I forget which, we recently received the quarterly reports from PSNH on migration. And, in the month of October, the rate has gone up to 34 percent. In the month of November, it had gone up to almost 35 percent. And, although the report indicated that it had gone up to almost 36 percent in December, we noted that seemed to be a calculation error in the report. And, we've been in touch with the person that submitted the report, and they have recalculated the number for December, and it appears to be 32.5 or in the 32 range. So, we already have data from the Company which shows that the 31 percent assumption that I used has been exceeded.

Now, is it going to continue on that path? I think that's where your question is going. It seems to me, it's very dependent on where the Energy Service rate is going to go, relative to the market price of energy. And, if it continues to diverge, then one would expect that many more of the C&I customers that have not yet migrated will potentially migrate. And, if, and again it's getting to your question of elasticity, if the difference in the energy rate relative to the market continues to diverge, I believe there will come a time where the markets will begin to offer products that are attractive for even the small customers, residential, certainly small commercial customers. And, to assume that those customers are always going to be captive to PSNH, while the energy rate is diverging from the market, to me, is just not realistic. I believe the market will begin to offer products that will potentially result in higher migration rates. That's just my opinion. But it's based on the assumption of a diverging energy price from the market. I don't know whether it's going to -- whether the energy price is going to continue to diverge or it's going to close that gap, who knows where that's going to go. But we know there are significant costs to be borne by Energy Service customers, as the result of the Merrimack upgrade, and I think as a result of this particular contract.

These types of projects are going to

increase the average cost-of-service for Energy Service customers, absent some other change. I have not spent a lot of time addressing PSNH issues. But I do recall from a few years back that PSNH had a significant open position, meaning that it needed to buy energy from the competitive market. And, if the competitive market prices are generally lower, that has a tendency to keep down the energy price. But I'm now told that that gap has shrunk considerably, that it buys relatively small amounts of energy from the market. And, it's essentially providing most of the service to its Energy Service customers out of its own resources and contract -- long-term contract costs. So, there doesn't seem to be a lot of opportunity for the lower market prices to put a brake on the increase in the Energy Service rate as used to be the case.

Q. On Page 14, at Line 13 of your testimony, you spoke of the "expected future market prices for Class I RECs". And, I just wondered if you could explain what you meant by "expected"?
A. (McCluskey) I was referring to the Synapse study.
Q. Inasmuch as you expect, do you expect those to be the prices or are you just making a reference to a forecast that you were using?

A. (McCluskey) Obviously, we don't know what the future is. But the Synapse has developed this projection of where prices are going to go. And, absent any other information in this analysis, that would be my expected future price.
Q. Okay. On Page 16, at Lines 14 and 15, you said "For every dollar increase in the price of wood, I estimate Laidlaw will collect an additional $113,000 per year." Is that a gross amount or net amount?
A. (McCluskey) Gross? What do you mean by "gross"?
Q. Gross, just gross revenue, or net of increasing expenses?
A. (McCluskey) Well, there's no expense behind this. My point is that, they're using a conversion factor which is higher than what they should have based on the characteristics of the plant. And, so, they -- using this conversion factor, it simply increases the revenues. There's no offsetting expense. So, it's actually -- this is net profit.
Q. Well, what do you mean by a price -- "in the price of wood"? Their price of wood or the price at Schiller?
A. (McCluskey) This is the -- the prices in the PPA are based on Schiller costs. They're not based on Laidlaw costs at all. And, so, here this conversion factor of

1.8 is used to determine the prices that Laidlaw is going to charge PSNH.
Q. So, if the PSNH price goes up a dollar, are you estimating that Laidlaw will collect an additional 113,000 per year gross or net of their expenses?
A. (McCluskey) No. This, what I'm stating here, is not related to the increase in the fuel cost. It's the fact that they're using a conversion factor. So, let's say it did go up a dollar.
Q. What goes up a dollar?
A. (McCluskey) The fuel cost goes up a dollar per ton.
Q. At Schiller or to Laidlaw?
A. (McCluskey) At Schiller.
Q. Okay.
A. (McCluskey) Okay? Schiller is the only one that counts here. It's irrelevant what Laidlaw's fuel costs are. So, if the fuel price goes up a dollar, first of all, they're going to recover that one dollar per ton, but they're going to recover it through a dollar per megawatt-hour figure. So, they need to convert from a dollar per ton to a dollar per megawatt-hour. And, they are using a conversion factor which is not, in a sense, cost-based. It's not based on the characteristics of the facility. And, so, that

increment, I said it should be "1.55", they, in the PPA, they're actually using "1.8". That increment from 1.55 to 1.8 produces $113,000 per year for every dollar increase.
Q. So, you're making some assumptions about what the cost of wood to Laidlaw is to make that calculation. That's not the gross increased payment from PSNH to Laidlaw, but rather your estimate of their net increase in profits?
A. (McCluskey) Associated just with having a 1.8 conversion factor, instead of a 1.55 conversion factor.
Q. But I'm still confused. Are you assuming that their underlying cost of wood moves at the same, proportionally to the cost of wood at Schiller? I mean, how would you know this, for instance, if their cost of wood increased at double the rate that it increased at Schiller? How would you know that this would be their increase in profit?
A. (McCluskey) Okay. I see what you're saying. So, what I'm stating here is that the increase in revenue is 113,000. You've raised the question of "what are the actual costs for Laidlaw for its fuel costs?" And, the answer that has been given to that question is, we don't know, because that's a Laidlaw document, which we

were not allowed to see. And, in fact, I have seen the document, but I can't tell you what it says. And, that's the problem. I know how Laidlaw's fuel costs are priced. And, I can tell you my calculation is correct.
Q. So, just to be clear again, are you assuming that Laidlaw's actual cost of wood moves in a way that's similar to the actual cost at Schiller?
A. (McCluskey) I was not assuming that. I think maybe it was the wrong word to use when I said "additional income". Additional revenue is what is going to be produced. The answer to the question about "well, what's the additional income?" Depends on how Laidlaw's fuel prices have moved relative to Schiller. If they go down, then the net income for Laidlaw is greater than this amount. If they go up, relative to Schiller, it's less than this amount. Since we don't have Laidlaw's pricing in the record, we can't really add any more. But I am just saying my number is correct.
Q. On Page 20, at Line 18, when you're referencing what will determine the value of the facility at the end of the contract, you say "whether New Hampshire's RPS continues to exist."

A. (McCluskey) Page 18, line what?
Q. Page 20, Line 18.
A. (McCluskey) Page 20.
Q. Might it be more accurate to say "whether New Hampshire or other states where the output might qualify whether their RPS continues to exist"?
A. (McCluskey) I think that's correct. There are other ways to sell the product after the 20-year term.
Q. Okay. Do you make a distinction between "independent power producers" and "merchant generators"?
A. (McCluskey) A "merchant generator", in my mind, based on the research that I've done, is an independent power producer that doesn't have a long-term contract. They are fully exposed to market pressures for the products that they produce. So, if this IPP has a contract, long-term contract that reduces those volatility risks, then it's not classified as a "merchant power plant".
Q. By whom?
A. (McCluskey) Several sources. But there was a book that I read, and I can provide the Commissioners, if you want it. It's called "Merchant Power Plants - The Basic Guide".
Q. And, so, that's sort of your source of the definition of "merchant power plants" that you referred to on Page

32, Line 11?
A. (McCluskey) No. There are various other, lots of articles on the Web about merchant power plants, and the risks that they're exposed to.
Q. But you're saying, by definition, they do not have long-term power purchase contracts? I mean, might they have some contracts for their output?
A. (McCluskey) Yes. That was the definition that was provided in this source that I mentioned. And, you have full shades of gray. Some of the products, a portion of the output, sometimes it's sold under contracts. There are lot of --

(Court reporter interruption.)

BY THE WITNESS:
A. (McCluskey) Some of the products produced by these merchant facilities can be sold under long-term contracts, and we're talking about a small percentage. Some of it, the products are sold in the competitive market. Sometimes all of the particular products are sold in the competitive market, and sometimes a particular product is sold on a long-term contract. Some people refer to those still as "merchant power plants". But I think what's clear is that, if all of the products of the power plant are sold under

long-term contracts, it's not a merchant power plant.
CMSR. BELOW: Okay. That's all.
CHAIRMAN GETZ: Commissioner Ignatius.
CMSR. IGNATIUS: Thank you. Good afternoon.
WITNESS McCLUSKEY: Good afternoon.
BY CMSR. IGNATIUS:
Q. Do either of you know if we have in the record here figures on recent wood prices at Schiller? I confess, I've lost track. Things that might look at annual averages or historic averages going back since Schiller began operation in 2006?
A. (McCluskey) Yes. We have a Staff -- in the Staff exhibits, I believe these numbers may have -- exhibit numbers may have changed, but I've got Staff Exhibit 11. And, the first page is titled "Schiller Wood Cost". Do you have that?
Q. Yes.
A. (McCluskey) No, these are not -- these are not confidential numbers. So, there's two pages. The basic data is on Page 2. This is a discovery response from PSNH. So, it lists, since the time that Schiller was converted to wood, lists the -- generally, the quarterly. There's a -- apparently, it converted in

December of '06, so we have that first month, then give quarterly prices. Then, if you go to the first page, I calculate a simple average of the last three years, excluding the fourth quarter of 2010, because we don't have that information at this point. So, it's showing "$33.73" per ton.
Q. I wonder, in the exhibit that has been through a couple of iterations, and we most recently saw it as a PSNH Exhibit Number 19, I believe.
A. (McCluskey) Uh-huh.
Q. That plotted additional points on what you had added in your Staff 15, which, in turn, added to something that PSNH had first created. It used the Concord Steam wood prices historically 2003 to 2010 and plotted those numbers in the hearing yesterday. Schiller wasn't operational in 2003, but the first numbers you have in your Staff Exhibit 11 begins in 2008. If you were to plot what the energy prices would be under the PPA using the Schiller wood prices for the averages for 2008, 2009, and 2010, well, first of all, could you do that? Is that something that could be plotted?
A. (McCluskey) Commissioner, we've anticipated your question. We already have that developed. And, it was our intent to get it in on redirect. So, we have --

WITNESS McCLUSKEY: You got those?
CMSR. IGNATIUS: Well, I'll leave that to you and your counsel to do that then. That's fine.
WITNESS McCLUSKEY: Yes.
BY CMSR. IGNATIUS:
Q. There was also discussion of the rate impact record request that PSNH produced, and that is I believe a "PSNH Exhibit 15", is that correct?
MR. BERSAK: Yes, it is, Commissioner.
BY CMSR. IGNATIUS:
Q. And, Mr. McCluskey and Mr. Frantz, both, if you could look at that, and we had some discussion of how this was built and what it demonstrates. But I didn't feel that we've had a full discussion of how the exhibit really works through. For example, it was assuming the 67.5 megawatt level, and I know you mentioned it was not at 63. And, then, we get into more complicated issues about which assumptions are built into it. Maybe, rather than me trying to ask specific questions, do you have further comments on how -- how you interpret the record request and whether there's anything that you think needs to be further fleshed out for our consideration?
A. (McCluskey) As I said yesterday, we have PSNH's

spreadsheets. We have really focused on the inputs. We don't have a problem with the method that's reflected in the spreadsheet. We just think that the inputs are what's important. And, we have real differences with the Company on what would -- what set of inputs would reflect the base case, the worst case, and the best case. And, so, we've reworked the exhibit to produce just that, a base case, worst case, a best case, under two different power plants; a 63 megawatt power plant and a 67 megawatt. Clearly, if you increase the capacity, you're going to buy more product. And, if the prices relative to the market are higher, you're going to increase the rate impact in doing that. If the prices in the PPA are lower than the market, then there's going to be more benefit. So, it just depends on where the market price assumptions come out. And, our exhibit, I think we have copies of that, if the Commission would like to see that.
Q. Again, if that's something you were planning to do, I can leave that to you and your counsel to do. I'd like to ask a couple of questions about the mechanics of the CRF, and make sure that I understand how it might play out at the end of the 20-year term. If you were to assume initially that, at the end of the 20 years,

there's $100 million in that account. And, it's not a fund of real dollars, but it's an accounting of final over-market amount paid by ratepayers, correct?
A. (McCluskey) Correct.
Q. And, then, let's think about a couple of different valuations of the plant. Let's assume that, at the end of that 20 years, the fair market value of the plant is $50 million. If PSNH were to -- had the authority to exercise an option and did so to purchase it, I assume you would get the value of the plant at $50 [50 million?] you would get credit for that, you would discount with the 100 that you've already put in, and PSNH would be entitled to purchase the plant for zero additional dollars, is that correct?
A. (McCluskey) That's my understanding.
Q. And, so, at the end, the ratepayers would have spent $100 million, and they would have received a $50 million plant as a result?
A. (McCluskey) They would have received a plant worth $50 million for zero purchase price. So, they would have received back, in essence, $50 million of the 100 million in the account.
Q. Well, but isn't it also true that they would have prepaid $100 million. And, at the end of the day, what

they have in hand is a $50 million plant?
A. (McCluskey) That's correct.
Q. If the plant, you still have 100 in the fund, and the plant is worth $100 million, your purchase price is zero if they choose to exercise the option, and they now have spent 100 -- ratepayers have spent $100 million and received a plant worth $100 million?
A. (McCluskey) That's my understanding of how it works.
Q. And, if the plant is valued for higher, say, $200 million, the fund is at 100 million, at the end would the option be that PSNH would be able to discount the price by the 100 it's already put in, so, for an additional 100 it could purchase the plant, up to the fair market value now of 200. So that, in the end, ratepayers will spend $200 million and receive a plant valued at $200 million?
A. (McCluskey) Did you say the balance in the account was 100 or 200?
Q. It's still 100.
A. (McCluskey) Still 100. So, they spent $100 million in above-market payments, and that $100 million went to bring the price down from 200 to $100 million. So, the -- so, PSNH can acquire it by paying an extra $100 million.

Q. Right. So that, if PSNH does that, that's ultimately ratepayer money, I assume. So that you've got 100 million prepaid over the course of the contract, another 100 million paid at the time of the purchase. So, a total of 200 million, for a plant valued at 200 million, is that fair?
A. (McCluskey) Well, PSNH makes the investment, and then includes that investment in rate base, and seeks recovery from customers of that $100 million, plus any return on it over the remaining life of the facility.
Q. You're right. And, the timing is not so straightforward as I'm giving it. That's a good reminder. You could play with all of those, if the account is at zero, and the plant's at various valuations, you could work those numbers through, if the account is far higher than any of those, it's the same analysis each time, is it not?
A. (McCluskey) Correct. The one thing that can't happen is that the purchase price becomes negative. So, if you have $100 million in your first example, and it's worth only $50 million, we don't have Laidlaw giving PSNH $50 million. It's -- you just get up to the market value of the plant.
Q. And, if, in my scenario, I said that's assuming that

PSNH has the legal authority to make the purchase. If it does not, or it chooses not to purchase it for itself, it could sell the plant, and any proceeds would go back to ratepayers, correct?
A. (McCluskey) That's correct. It would sell the option.
Q. Yes.
A. (McCluskey) Sell the option to an affiliate or to a third party, and there would be -- that is something of value, that's like selling an asset. And, so, they would expect something in return for that.
Q. And, PSNH testified, did you hear Mr. Long say this was a "good creative solution", in the -- unlike cases where fixed prices ends up being far over market, and there was no value at the end for ratepayers, this was an attempt to create a mechanism to bring some value back to ratepayers?
A. (McCluskey) I guess it's questionable what value are you getting at the end, what kind of plant are you getting. The market or the appraisers will determine what value there is in the plant. But, in the meantime, over the 20 years, the customers are paying more than the market energy prices through this contract. So, you -- in a sense, customers are paying out with one hand and taking back with another, and

we're concerned that what they're taking back is going to be significantly different with what they paid out. And, so, you know, at the moment we don't have any interest involved there. Hence, there's a significant difference in the time value of money. What you get in 20 years' time is worth -- could be worth very little today. And, so, those payments that are paid out today, that's in nominal dollars. That's real money out of the customers' pockets. And, getting something in 20 years' time, which is worth what? It depends on the discount rate that you use. So, we don't consider this to be the "innovative" deal. It's the first time we've seen it. Maybe, because of the problems, that's why we have never seen it before.

Q. Is it fair from your testimony to conclude that renewable power should expect some level of premium over market prices?

A. (McCluskey) Yes. These projects are assumed to be not competitive with conventional power projects. But this is a state policy that wants to encourage the development of those. So, you've got to give the developer a helping hand. There's got to be some kind of subsidy in order to allow them to operate the plant, not at a loss, but at a profit. And, so, yes, there

has to be this additional stream of revenues. We recognize that. And, even if the -- we didn't like it, that's the way the law works. That we pay them this additional stream in order to encourage them to be part of the power market. The only issue is, we think that the prices are too high. That the subsidy is far too high, even taking into account the potential local economy benefits, which I can't talk to, but that's kind of our view on it. We -- even though we see that the policy is grounded in rational goals, there has to be a limit to what level of subsidy is required. There comes a point where you have to say "well, it's too costly for that."

Q. Do you have in your mind a range or a percentage that you think is a fair premium? And, I realize that that's hard, because it's measured against what is the unknown.

A. (McCluskey) Yes.

Q. But that ultimately is what we're challenged with, is finding what the right price or the right mechanism or the right risk balancing is to provide that adequate premium for the facilities like these to be built, but not at an unfair, unreasonable price, correct?

A. (McCluskey) Yes. I do have a view on that. And, I

tried to express it in my testimony. I think the best way to determine what the appropriate prices should be is through the cash flow analysis. And, I've just indicated that that's how Vermont does it. And, I think that kind of analysis is appropriate here, because this is not a market-based deal. This is a deal that they're essentially recovering their costs, just like a rate-regulated plant, plus a return. The major cost component for this facility is fuel. They have established their PPA that's essentially going to recover their fuel costs, and adjust it as those fuel costs vary.

So, the way to determine a fair set of prices for this project is to look at the cash flow analysis. And, the model that I've used was the model that PSNH was using. And, I've made some adjustments based on my research of what is done in Vermont. And, what we should be looking at is a set of prices that produces a reasonable return for this company, and also produces the kind of coverage ratios that they need in order to ensure that they're going to get financing. And, to determine what a reasonable target rate of return is requires you to delve into the issue of risk. If this were a merchant power plant, as I defined them,

where they're fully exposed to the market, they would be experiencing significant risk, hence their target return should be much greater than if the project had no risk or very little risk. And, I've testified that this project, in my view, has shifted a majority of the risk to PSNH and its customers. And, hence, it's a relatively low risk project, compared to a merchant. So, we need to come up with a target return that is somewhat higher than PSNH would get if it owned the plant, and less than what a merchant power plant would get if there were no long-term contract. And, there's a whole range of returns that we could work through.

And, if we were -- if I were sitting down negotiating with Laidlaw, this is the kind of analysis that I would be looking at. And, we would negotiate what an appropriate return is, and the prices would drop out. We could leave the energy prices as is, and just play with the REC price. Or, we could move each of them, resulting in a bundled price, that produced the target rate of return, which is exactly what happens in Vermont. I believe the Vermont model is the model that should be applied to this particular contract. I'm not saying that we should do that for all renewable projects. I believe we should be using

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the competitive solicitation, so we wouldn't have to go through this exercise of modeling or developing forecasts of prices.

But, since we are in the middle of a proceeding, where we have, in essence, a PPA in front of us, I think the way to determine what the appropriate prices are is to use some modeling. And, we would hope that the Commissioners would send us back and try and achieve what we consider to be more appropriate prices.

Q. You stated earlier today that you could envision a two-part pricing structure for RECs; one price set, if I followed you, one price set at the -- for the number of RECs needed given the then legal obligation to obtain RECs and the level of load, and another price for RECs in excess of that amount. Is that what you were saying?

A. (McCluskey) Correct. That's the idea. In the early years of this contract, my calculations indicate PSNH does not need many of the RECs produced. So, pick a year where, let's say they can use 50 percent of what they produce, and the rest would have to be sold in the market. Now, we could either say "well, you're going to have -- you're going to have to sell them in the

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market and achieve those revenues." Their response might be "well, the banks are going to assume that we're going to receive no revenues for the market portion." So, one way to kind of address that is to say "Okay. Even though there's no obligation to purchase all the RECs, we will purchase them all, but at a price that is reasonably close to the market." So, if -- because we don't need them, we're going to have to sell them. And, so, we don't want to be buying them at a price that's significantly above the market. We're not going to know what the market is, but I'm imagining that we're in a negotiation, we're going to have to assume what the market price is going to be. And, so, I could imagine us saying "Okay. We'll buy all those excess RECs at the market price. Everything else gets purchased at the PPA price." Not actually the ones that they've proposed, but some resulting PPA price. And, as time moves on, where PSNH needs more and more of those RECs, the PPA prices become dominant, and they have less to sell in the market. So, that would be my idea of how to get around this, this problem of purchasing too many RECs, and, at the same time, having a stream of revenues that's going to ensure that the project gets financing.

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Q. Have you seen any PPAs that use that structure?

A. (McCluskey) No, I haven't. In New York, the project bids in, all the output is sold at the resulting competitive bid price. And, I think that's the case in Massachusetts. In Vermont, all of it is purchased at the rate-regulated price. So, this, what we're talking about here is, because the plant appears to be sized well above the needs of PSNH, at least in some years of the term. So, we're forced to address this issue. Surely, we shouldn't be buying RECs at a price that is above a reasonable expectation of where the market is going to be.

I know that's difficult to put a figure on that, but where is the market today? 16.50. Who knows? Is it going to go down? Is it going to go up? It's very difficult. Sometimes negotiation is the best way to resolve these difficulties, where you horse trade on different aspects of the problem.

Q. Do you have any thoughts on other ways that the risk -- in your view, the risk is too great on ratepayers here, correct?

A. (McCluskey) Correct. And, I think the prices are too high. And, why is that? Because I think the market is going to be lower. So, in essence, it's a risk. If

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I'm wrong with regard to where the market is, then it turns out to be a great deal. But my analysis is indicating that the market is going to be lower for these products. Hence, there is a risk that customers are going to pay far too much for the value of what's produced.

Q. Have you thought about any risk-sharing mechanisms, other ways to balance that risk than what's been proposed here?

A. (McCluskey) Well, I think the two-step pricing approach is kind of one way of doing that.

Q. That's on RECs specifically?

A. (McCluskey) That's on RECs. And, I think that is the -- that I think is the primary cause of the high returns that I've calculated for this PPA. There's clearly a subsidy with regard to the energy prices. They just developed them based on cost, without regard to what the market is. But we think the real problem is with the level of the REC prices. In effect, why do we think it's the RECs? Think about this project as having -- they have got three major cost components to this project. One, the major cost is the fuel cost, then you have O&M, then you've got the capital. The O&M and fuel costs are effectively recovered dollar-for-dollar. O&M, there's some risk there that what they have built into the energy price may not be fully recovered. But, I think, by and large, they have made an attempt to estimate an O&M component to their price that covers their estimates of where O&M costs are going to be. The capacity prices in the -- so, the energy prices cover those two cost components. The only other uncovered cost is the capital cost. The capacity prices go some way to recovering those. They don't recover all. But then you've got this -- what I call this "kicker" in the energy price, associated with the 1.8 conversion factor, which produces this additional revenue stream. When you add that to the capacity cost stream, that, in effect, recovers the capital cost of the plant, very close, based on the Company's estimate of 167 million. So, we have all of the three major cost components covered by the energy and capacity prices. And, we have this REC stream that's bringing in $500 million, which would have to cover the interest on the debt. And, essentially, the rest is cash flow to the Company. So, based on my analysis of this project, a substantial portion of this $500 million of revenue is going to result in a return to investors. And, that's my major concern. We need

to get those REC prices down in order to achieve a reasonable return for these investors.

Q. Mr. Frantz, have you thought about any other mechanisms for pricing or for risk-sharing, as you've looked at the PPA?

A. (Frantz) Well, we've discussed the same ones. I think that the company that's not at the table here, Laidlaw, can best assess its own risks. So, sitting down with them gives you the best opportunity to actually reach something that I think meets the needs of all people. I think they're creative from the one day that we had with them, and probably willing to work, but there's a lot of options out there. And, Mr. McCluskey just mentioned a few of them.

A. (McCluskey) I would just add that, we just didn't have sufficient time to explore some ideas that were put on the table in the one day of settlement. You know, for a project of this magnitude, to have one day of settlement scheduled is really just -- just doesn't cut it. There's a lot of money at stake. And, it's going to take a lot of hard bargaining in order to achieve an outcome, if it's possible.

CMSR. IGNATIUS: Thank you. I appreciate it. That's very helpful.

CHAIRMAN GETZ: Mr. Amidon, I take it, from Mr. McCluskey's remarks, that you have redirect prepared. I mean, how much redirect and are you ready to launch into it?

MS. AMIDON: One moment please.

(Atty. Amidon conferring with Atty. Damon.)

MS. AMIDON: Right. I do have some prepared. What I don't -- didn't have a chance to do yet is see if there is any further inquiry that needs to be made based on what had taken place this morning. Could you give me five minutes? And, I would like to start, I mean, I certainly appreciate the -- you know, the budgeting of time that the Commission has. And, I would like to start, at least I could address Commissioner Ignatius's questions that we have or are prepared to address in our redirect. But could I have --

CHAIRMAN GETZ: Is there an order of magnitude? Whether we're talking ten minutes or an hour?

MS. AMIDON: It's certainly not going to be an hour. It's more in the nature of 20 minutes to a half an hour, depending on the responses from the witnesses. But I do want to just have two minutes to go to the Bench and talk to them.

(Atty. Amidon conferring with the witnesses.)

(Chairman and Commissioners conferring.)

MS. AMIDON: It looks like we will be done sooner than we expected.

CHAIRMAN GETZ: Well, let me just put this out there. We really can't be going till 1:30.

MS. AMIDON: This will not take that long.

CHAIRMAN GETZ: Okay.

MS. AMIDON: Mr. Chairman, if you wish to break right now, that's fine with us, too.

CHAIRMAN GETZ: Well, I guess, and I certainly wouldn't put this on Staff counsel, because I think all counsel who have ever appeared here have been notoriously underestimated times for cross, redirect, etcetera. So, and certainly don't take this personally, but we really don't want to get headed down a path, if it's going to take a long period of time. If it's something that can be done quickly, then we would like to do it. Though, I assume then always, if there's some redirect, it may open a path to recross.

MS. AMIDON: We're fine with waiting, Mr. Chairman. I know that there are other concerns that are pressing on the Commission, and we're fine with putting this off to another day, to avoid any possible slipping over the timeframes that you set for this hearing.

CHAIRMAN GETZ: There's one other thing let me put out there as well, is in dealing with the exhibits, what we could do is, if the parties wanted to take the lunch recess and talk about that, I can come back in an hour or hour and a half, whatever, to deal with any of the evidentiary issues, and we can get that taken care of today. Does anybody have any thoughts about that or any other procedural matters?

MR. BERSAK: I would just love to get this done today, Mr. Chairman, if we possibly could.

MR. BOLDT: I would agree.

CHAIRMAN GETZ: So would I.

MR. BERSAK: I know.

(Chairman and Commissioners conferring.)

CHAIRMAN GETZ: Ms. Hatfield.

MS. HATFIELD: Could we just ask the Clerk that we get the most recent copy of the exhibit list, and then we could all confer over lunch?

CHAIRMAN GETZ: Okay. Well, that would certainly handle with respect to the evidentiary issues.

I guess what we're really pushing up against right now is whether to start redirect. And, I think we may have a consensus to let's try it and see how far it goes.

MS. AMIDON: Thank you.

REDIRECT EXAMINATION

BY MS. AMIDON:

Q. I'm going to begin by asking Mr. McCluskey the reasons for your development of Staff Exhibit 15, which was a comparison of historic prices provided by PSNH, with your projections of the Laidlaw energy prices. Do you recall that exhibit?

A. (McCluskey) I do.

Q. And, do you recall that PSNH, in their Exhibit 19, I believe, modified that to reflect historic Concord Steam wood prices?

A. (McCluskey) It became clear yesterday that the line that was generally shown as under the market energy prices related to Concord Steam fuel costs, not to Schiller costs.

Q. And, Mr. McCluskey, in response to that, I believe you directed the preparation of this exhibit.

MS. AMIDON: And, unfortunately, it still says "Staff 15", I think we're up to 16. We're up to 16.

CHAIRMAN GETZ: Okay. It will be so marked.

(The document, as described, was herewith marked as Staff Exhibit 16 for identification.)

BY MS. AMIDON:

Q. And, could you explain the change that you made to this exhibit, Mr. McCluskey.

A. (McCluskey) Yes. Relative to Staff Exhibit 15, we've added two lines. The line in blue are the prices that PSNH developed yesterday using the Concord Steam fuel costs and the Laidlaw energy price formula. The second line which has been added is in purple. And, these prices are the energy prices if you use the Laidlaw energy price formula with Schiller historic fuel costs. And, it starts in 2007, because Schiller converted to wood or at least Unit 5 at Schiller converted to wood at that time. So, we only have four points, starting in 2007 and running through 2010. So, visually it's showing that, using historic fuel costs at Schiller, that if this PPA had been in effect at that time, the energy prices would have been above the market energy prices, which are shown in red. Yes. All of these are annual prices that have been developed, annual

averages.

Q. And, so, you -- and, so, this is a more correct depiction of the Schiller prices with the Laidlaw prices, is that your --

A. (McCluskey) The Schiller fuel costs with the Laidlaw pricing formula produces the prices shown in purple on this, on this chart.

Q. Thank you. And, you recall Commissioner Ignatius asked about Staff's analysis of the rate impacts, referencing the record request response of PSNH, which provided the Company's analysis of the rate impacts of the contract, is that correct?

A. (McCluskey) That's correct. In the -- I'll wait until you hand it out.

Q. And, this document does not have a title on it, unfortunately, but it has -- it depicts a six-column analysis of prices in a Base Case, a Low Market/High Cap, and a High Market/Low Cap Factor?

A. (McCluskey) Well, it actually has a title, "Staff Rate Impact Analysis". Not on this one? Oh. It got left off. In the version that I have in front of me, it has a title "Staff Rate Impact Analysis". So, if you could write that on the top of the schedule, if it's not already there.

MS. AMIDON: If we just mark it for identification as "Staff Exhibit 17", perhaps no one will have to.

CHAIRMAN GETZ: So marked.

(The document, as described, was herewith marked as Staff Exhibit 17 for identification.)

MS. AMIDON: Thank you.

BY THE WITNESS:

A. (McCluskey) And, as I indicated earlier, it's broken down into essentially two scenarios. A scenario, what I call the "PPA proposed facility", roughly 63 megawatts, and the "Laidlaw expanded facility", 67.5. And, under each scenario, I develop a base case, worst case, and best case, from the standpoint of the customer. Worst case is from the customer's standpoint. But, starting with the base case, we've essentially used the structure and the formulas that PSNH had in its spreadsheet. And, we're focusing on the year 2014, and we think PSNH's was focusing on 2015. And, the main changes relate to the "Avoided Costs of Products" block, where we've, under the "Base Case", we have the energy market prices that came from my Exhibit 12, and we have the REC market price, we

have a figure of "32.38", potentially a problem there, and we have the capacity price of "2.95". And, we develop whether it's above or below the PPA prices. And, if it's -- if the PPA costs are greater than market, there is a impact on rates. And, we've assumed a mitigation [migration?] percentage of "31 percent" under the "Base Case", and it produces a monthly bill impact of "$3.50".

Now, the worst case, from the customer's standpoint is, if the facility operates at a high performance. So, if the PPA prices are higher than market, and the facility operates at the very high performance, we've assumed 95 percent, then it's going to result in more costs. If the fuel costs are higher than what we assumed in the base case, that's going to increase the costs. If the market prices are lower, then that's going to increase the difference between the two. So, this is the worst case for consumers. And, under this particular worst case, we've come up with a figure of -- and we used, by the way, the "migration assumption" of "35 percent", based on the recent report that we've got. So, everything is the worst possible outcome. And, it's coming out at a monthly impact of "5.76".

And, the best case is low fuel costs, high market prices, and the facility just doesn't operate at the level that Laidlaw is hoping to operate it. And, we've just assumed on migration that it would still be the "31 percent".

So, that's essentially the analysis. When you move over to the expanded facility, all we've done is change the capacity of the facility, which is going to either increase the costs or increase the benefits that consumers receive as a result of these calculations.

BY MS. AMIDON:

Q. Thank you. Regarding Staff Exhibit 14, which was your revision of I believe it's Sansoucy -- or, your attempt to construct a Sansoucy Exhibit 18 [10?], there were questions from Mr. Boldt and Commissioner Below regarding the Ventyx based energy costs shown under the block of data headed "Market Revenue 1". Do you recall that?

A. (McCluskey) Yes, I do.

Q. Would you like to comment on the energy prices underlying those costs?

A. (McCluskey) Yes. Those energy prices were taken from Mr. Sansoucy's Exhibit 9, and apparently derive from

the Fall 2009 Ventyx Report, which is not actually in evidence. We were provided with the Fall 2010 Report. We do not have the Fall 2009 Report. And, I believe it's been subject to a Motion to Strike.

According to Mr. Sansoucy, the prices in the Fall 2009 Report differed from the prices in the Fall 2010 Report in two respects. One is that the 2009 prices reflect a carbon scenario. And, the details of which we know nothing about, because we don't have the Fall 2009 document. The second difference is that the underlying market conditions reflect the conditions in 2009, when the modelers were preparing their forecast. They would have been using those market -- energy market conditions as the starting point for developing their long-term forecast. Just like the modelers, when they were developing the 2010, would have been looking at the market conditions at that time. Most importantly, would have been natural gas prices. Where do the modelers think natural gas price is going to go in the future? And, there's been significant developments in that market as a result of shale production in various parts of the United States. The problem is, we don't know -- we know that there's a difference between the stream of 2009 prices, relative to the 2010, but we don't know whether it's attributable to the fact that one has a carbon scenario and the other one hasn't, or is it attributable to the fact that conditions are different from 2009 to 2010?

So, it's not appropriate to argue that "well, if we wanted a scenario with carbon in, we should use these 2009 prices." Because it's not just carbon that's the difference. There could be significant differences between 2009 and '10, as a result of the market energy -- the energy market conditions changing. And, so, we can't assume that the difference is attributable to the carbon scenario. So, that's the point that we wanted to make. It's very dangerous to be using those numbers to draw any conclusions in this case, because we don't have the document to support it.

Q. Thank you. Mr. Bersak raised a question regarding your testimony at Page 14, where you talk about, at Line 15, "above-market cost of $125 million" related to the purchase of Class I RECs. Would you please clarify your response to Mr. Bersak regarding that section. Are you there?

A. (McCluskey) Yes. I think there was some confusion, possibly in Mr. Bersak's mind and maybe in my mind when

I was responding to Mr. Bersak. There seemed to be an understanding that this $125 million was the above-market REC cost estimate. That is not the case. That estimate is of the order of $285 million in my testimony. What this is addressing is not the, essentially, the above-market cost of RECs, but it's addressing the additional cost to PSNH as a result of purchasing RECs more than they need. And, I put a figure of 175 million on that additional cost. What the "$125 million" figure is, is that, well, if PSNH has got these additional RECs, surely, it's going to sell them in the market. So, we need to have an estimate of what the market price is going to be, in order to determine the net cost to PSNH as a result of purchasing these excess RECs. In this particular calculation, I just simply assumed, I just used the current market price to make that estimate. Whereas, when I developed the above-market cost estimate for RECs, I used the full long range price forecast from Synapse. So, that's the -- I just wanted to clarify that the "$125 million" figure is addressing a very different issue than the above-market REC cost calculation.

Q. Finally, Mr. McCluskey, Mr. Bersak asked whether RSA

362-F:9 required a utility to issue an RFP to comply with the RPS requirement. Do you recall that?

A. (McCluskey) I do.

Q. And, I think we agree the statute does not require an RFP. But does the statute include, as one of the criteria for the Commission to consider, the cost-effectiveness of the -- of a long-term PPA to comply with the REC requirements?

A. (McCluskey) Yes. And, these two things seem to go in opposite directions. There's a minimum requirement on the Company. And, he's correct that this word "excess", they can buy -- apparently buy more than the minimum. But there's also this requirement that it's got to be cost-effective. And, if you are buying more RECs, and they are priced above market, then that's going to increase costs to consumers, and it makes it more difficult to achieve the "cost-effectiveness" definition. So, I don't think there was any intent in the legislation for a company just to cut loose and buy significantly more than what the minimum requirement is, because there's this cost-effectiveness obligation as well. So, I think those two things have to be considered in tandem in determining what the appropriate amount to purchase is.

MS. AMIDON: Thank you. That concludes my redirect.

CHAIRMAN GETZ: Thank you. Mr. Bersak?

MR. BERSAK: We are all finished, Mr. Chairman. Thank you very much for your patience.

CHAIRMAN GETZ: Thank you. Then, the witnesses are excused. Thank you, gentlemen.

While Mr. Frantz and Mr. McCluskey are leaving the stand, I want to address the issue of exhibits. I think we're going to take a lunch recess regardless right now. But, if the parties want to talk over lunch, at a minimum, I am going to be able to come back at, say, no sooner than 2:30, or I can await your call, in terms of, if you try to come to some agreement on exhibits, and come down and then would make any necessary rulings on striking identifications, admitting exhibits into evidence. And that, I would take it, would be the last thing, except maybe trying to reach some agreement on a date for the written comments, the written closings.

MR. BOLDT: Very briefly, Mr. Chairman. I was -- we did have in attendance yesterday both the Mayor of Berlin and a member of the United Steel Workers Local 75, Mr. Edward DeBlois. I do have a statement from him that he asked me to present. We also have copies of the public statements of the various politicos and members of the North Country Economic Development entities, that we wanted to be sure that the Commissioners had available to them in paper copy. I've got those as packets just to present. We just wanted to make sure that was on the record.

CHAIRMAN GETZ: And, you mean "present", meaning "submit", not "read"?

MR. BOLDT: Correct. Correct. Not "read", no.

CHAIRMAN GETZ: Okay. All right. Thank you. Well, let's -- I think we can certainly present those to the Clerk.

(Chairman and Commissioners conferring.)

CHAIRMAN GETZ: Okay. Then, let's -- we'll take the lunch recess, and I'll await a call to come back and see if there are any problems with evidentiary issues. Thank you, everyone.

MR. BERSAK: Thank you.

MR. BOLDT: Thank you.

(Whereupon the lunch recess was taken at 1:15 p.m. and the hearing resumed at 3:10 p.m.)

CHAIRMAN GETZ: We've managed a quorum.

So, back on the record to address any potential evidentiary issues. Well, let me, I guess, start this way: Is there any objection to striking the identifications and admitting the exhibits into evidence?

MS. HATFIELD: Yes, Mr. Chairman.

MS. AMIDON: Yes.

CHAIRMAN GETZ: Okay. Who would like to go first?

MS. AMIDON: I will begin. This has to do with Dr. Shapiro's amended direct testimony on the stand. Where she spoke to the economic benefit associated with the collocation of a new, but unidentified, business that may make a commitment to locate with Laidlaw at the plant. I believe that's PSNH Exhibit 10.

CHAIRMAN GETZ: And, this is the Berlin Sun --

MS. AMIDON: Yes.

CHAIRMAN GETZ: -- newspaper article?

MS. AMIDON: Yes, the Berlin Daily Sun. And, Dr. Shapiro mentioned a number of jobs, she also mentioned a number of benefits associated with those jobs that would go to the local economy. However, Staff was not able to understand what the entity was, what kind of business it was, and did not see any of the underlying

work papers associated with Dr. Shapiro's calculation of economic benefit. And, therefore, we would move to strike that testimony from the record.

CHAIRMAN GETZ: Okay. Well, let me just get the full universe of things first, and then we'll --

MS. AMIDON: Okay.

CHAIRMAN GETZ: -- allow opportunity for responses. Okay.

MS. HATFIELD: And, actually, Mr. Chairman, with respect to the Shapiro additional testimony that Attorney Amidon was just referencing, I just wanted to make clear that I don't object to PSNH 10 itself being in, I think the Commission should give it very little weight, because it's a newspaper article citing Laidlaw, talking about a potential other occupant of the space or on that site. But I do support what Attorney Amidon said about Dr. Shapiro's oral testimony given, I believe, on, I forget -- it was Day 1, I believe.

CHAIRMAN GETZ: So, basically, what conclusions she would draw from the information that was in the newspaper article?

MS. HATFIELD: Yes. And, I think she characterized it as "revising her direct", if I remember correctly, if that matters. And, I can go on to the next

one, if I'm next in line.

CHAIRMAN GETZ: Okay.

MS. HATFIELD: Staff 12C and Staff 13C are actually things that the City brought into the case, but they're marked as Staff exhibits, because they hadn't been otherwise marked. And, I'll start with 13C first, because I think it's simpler. We object --

CHAIRMAN GETZ: And, we're talking here about the Staff 12 and Staff 13?

MS. HATFIELD: Yes.

CHAIRMAN GETZ: Are those the Ventyx?

MS. HATFIELD: Yes.

MS. AMIDON: Correct.

MS. HATFIELD: And, Staff 13C is the confidential Ventyx tables. And, I believe it's four pages. And, the first two pages relate to Ventyx Fall 2009, and the second two pages relate to Ventyx Spring 2010. And, one of our objections is that these tables really don't stand on their own. They are similar to tables that are provided in 12C, along with what appears to be a few hundred pages of background and context. And, we don't believe that the -- just the stand-alone tables of numbers in them, without an explanation of the derivation of the numbers and how Ventyx intends -- or, what they intend for them to represent, should be allowed into the record.

MS. AMIDON: And, just for the record, Staff concurs with that. If you recall, the Fall 2000 -- I think it was Fall 2009, was representative as having carbon in, which became a topic of conversation. But, absent having the treatise that provides the context, the background for those numbers, Staff was not able to examine the validity of those numbers or understand their origin.

CHAIRMAN GETZ: Okay.

MS. HATFIELD: And, then, with respect to Staff 12C, which is the full Ventyx Fall 2010 Report and associated tables, we don't have an objection to it going in. But, at some point, maybe not -- now may not be the right time, but at some point we would like to discuss with the Commission the confidential -- the Company -- excuse me, the City's request for confidential treatment, in light of the fact that the report was discussed at length in the public session of the hearing. So, at some point, we would like to discuss that.

CHAIRMAN GETZ: What do you mean by "at some point"?

MS. HATFIELD: Well, because, to me,

that's not really a discovery issue, it's more about how you're going to rule on the Motion for Confidential Treatment, which I think you granted confidential treatment orally. The challenge is that Mr. -- or, both Mr. Sansoucy and Attorney Boldt, and I think even other witnesses that Mr. Boldt crossed, read significant portions of this into the public record, and public portions of the testimony also utilize the Ventyx numbers.

So, I'm intending to comply with the agreement that I have with Attorney Boldt on this material, which is to return it to him at the end of the case and to not reproduce it. And, that's really around the copyright issues. But I just wanted to flag for you that a lot of these materials have now been put into the public record.

CHAIRMAN GETZ: Well, is this one of those issues where the parties may need to look at the transcript and try to determine what should be or if there's an agreement or what should be protected or what shouldn't, and then some proposal in writing made to the Commission?

MS. HATFIELD: I think that that's -- that's what we often do. I think the challenge is that there were members of the public attending that portion of

the hearing, if I remember correctly. And, so, if that's what the Commission would like us to do, I think that that's fine. There may be -- there may be portions of it where the confidentiality request has, in effect, been waived by being read in public session.

CHAIRMAN GETZ: But it's certainly not an issue that should cause us to defer deliberations or a final order on the merits?

MS. HATFIELD: Oh, absolutely not.

CHAIRMAN GETZ: Okay. All right. Then, I would say, if there could be further discussion among the parties. And, if there's an agreement, great. If we need to have something raised, either orally or in writing or another hearing or do it on the papers, then we'll handle it as it comes along.

MS. HATFIELD: And, then, the last one that I was going to raise is related to that, related to both of the Ventyx materials, in part. And, that is the City of Berlin Exhibit GES-3, which is the Rebuttal Testimony of George E. Sansoucy. And, there are portions -- that is Exhibit 3, and then his attachments to his testimony are also labeled "exhibits". So, this may be a little bit confusing. But Exhibit 9 to that testimony included, I believe, information from the '09 Ventyx

materials, which we've asked not be admitted.

CHAIRMAN GETZ: So, that's just kind of a derivative type of argument?

MS. HATFIELD: Yes. Yes.

CHAIRMAN GETZ: Okay.

MS. HATFIELD: Then, in addition, both Exhibit 9 and Exhibit 10 to Mr. Sansoucy's testimony, he, both in the text technical session that we held, as well as in the hearing, explained that he couldn't find some of the backup for some of the calculations in those tables, and therefore he couldn't explain some of the numbers and some of his intended uses for them. And, then, as a result, the City brought in what they -- what we referred to during the hearing as "Exhibit 10 Revised", which again is Exhibit 10 to Exhibit GES-3. Which I now understand that Attorney Boldt would like to have considered as "Exhibit 11" to Mr. Sansoucy's testimony, so that it would have an Exhibit 9, an Exhibit 10, and an Exhibit 11. And, we object to the Exhibit 11, because it is new testimony that we think really is direct, which is appended to rebuttal. And, also, the parties received it I think on the day that he was on the stand. And, we didn't have sufficient time to review it or see any of the backup materials to it.

MS. AMIDON: And, Staff concurs with the motions raised by Attorney Hatfield.
CHAIRMAN GETZ: All right. Thank you. Mr. Shulock?
MR. SHULOCK: The Wood IPPs concur in the motions made by OCA and Staff.
CHAIRMAN GETZ: Okay. But no other documents that you're identifying?
MR. SHULOCK: No.
CHAIRMAN GETZ: All right. Well, let's see. Well, do either of you gentlemen have objections to admitting any evidence?
MR. BERSAK: No, Mr. Chairman. We're fine.
CHAIRMAN GETZ: Okay.
MR. BOLDT: And, Mr. Chairman, my position would be, it's all to come in, and you, in your infinite wisdom, will sort it all out in the wash. Depending upon what your ruling is on some of the objections raised by Staff and OCA, we may have similar rulings to the new creations that Staff witnesses created on the fly, gave us today for the first time, those kind of things.
So, my opinion is, you have heard all of

the evidence. You have seen the witnesses. All things can come in. On the Ventyx issues, we do not intend and did not intend to waive confidentiality. We understood we were working under the Commission's ruling on confidentiality. And, in no way, shape or form were we intending the full reports, which are, I want to stress to you, Staff exhibits, both 13 -- 12 and 13 became Staff exhibits, that we are not waiving confidentiality.
The Exhibit 13 are the backup tables that were produced at their request to substantiate some of their questioning of Mr. Sansoucy. I do not believe this is something that should be stricken. It is not something that we've had -- or, rather, it is something we've had some extensive examination of several witnesses concerning what Ventyx does and does not say. To excise part now, now that the evidence is closed, is I think not fair to the parties.
With respect to portions of Exhibit 9 and Exhibit 10 to the rebuttal, it was only Exhibit 10, D -- Column D, rather, that Mr. Sansoucy could not recall the exact -- the formulas to back that up. All of these things, your Honor, go to the weight, not to the admissibility.
You and the Board can give all of these

exhibits the proper weight in your mix of all of this evidence, allow it to come in, and not excise anything.
As for Exhibit 10 Revised, you may recall that I gave everyone a moment of mirth, because I said "I wasn't sure should it be "Revised Exhibit 10", "Exhibit 11", or "Exhibit 4"." Because, under the format of how things should be ordered, we weren't -- we weren't quite clear.
In short, that is -- that was discussed at some length, both on direct and in cross of Mr. Sansoucy on the 1st. Again, it comes in, you give it what weight you wish.
And, I think I've talked about the confidentiality. One of the things that Ms. Amidon said about some of the documentation goes to numbers with carbon in, keep in mind we've had extensive discussion with both Mr. Sansoucy and Mr. McCluskey on their calculations with carbon in, with carbon out. Again, this goes to weight. This goes to material evidence that this Board can consider. We ask that you keep everything in, and we go from there.
CHAIRMAN GETZ: Okay. Thank you. Mr. Bersak?
MR. BERSAK: I have no objections. Just

let everything come on in.
CHAIRMAN GETZ: That was the opportunity to make an argument, but that's fine.
MR. BERSAK: Okay. I thought you were asking for a consensus on or a listing of all the objections. With respect to the objection to Dr. Shapiro's testimony that she gave with respect to the additional jobs and additional economic development up in Berlin, I think that the Commission is well aware that economic development is one of the key aspects of the Renewable Portfolio Standard. And, the Company felt it was important for the Commission to know what economic development matters were at stake when the merits of the PPA were being weighed. The best information that was available was provided to the Commission. That there is a new development up in Berlin that's dependent upon the existence of the Berlin Laidlaw biomass plant that would provide 65 direct jobs. Dr. Shapiro presented expert opinion, based on the available information, as to the impact that a develop such as that would have. And, I think it's important for the Commission to consider that in weighing the public policy and public interest standards of the statute.
CHAIRMAN GETZ: All right. Is there

anything further?

MS. AMIDON: One final observation. My colleague, Attorney Damon, suggested that the Commission consider whether they want to take administrative notice of the Synapse 2009 Report, because that was excerpt, but is something I think the Commission considered in connection with a docket that was mentioned today, Docket 09-137. So, it's just an offer that the Commission may want to consider.

CHAIRMAN GETZ: But it's a matter of record in that docket?

MS. AMIDON: There is, I think -- yes. Yes. I believe that's what Attorney Bersak said, too.

MR. BERSAK: I believe that it is. You know, we gave, in our Exhibit Number 24, some extracts from it. But, if the Commission feels its important to read all 399 pages, you're certainly welcome to do so.

CHAIRMAN GETZ: Well, I'm more concerned with the more formal issue of official or administrative notice. But it's certainly not something we have to decide today. I do want to deal with the other evidentiary issues. But the administrative notice thing, we'll just take that under advisement and that will be part of our deliberations.

MS. HATFIELD: And, Mr. Chairman, I did have a few other comments related to administrative notice, but I can hold off on that now, if you want to focus on the evidentiary pieces.

CHAIRMAN GETZ: Well, I think what we're going to do is take a brief recess to consider the motions, about what to do with these particular exhibits.

MS. HATFIELD: Okay.

CHAIRMAN GETZ: So, why don't we hear what you have to say about other issues of administrative notice.

MS. HATFIELD: Thank you. I just wanted to remind the Commission that I requested that you take administrative notice of two dockets during the hearings. One is DE 08-077, the Lempster PPA docket, and the other is DE 03-166, the Schiller Modification docket. And, then, I also just -- I know you're very aware of this, but I did just want to point out that you didn't take administrative notice of the Site Evaluation Committee process. And, while that has come up many times during these hearings, I think you're also aware that Laidlaw's motion to allow Staff and the OCA to have access to confidential transcripts was denied. So, our office and Staff have not had the opportunity to read significant

portions of those transcripts, which my understanding is the Site Evaluation Committee believes are sealed from the public. So, I just wanted to make sure the Commission was aware that we didn't participate in those proceedings and we haven't had the benefit of that information.

CHAIRMAN GETZ: Okay. Let me address, first, the Lempster and Schiller proceedings. Is there any objection to taking administrative notice of those, of the documents in those proceedings?

MR. BOLDT: I would question the relevance on Lempster, your Honor. Just from the standpoint that is a wind project. There's been some extensive testimony of both Mr. McCluskey and Mr. Sansoucy on some significant distinctions. We're not quite sure that it's absolutely relevant. I don't know what's in either of those, but that would be my key issue on Lempster.

CHAIRMAN GETZ: Okay. Well, we'll take it under advisement, whether to take administrative notice. Okay. Anything else?

MS. AMIDON: And, just one final. You'll be happy to know that we have an agreement on closings. We've agreed to a page limit of six pages. And, we've agreed to file them no later than 4:30 on

Monday, February 14th. So, by close of business, you should get them. I believe there was also a decision to do one and a half spacing. Now, which may vary from party to party. But we have agreed to a deadline.

MR. BOLDT: One and a half spacing, and even 12 font, your Honor.

CHAIRMAN GETZ: And, Valentine exhibits.

MR. BOLDT: And, little hearts over the i's.

MR. BERSAK: Dotting the i's. The Synapse Report, Mr. Chairman, was attached as an attachment to Cindy Carroll's testimony in Docket 09-137, that's the Unitil Distributed Generation case. So, it is available, it is part of the record in that, all 399 pages.

CHAIRMAN GETZ: Thank you.

CMSR. IGNATIUS: Mr. Boldt, can I clarify with you your understanding of the confidentiality request for the Ventyx full report and the information contained within the report? Because I was surprised just now to hear you say that you still see those as fully confidential. I thought, in the course of the hearings, you had said they were not confidential numbers, we could testify to them, we could explore them, without worrying about clearing the room. So, maybe I misunderstood. Maybe just -- if you can just explain where you are on that?

MR. BOLDT: Certainly. My understanding was that this report is confidential and in this case only. It's not to be copied outside. The report's not a public document, per se. Keep in mind also, we've only testified specifically on certain parts, rather than the whole. But Staff has tendered the full report and the four pages of additional tables as exhibits. And, I believe the record will show, when they did that, I renewed our understanding of "these remain confidential and subject to the Board's prior order." I don't have a transcript of that, but that is my understanding.

CMSR. IGNATIUS: But tell me what you mean by "subject to confidentiality", because I think you and I may be talking about two different things. So, when you say "it's subject to confidentiality", what do you mean by that?

MR. BOLDT: That this report cannot just simply -- somebody can't walk up to the window and ask "I want a copy of this report." It is to be used in this case and the Board's deliberation. It was used by

all parties in the examination. Mr. McCluskey used it, Mr. Sansoucy used it, in creating some of their exhibits. So, the numbers are inherently peppered throughout the last few days. But the report itself is not subject to reproduction to the outside world. That's the key.

CMSR. IGNATIUS: But the appearance of text or numbers from the report that are in the transcript you're not troubled by? In a public transcript?

MR. BOLDT: We believe that's okay. But, if it is something for "belt and suspenders", if there's a process that is normal for this venue, that maybe Ms. Hatfield and I can go through, when we finally get a transcript, and go, you know, "this line to that line is confidential." Great, fine, and wonderful. The key concern for us is the report itself not being subject to ready duplication. All of the parties have agreed --

CHAIRMAN GETZ: You see, that seems where I think there's ongoing confusion between "what's a confidentiality issue" and "what's a copyright issue?"

MR. BOLDT: And, I guess I'm playing in the 91-A world also. That things that are confidential and not subject to production under 91-A, there is the paragraph of 5, III(e), I believe, whichever it is that, you know, "commercial, confidential, privileged

information". This is something that we have discussed at length, I thought, and the Court -- the body ruled in our favor that it retained its confidential nature.

CMSR. IGNATIUS: Well, I certainly hope we don't end up redacting numbers, sentences throughout the number of days of hearings we've had. As I recall, the Chairman asked you to flag the issue of heading into confidential material when it came up. He said this is your responsibilities to identify that, and I don't recall any more indication of when we were veering too far. And, your own testimony quotes sections of the report, text of it. So, that's why I'm just lost on what you consider fair for public dissemination and what you consider unfair for public dissemination.

(Mr. Sansoucy conferring with Atty. Boldt.)

MR. BOLDT: We may not -- we may not need to redact transcript. It's the report itself. That's the key issue.

MR. SANSOUCY: I think the confusion might be that they're taking the literal sense of the copyright issue --

CHAIRMAN GETZ: Wait. Are you talking to us or are you talking --

MR. BOLDT: No, he's talking to me. My apologies.

(Mr. Sansoucy conferring with Atty. Boldt.)

MR. BOLDT: If the report itself is not released, we're fine. The text of the transcript, the numbers are in it from both witnesses, I agree. I've read portions, and that is fine to be in the public transcript. But the document itself, we don't want somebody -- we were not expecting somebody to be able to come up to the window and ask for a copy of 12C, Staff 12C.

CHAIRMAN GETZ: I hate to spend any more time on this issue. But what if somebody comes up to the window and doesn't want a copy, but would like to look at it?

MR. BOLDT: We would hope that it is still confidential. That's a "no". That it's labeled as "confidential".

CHAIRMAN GETZ: Okay. Well, we'll have to take this under consideration, because I still think there's a fundamental confusion about the confidentiality laws and the copyright laws. But --

CMSR. IGNATIUS: And, one other matter. There was another document that was handed out, referenced

as the title as being "confidential", same copyright concerns. It was never marked as an exhibit.
MR. BOLDT: Correct.
CMSR. IGNATIUS: I don't know if it was ever really used. Is that --
MR. BOLDT: Staff did not mark that as an exhibit, we did not mark it as an exhibit. I think it is referenced in some parts of Mr. Sansoucy's testimony. But my recollection is there was no real cross on those topics or that basis. So, I'm not viewing that as in the record, whereas his testimony is.
CMSR. IGNATIUS: All right. It may not be in the record as an exhibit. It's in the confines of the Public Utilities Commission, and thus --
MR. BOLDT: Correct.
CMSR. IGNATIUS: -- open to Request for Right to Know release. And, so, I don't know what your recommendation is on that?
MR. BOLDT: We were treating that also as subject to the confidentiality order of this body, so that it would be treated as confidential.
CMSR. IGNATIUS: Thank you.
CHAIRMAN GETZ: Okay. Anything further?
(No verbal response)

CHAIRMAN GETZ: All right. We're going to take a recess. I hope it's not a lengthy recess. And, well, I guess I'm trying to decide whether we really need to rule on this today or whether we can take it under advisement. I'd prefer to have some deliberations and try to rule on it. And, then, we would hopefully be in a position to close the hearings and then wait for the written closings.
So, we'll take a brief recess.
(Whereupon a recess was taken at 3:39 p.m. and the hearing resumed at 4:00 p.m.)
CHAIRMAN GETZ: Okay. We're not going to try to address the confidentiality issues. So, hopefully, if you can get something to us on those matters, then fine. And, if we have to deal with those at some other point, we'll do that. But we're just going to address the evidentiary issues at this point.
So, the first item was Staff, with respect to PSNH Exhibit 10, and that's the Berlin Daily Sun article about the "Green company interested in locating on former mill site", and Dr. Shapiro's supplemental direct with respect to that issue. We're going to deny the Motion to Strike that. We'll permit

that, both the exhibit and the supplemental testimony. This is new information that was previously unavailable. And, we're going to give the testimony and the exhibit the weight it's due, recognizing that there's some level of uncertainty about who the company might be and what's the -- what are the actual prospects for such a company to be built and to add such jobs. So, we'll give that the weight -- we'll admit it and give it the weight it's due.
On the second issue, with respect to Staff 12C and 13C, essentially, the issues of the Ventyx tables and especially the Fall '09 exhibits, which have tables, but not the fuller explanation that we find with the full Fall 2010 document. Again, we're going to admit the evidence, but give it the weight it's due, recognizing that it's only an excerpt, and we don't have comparable information with respect to those tables that we do with the Fall 2010 information.
And, then, with respect to City of Berlin's exhibits, Exhibit 3, Mr. Sansoucy's rebuttal testimony, and Exhibits 9, 10, and what now is being designated as "Exhibit 11", the last three attachments to Mr. Sansoucy's testimony. Again, we're going to admit all three of those exhibits, giving them the weight they're due, noting, among other things, that, in Exhibit 10, in

Column D, that there is -- the work papers could not be located for that. And, I think also, with respect to 11, I had commented earlier in the proceeding that it really just takes some of the information from Exhibit 9, and then multiplies it by what I understand to be is the output of a 67.5 megawatt facility. So, there's really nothing in Exhibit 11 that's really not in Exhibit 9 or couldn't be easily derived therefrom. But, again, with the proviso that they will be given the weight due, understanding that it's from the Ventyx materials, and that there was -- these materials really came fully to light late in the proceeding, and there may be arguments about a full opportunity to review those. But I think there has been adequate review or that we've certainly heard a good deal about those documents and we have seen those documents.
There was one other issue.
(Chairman Getz and Commissioner Ignatius conferring.)
CHAIRMAN GETZ: And, just let me add this about the admissibility of these particular documents and the weight to be given. To the extent they form a basis for our decision in our deliberations, and it's necessary to comment on what weight we did give to them,

that will be something that we would develop in our final decision. So, for now, all we're doing is admitting them into evidence, recognizing that there are -- legitimate issues of weight have been raised, and we'll give them the weight that we determine is appropriate.

And, then, we'll take under advisement the issues of administrative notice. And, we'll see if anything further develops on the confidentiality issues. Unless, is there anything else that anyone would like to raise at this point?

(No verbal response)

CHAIRMAN GETZ: Okay. Hearing nothing, then we will close the hearing. Wait for the written closings and take the matter under advisement. Thank you, everyone.

MR. BERSAK: Thank you, your Honor.

MR. BOLDT: Thank you very much.

(Whereupon the hearing ended at 4:04 p.m.)

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