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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

 ORIGINAL

February 8, 2011 - 9:14 a.m.
Concord, New Hampshire

DAY 5
MORNING SESSION ONLY
PUBLIC HEARING

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

NHPUC FEB21 '11 PM 1:13

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

Sandy Deno, Clerk

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

Reptg. Bridgewater Power, Pinetree Power,
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Power, Springfield Power, and Indeck
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Jonathan Edwards

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9 Thomas C. Frantz, Director/Electric Div.
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I N D E X

WITNESS PANEL: George McCluskey
Thomas Frantz

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P R O C E E D I N G S

1
2 CHAIRMAN GETZ: Okay. Good morning,
3 everyone. We'll resume the hearings in Docket DE
4 10-195 concerning the Laidlaw purchase power
5 agreement with Public Service Company of New
6 Hampshire. I think we were about to hear the direct
7 testimony of Mr. Frantz and then move on to
8 cross-examination.

9 But before we do that, are there any
10 issues we need to address this morning? I know that
11 at one point there was some discussion of trying to
12 reach some agreement on briefing, which we could get
13 on the record now or do at the end of the day. So is
14 there any preference among the parties? Are there
15 any other issues? Ms. Hatfield.

16 MS. HATFIELD: Thank you, Mr.
17 Chairman. It wasn't until yesterday that I was able
18 to reach out to the other parties to inquire about
19 interest in briefs, so it probably would be best if
20 we dealt with that at the end of the day.

21 CHAIRMAN GETZ: Okay. Anything else?

22 MS. HATFIELD: One other thing. I had
23 raised the issue of a legislative hearing today, and
24 the OCA does not need to have the hearing stop for

1 that period. So we'll be able to just move forward
2 with the hearing today. Thank you.

3 CHAIRMAN GETZ: Okay. And that
4 reminds me of one other issue.

5 Mr. Bersak, rebuttal witnesses? Is
6 there --

7 MR. BERSAK: We have to wait and see.

8 CHAIRMAN GETZ: All right. Then we
9 shall wait and see.

10 Ms. Amidon.

11 MS. AMIDON: Thank you.

12 DIRECT EXAMINATION (cont'd)

13 BY MS. AMIDON:

14 Q. Good morning, Mr. Frantz.

15 A. (Mr. Frantz) Good morning.

16 Q. When we last met, we were -- I had just finished
17 examining Mr. McCluskey regarding his testimony and
18 the rebuttal testimony that PSNH filed. And in its
19 rebuttal testimony, PSNH included rebuttal of Dr.
20 Shapiro. Did you review that rebuttal testimony?

21 A. (Mr. Frantz) Yes, I did.

22 Q. Do you agree with Dr. Shapiro, that your testimony
23 contains three critically flawed assumptions?

24 A. (Mr. Frantz) No, I do not, though I do agree with Dr.

1 Shapiro that, if the net economic impact of the
2 project is positive from a ratepayer perspective,
3 something that would be quite different from the
4 results contained in Mr. McCluskey's testimony, or
5 that of Mr. Traum, my conclusion of net economic harm
6 would indeed change.

7 Q. Thank you. In her rebuttal testimony, Dr. Shapiro
8 states that, even if the PPA results in over-market
9 costs of \$26 million per year, the economic
10 development benefits of the project would still be
11 positive. Do you agree?

12 A. (Mr. Frantz) Well, her conclusions depend on a number
13 of assumptions, including that the information
14 provided by Laidlaw in the SEC filing is reasonably
15 accurate and represents the direct effects of the
16 project, because they form the basis for the
17 construction and biomass shocks that are used in the
18 RIMS II multiplier effect. To the extent those
19 numbers are less than she modeled, the results will
20 similarly be reduced. The model assumes no
21 substitution effects and that the output can be
22 increased to whatever level's needed without
23 affecting other industries, such as other biomass
24 facilities. If other plants can't get the wood, or

1 the prices increase to those facilities, affecting
2 their operations, then some of those positive effects
3 that are included in her testimony and rebuttal
4 testimony would be reduced. One should keep in mind
5 that multiplier effects work in both directions.

6 Her analysis also includes all three -- direct,
7 indirect and induced effects in the RIMS II model.
8 And one should be very cautious of using induced
9 effects, as they depend highly on household income
10 and its distribution of savings and expenditures.

11 Q. Thank you. Did you review the article that PSNH
12 provided as an exhibit, and it was in the Berlin
13 newspaper, about a new company that had tentative
14 agreements to locate with Laidlaw, or co-locate?

15 A. (Mr. Frantz) I did look at it.

16 Q. You did? Do you have any comments about that
17 article?

18 A. (Mr. Frantz) My first thought was: Good. To the
19 extent that that facility locates there and creates
20 new jobs, that's certainly something beneficial to
21 Berlin. But we really don't know much about the
22 project. We don't know who owns it. We don't really
23 know what the agreement is between Laidlaw and that
24 project and its developer. We don't know the effect

1 the new company will have on Laidlaw's operations.
2 We don't know whether the facility would have located
3 elsewhere in New Hampshire. We don't know a lot of
4 facts about that facility and its location and the
5 relationship with Laidlaw, and those things would
6 have been useful in this proceeding.

7 Q. And did you hear Dr. Shapiro, in her testimony from
8 the stand, describe what she believed to be the
9 economic benefits associated with this unknown
10 entity?

11 A. (Mr. Frantz) I heard her mention them, yes.

12 Q. And did you hear Mr. Sansoucy say that he saw some of
13 the work papers Dr. Shapiro used to develop her
14 estimates regarding the benefits associated with this
15 unidentified entity?

16 A. (Mr. Frantz) Yes.

17 Q. Have you had a chance to look at those work papers?

18 A. (Mr. Frantz) I haven't seen those work papers.

19 Q. Thank you.

20 I want to ask an additional question with
21 respect to the record request responses, or one of
22 them that was provided by PSNH. And do you have
23 those in front of you?

24 A. (Mr. Frantz) I don't have that one in front of me.

1 If you'd like to show it to me, I'd be happy to --

2 Q. I'm specifically looking at record request, it says
3 HD-02.

4 MS. AMIDON: May I?

5 CHAIRMAN GETZ: Please.

6 (Atty. Amidon hands document to the
7 witness. Witness reviews document.)

8 BY MS. AMIDON:

9 Q. And do you see that now?

10 A. (Mr. Frantz) Yes, I do.

11 Q. And is that a record request which I believe you
12 requested in connection with statements made about
13 the effect of the contract on PSNH's financing or
14 credit worthiness?

15 A. (Mr. Frantz) Yes, it is.

16 Q. And would you please comment on that response.

17 A. (Mr. Frantz) Well, the response just states that the
18 vice-president for investor relations for Northeast
19 Utilities, Jeffrey Kotkin, stated that the size and
20 nature of Laidlaw's PPA is not significant enough to
21 have any adverse effect on PSNH's debt rating. It
22 does not state whether PSNH or Mr. Kotkin actually
23 contacted any lenders or potential lenders and asked
24 for their opinions and discussed it with them, or

1 that we have anything in writing from those lenders
2 stating that they've reviewed the PPA and believe it
3 has no adverse effect on PSNH.

4 Q. So, can you conclude anything from looking at that
5 response?

6 A. (Mr. Frantz) Only that Mr. Kotkin stated that it's
7 not significant enough.

8 Q. Okay. Thank you.

9 CHAIRMAN GETZ: Ms. Amidon, has that
10 already been marked as an exhibit by PSNH?

11 MR. BERSAK: Exhibit No. PSNH 14, Mr.
12 Chairman. There were two record requests on Hearing
13 Day 2. One was marked Record Request No. 4, which
14 was Exhibit 14, and one was No. 5, which was marked
15 as PSNH Exhibit 15.

16 CHAIRMAN GETZ: Thank you.

17 MS. AMIDON: May I ask, Mr. Chairman,
18 does the Commission not have copies of those record
19 request responses?

20 CHAIRMAN GETZ: Well, let's see. I
21 believe they were handed out. It's just a matter of
22 looking through the pile we've accumulated.

23 CMSR. IGNATIUS: Ms. Amidon or Mr.
24 Bersak, if someone could just hold it up and let me

1 see what it looks like, then I know what I'm hunting
2 for. I don't recall seeing it. But it's probably my
3 fault.

4 MS. AMIDON: Attorney Hatfield
5 provided me this copy for you to take a look at.

6 (Atty. Amidon hands document to Cmsr.
7 Ignatius.)

8 CMSR. IGNATIUS: So these weren't
9 distributed during the hearing. They were since
10 then?

11 MS. AMIDON: They were provided by the
12 Company last Thursday or Friday.

13 CHAIRMAN GETZ: Let's just go off the
14 record for a second.

15 (Discussion off the record)

16 CHAIRMAN GETZ: All right. We'll go
17 back on the record and continue with the direct.

18 MS. AMIDON: And that concludes my
19 direct examination. Thank you, Mr. Chairman. The
20 witnesses are available for cross.

21 CHAIRMAN GETZ: Thank you. In terms
22 of order of cross, I was contemplating Ms. Hatfield,
23 Mr. Rodier, Mr. Shulock, Mr. Boldt, Mr. Bersak. Is
24 there any concern about that order of cross?

1 (No verbal response)

2 CHAIRMAN GETZ: Okay. Ms. Hatfield.

3 MS. HATFIELD: Thank you. Mr.

4 Chairman, I will have a few questions about the
5 record requests, but I will try to hold off on those
6 for a few moments so you can have copies before you.

7 CROSS-EXAMINATION

8 BY MS. HATFIELD:

9 Q. Good morning, gentlemen.

10 A. (Mr. Frantz) Good morning.

11 A. (Mr. McCluskey) Good morning.

12 Q. Mr. Frantz, in your testimony that you filed, on
13 Page 2 you recommended that the Commission take
14 administrative notice of the Laidlaw proceeding at
15 the Site Evaluation Committee. Do you recall that?

16 A. (Mr. Frantz) Yes.

17 Q. And do you recall that the Commission determined that
18 it was not going to take administrative notice of
19 that proceeding?

20 A. (Mr. Frantz) I vaguely recall that.

21 Q. And would you accept, subject to check, that in the
22 Commission's prehearing conference order, that it
23 said that it would not?

24 A. (Mr. Frantz) Yes.

1 Q. Thank you. And Mr. Frantz, you just a few moments
2 ago spoke about the economic benefit of the project.
3 Do you recall that?

4 A. (Mr. Frantz) Yes.

5 Q. And is it true that 362-F, the RPS statute, in
6 Section 9, which is the PPA section, does discuss
7 economic benefits? Is that right?

8 A. (Mr. Frantz) That's correct.

9 Q. But is it your belief that potential economic
10 benefits from an energy facility should be elevated
11 over potential costs or risks to consumers?

12 A. (Mr. Frantz) Well, I think it's a package. I think
13 there's a number of criteria, and that is one of
14 them. And I think the most important part of this
15 cost-effective project, I think, all else equal, one
16 should then look at the economic development effects.
17 But it's one of many criteria.

18 Q. Mr. McCluskey, do you have a copy of PSNH's rebuttal
19 testimony with you?

20 A. (Mr. McCluskey) Yes, I do.

21 Q. I wanted to ask you a few questions related to that
22 testimony.

23 A. (Mr. McCluskey) If you could just give me a moment so
24 I can locate it.

1 (Pause in proceedings)

2 A. (Mr. McCluskey) Okay.

3 Q. If you would turn to Page 11, please.

4 A. (Mr. McCluskey) Okay.

5 Q. And starting on Line 27 there's a question, and it
6 states, "How does a company like PSNH meet the
7 State's renewable energy goals and statute which
8 provides for long-term PPAs with in-state renewable
9 resources when the developer needs some form of price
10 assurance when future market prices are not known?"
11 Do you see that question?

12 A. (Mr. McCluskey) Yes, I do.

13 Q. And is one response to that question, about how PSNH
14 meets the State's renewable energy goals, that the
15 Company can buy RECs on the market?

16 A. (Mr. McCluskey) Yes, it can buy in what we refer to
17 as the short-term REC market.

18 Q. And could the Company also make payments to the
19 renewable energy fund, according to the alternative
20 compliance payment price?

21 A. (Mr. McCluskey) It could, if the REC price offers
22 that it received were equal to or higher than the
23 alternative compliance price, the Company has the
24 option of simply deciding not to purchase from the

1 market and pay the alternative compliance payment.

2 Q. And when a utility makes that determination, do they
3 need to factor in cost-effectiveness to customers?

4 A. (Mr. McCluskey) Yes. Clearly, it would not be
5 cost-effective to enter into a purchase with a REC
6 provider at a price greater than the ACP. The
7 legislature has introduced a cap on prices for that
8 purpose of minimizing the cost on consumers
9 associated with the RPS.

10 Q. Could you turn to Page 14, please, of PSNH's
11 rebuttal.

12 A. (Mr. McCluskey) okay.

13 Q. And on Lines 23 through 24 there's a statement that
14 says, "In Mr. McCluskey's world, it is apparent that
15 the cost to customers is number one." Do you see
16 that?

17 A. (Mr. McCluskey) I do.

18 Q. Do you think that should also be number one for PSNH?

19 A. (Mr. McCluskey) As Mr. Frantz said, there are several
20 criteria in the section of the RPS law that deals
21 with long-term contracts. It's really up to the
22 Commission to provide what weight it considers
23 appropriate to each of the criteria. I certainly
24 believe that these projects, whether they -- the

1 purchase of RECs, whether they are acquired through
2 short-term market or long-term market, should be done
3 in a cost-effective way. I personally think that the
4 primary criteria should be cost-effectiveness, but
5 serious consideration given to the local economic
6 benefits associated with the particular project.

7 Q. Could you turn to Page 14, please.

8 A. (Mr. McCluskey) Yes.

9 Q. Sorry. That's where we are.

10 Going on to Page 15, PSNH talks about an issue
11 that you raised, that the cumulative reduction fund
12 does not accrue interest. Do you recall that?

13 A. (Mr. McCluskey) Yes.

14 Q. And at the top of Page 15, PSNH says, "These
15 complaints about the lack of interest as relatively
16 insignificant..." Do you see that?

17 A. (Mr. McCluskey) I do.

18 Q. Is it possible that interest, just the interest, if
19 there was interest on all portions of the cumulative
20 reduction fund, that that could amount to a
21 significant sum?

22 A. (Mr. McCluskey) Yes. The amount of the interest
23 obviously depends on what interest rate you use and
24 also on the amount of the above-market payments. If

1 the above-market payments are significant, then, over
2 a 20-year period, potentially you can accumulate a
3 significant amount of interest on energy or on RECs,
4 if it's going to be applied to RECs as well, and
5 perhaps also on the customer. So if interest were
6 accumulated, it could be significant at the end of
7 the 20-year term.

8 Q. Do you believe that accruing interest on the
9 cumulative reduction fund addresses the underlying
10 problems with the CRF?

11 A. (Mr. McCluskey) Not on its own. In my testimony, I
12 addressed two, what I considered to be two problems
13 with the -- economic problems with the cumulative
14 reduction account. One was the lack of interest.
15 The other was the capping of the amount that
16 customers could receive at the end of the 20-year
17 term through a reduction in the market -- a reduction
18 in the cost of purchasing the facility.

19 To me, you need to have interest and the lifting
20 of the cap in order to ensure that customers are
21 going to receive the value that they have paid to
22 Laidlaw in the form of above-market payments.
23 Without lifting the cap, it could turn out that
24 customers receive very little of those above-market

1 payments, depending on the market value of the plant
2 at that time. And as I've said in my testimony, that
3 will depend on the conditions in the market. And
4 also, the situation regarding the RPS, would it
5 exist? If so, what level of RPS payments would a
6 project of this kind receive? So there's some
7 considerable uncertainty as to what the value, the
8 market value of the plant is, and how big the cap
9 will be when it comes to determining how much
10 ratepayers should receive at the end of the day.

11 Q. Do you recall hearing Mr. Sansoucy testify that it
12 had been his estimate that the plant would be worth
13 somewhere around \$130 million at the end of the PPA?

14 A. (Mr. McCluskey) Yes, I did.

15 Q. And was this hearing the first time that you had
16 heard that figure?

17 A. (Mr. McCluskey) Yes.

18 Q. And if that is an accurate estimate, does that cause
19 you concern that there might be more than that amount
20 in the CRF?

21 A. (Mr. McCluskey) Yes. I think PSNH itself did an
22 analysis of what could be the balance in the CRF at
23 the end of 20 years, based on market prices that it
24 developed in 2009. That figure, I recall, I think it

1 was \$143-, \$144 million. But importantly, it was
2 based on market prices that are higher than if you
3 were to redo the analysis that PSNH did, using more
4 current NYMEX numbers. It would produce a lower
5 forecast of market energy prices, which would have
6 the effect of increasing the balance in the account.
7 Then, if you add interest onto that account, and you
8 also include interest from RECs, which has been
9 suggested, you can imagine that it's quite possible
10 that the balance in the account is significantly
11 above the \$132 million estimate of Mr. Sansoucy. So
12 it's highly likely that we could have a situation
13 where a substantial sum of money paid in by consumers
14 to Laidlaw will not be returned to customers through
15 a reduction in the value of the plant -- or reduction
16 in the purchase price of the plant, I should have
17 said.

18 Q. And I believe you also testified that the cumulative
19 reduction fund violates the used and useful principle
20 of rate-making; is that correct?

21 A. (Mr. McCluskey) That's correct.

22 Q. And can you just simply explain why you believe
23 that's the case?

24 A. (Mr. McCluskey) Yes. I think it's best to consider

1 the following hypothetical: Assume that there is no
2 Laidlaw contract and PSNH is purchasing energy it
3 needs to meet customer demands from the wholesale
4 power market. Further assume that PSNH approaches
5 the Commission and asks for permission to charge
6 customers. Not only do the market energy prices
7 change at any hour, but they include in a 10-percent
8 premium on those hourly market energy prices. And it
9 does so for a 20-year period, with the reason being
10 so that it can pre-fund the purchase of a renewable
11 energy plant in 20 years' time.

12 So the question is: What do you think the
13 Commission would say with regard to that question? I
14 believe that the Commission will say that customers
15 are not in the business of pre-funding the
16 acquisition of power plants because it would violate
17 the used and useful principle. Used and useful
18 principle prohibits being included in rate base any
19 property that is both not in service and providing
20 useful service. Importantly, the effect of the
21 prohibition is to prevent the utility from receiving
22 a return on and of its investment until the plant is
23 in service.

24 In the hypothetical, customers would be required

1 to pre-fund through rates the acquisition of a
2 renewable plant, which I believe would violate the
3 used and useful principle. And this is essentially
4 what PSNH is proposing to do in the PPA. But with
5 the 10-percent premium on market energy prices
6 replaced with the above-market energy payments, the
7 fund -- importantly, the fund at the end of the
8 20-year term in the PPA is used to pay for the
9 acquisition of the Laidlaw power plant. And we have
10 heard that the Company intends to place the plant in
11 generation rate base once it is acquired. The
12 proposal to have customers pre-fund the purchase of
13 the plant through above-market energy payments is a
14 violation of the used and useful principle because
15 customers will not begin to receive any useful
16 service from the asset until the term of the contract
17 has ended.

18 So we have a situation where they are looking to
19 purchase a facility in order to obtain the rights to
20 the services provided after the term of this contract
21 ends, but to have customers partially pre-fund that
22 purchase during the 20 years before -- during the 20
23 years of the term. So, to me, this provision in the
24 PPA is a violation of the used and useful principle

1 or concept.

2 Q. On Page 20 of PSNH's rebuttal, at Lines 22 to 23,
3 PSNH writes, "The CRF only adds value per customers.
4 There is no scenario under which it will diminish
5 value per customers."

6 It sounds like, from the testimony you've just
7 given regarding the CRF, that you disagree with that
8 statement.

9 A. (Mr. McCluskey) I do disagree with it. To the extent
10 customers have made payments over a 20-year period
11 and they are not likely to receive in full those
12 payments, including interest, then I think that
13 clearly does diminish value to customers.

14 Q. On Page 24 of PSNH's rebuttal, at Line 25, PSNH
15 refers to a "bad policy-making choice." Do you see
16 that?

17 A. (Mr. McCluskey) Yes, I do.

18 Q. And do you think that this docket is about
19 policy-making, or is it about the Commission applying
20 the requirements of the PPA section of the RPS law?

21 A. (Mr. McCluskey) It's the latter. The policy has been
22 established through the RPS law. The Company has
23 made a filing consistent with that law. And we now
24 try to determine whether the filing is consistent

1 with the public interest.

2 Q. On Page 25, at Line 18, PSNH states, "Financing is
3 the developer's responsibility, not PSNH's." Do you
4 agree with that?

5 A. (Mr. McCluskey) I do, yes.

6 Q. And do you recall PSNH's testimony, that the project
7 could not be financed if Staff's recommendations in
8 your testimony were adopted by the Commission?

9 A. (Mr. McCluskey) Yes, I do.

10 Q. Do you agree with that?

11 A. (Mr. McCluskey) No. I think the particular
12 recommendation that Mr. Long was referring to was the
13 recommendation that the energy prices be based not on
14 cost of service but on market prices. And I believe
15 he said that if that were the case, the project can
16 be financed. And I attempted through cross to
17 demonstrate that in New York, where they have an RPS
18 since 2004, the structure of the solicitation in New
19 York is they solicit RECs, and all of the energy
20 capacity has to be sold into the New York ISO. And
21 so any developer that wins the bid in a New York
22 solicitation would receive, I believe, fixed REC
23 prices for a contract period, and they would receive
24 short-term energy payments and capacity payments from

1 the New York ISO. And so that is the structure that
2 works there. And they've developed many renewable
3 projects in that state. And I think that example
4 demonstrates that you don't have to have a
5 fixed-price contract for each component of the output
6 produced by the facility.

7 Q. Is the New York information that you're referring to,
8 is that contained in Staff Exhibit 10?

9 A. (Mr. McCluskey) It is.

10 Q. And you were just discussing the use of RFPs. And if
11 you look at PSNH's rebuttal testimony on Page 27,
12 starting at Line 33, they discuss the drawbacks -- or
13 one drawback of an RFP process. Do you see that?

14 A. (Mr. McCluskey) What was the line again?

15 Q. Thirty-three.

16 A. (Mr. McCluskey) Yes.

17 Q. Could the Company use RFPs to seek to purchase
18 particular products it needs, such as RECs or energy?

19 A. (Mr. McCluskey) Well, if it was -- it would certainly
20 have to -- the Company could have an RFP for any
21 product that it needs in order to meet customer
22 demands, energy capacity or RECs.

23 Q. On Page 36 of PSNH's rebuttal, at Line 23, PSNH
24 states that the PPA essentially prices energy at the

1 day-ahead locational marginal price over a portion of
2 the life of the facility. Do you agree that the PPA
3 essentially prices energy at the day-ahead LMP?

4 A. (Mr. McCluskey) No. Absolutely not.

5 Q. Why not?

6 A. (Mr. McCluskey) Well, first of all, the energy's
7 priced at the energy prices in the PPA, which are
8 designed to recover fuel costs and O&M estimated
9 costs. So the actual price that PSNH pays and will
10 recover from its customers has nothing to do with the
11 market energy prices.

12 So the issue is: Will the cumulative reduction
13 account have the effect of bringing back energy
14 prices from a cost basis to a market basis at the end
15 of the 20-year term? And certainly we attempted to
16 address this issue through cross. Because there is
17 no interest, and there's also the potential for
18 significant capping going on, I contend that the
19 claim is simply not correct. There's a far greater
20 likelihood that customers will pay above-market
21 energy prices once the 20-year term of the contract
22 has ended.

23 Q. There are a few places in PSNH's rebuttal where they
24 refer to a "Catch-22." One of those is on Page 15 at

1 Line 31. And what the Company says, starting on
2 Line 29, is that the testimonies filed by you and Mr.
3 Traum would frustrate the legislative goal of the RPS
4 law by creating a "Catch-22," where a PPA couldn't be
5 approved. Do you see that?

6 A. (Mr. McCluskey) Yes.

7 Q. If there is a "Catch-22," do you think perhaps a
8 legislative solution might be required?

9 A. (Mr. McCluskey) I'm not sure. I personally don't
10 agree that there is a "Catch-22". We've made
11 recommendations to change the PPA which we think will
12 make -- has the potential to make the project in the
13 public interest. I don't understand this argument
14 that it's a "Catch-22." We're not trying to have the
15 contract not approved. We are supportive of a
16 renewable plant in the North Country developed
17 through a long-term PPA. We just feel that it has to
18 be based on prices which are more in the public
19 interest than the Company's. So I don't agree there
20 is a "Catch-22". And I'm not sure how involving the
21 legislature would resolve that problem.

22 Q. Well, assuming that PSNH is correct, and if the
23 changes that you propose are made, that the
24 Company -- the project is not financeable, is it

1 possible that perhaps the statute could be changed to
2 expressly allow over-market PPAs, or something of
3 that nature?

4 A. (Mr. McCluskey) We actually have -- these power
5 plants typically are not economic on a stand-alone
6 basis. They cannot compete with non-renewable
7 generators. The RPS law is intended to provide an
8 additional revenue stream that will allow those
9 projects essentially to compete, to be dispatched in
10 the ISO-New England power market. All we're trying
11 to do is to ensure that customers are paying no more
12 than they need to in order to acquire those products.
13 I'm not sure whether that's responsive to your
14 question, but...

15 Q. Thank you. Do you recall PSNH's testimony about
16 their understanding of the Schiller agreement that
17 was the subject of Docket DE 03-166?

18 A. (Mr. McCluskey) Yes, I do.

19 Q. Do you agree that that requires that the Company must
20 sell the RECs from Schiller without regard for the
21 price that they would receive for those RECs, and
22 also without regard for the price that the Company is
23 paying to comply with New Hampshire RPS?

24 A. (Mr. McCluskey) I think there's two questions. One

1 is: Does the motion submitted by the parties in that
2 proceeding require, under all circumstances, PSNH to
3 sell the RECs in the short-term REC market, either in
4 New Hampshire or elsewhere? And my reading of that
5 motion and the Commission's order approving it is
6 that that's not the case.

7 Now, when we get to the issue of the price of
8 RECs, I believe I've said in testimony that it makes
9 no economic sense for PSNH to sell RECs in the market
10 at a price that is less than the price that it has to
11 pay to Laidlaw for the RECs, when in fact they could
12 actually use those RECs in order to avoid the high
13 payment. And I think the example that I gave through
14 cross was, if the contract price is \$50 and the
15 market price is \$30, why would you want to sell the
16 REC in the market to receive \$30 when that is
17 required -- requires you to purchase \$50 RECs from
18 Laidlaw? It makes more sense to forego the revenues
19 from the sale and use that REC to reduce your
20 obligation with regard to purchases from Laidlaw.

21 So, one, I don't believe the motion does require
22 them to sell, and I didn't see anything in the
23 Commission's order approving the motion that said
24 that; and two, it makes no economic sense to do as

1 PSNH has suggested.

2 Q. And is that why you believe that Schiller RECs need
3 to be considered when trying to determine PSNH's need
4 for RECs?

5 A. (Mr. McCluskey) Yes.

6 Q. Do you know what PSNH's most recent migration
7 percentage is?

8 A. (Mr. McCluskey) Yes. The calculations that I've done
9 use the 31-percent migration rate that PSNH -- I'm
10 not sure whether it referred to it in its testimony,
11 but it certainly referred to it in discovery
12 responses.

13 Yesterday we received, I believe it's a
14 quarterly report that PSNH is required to file with
15 the Commission, which showed the migration percentage
16 for the months of October, November, and although it
17 was listed as September, I believe the report should
18 have said December. And those -- that report shows
19 that migration rate was, in the first month of
20 October, I believe it was close to 35 percent; in
21 November, it was close to 34 percent; in December, it
22 was close to 36 percent, I believe was the figure.
23 Those are rounded numbers. So, clearly, what is
24 happening out there is indicating that PSNH is more

1 at risk of losing load rather than at less risk.

2 I'll just leave it at that.

3 Q. And that would impact their need for RECs and energy?

4 A. (Mr. McCluskey) Yes. It has this effect in the
5 calculations that I did. I was able to show that, if
6 Schiller RECs were used to meet PSNH's RPS
7 obligations, that PSNH would not have a need for all
8 of the RECs produced by Laidlaw until 2023. What an
9 increase in the migration rate does is to push out
10 that date. I haven't done -- I haven't re-calculated
11 the need analysis. But I suspect it's going to push
12 out the year that PSNH would need all of the RECs
13 from Laidlaw to well past 2023. So it increases what
14 I call the excess RECs, which adds costs to
15 consumers.

16 Q. Mr. McCluskey, do you have a copy of your testimony
17 that you filed in this docket?

18 A. (Mr. McCluskey) Yes, I do.

19 Q. Could you please turn to Bates Page 65, which is your
20 Exhibit GRM-12.

21 A. (Mr. McCluskey) Yes, I've got that.

22 Q. The third column from the left is titled "Adjusted
23 Market Energy Price Projections." Do you see that?

24 A. (Mr. McCluskey) I do.

1 Q. Can you explain what you mean by "adjusted"?

2 A. (Mr. McCluskey) Okay. Earlier I was describing that
3 in 2009, PSNH developed a forecast of the market
4 energy prices, which is included -- developed a
5 forecast of market energy prices, which it included
6 in a discovery response issued by Staff. That
7 forecast was based on NYMEX electricity price and
8 natural gas price data. And it was based on a look
9 at those NYMEX forwards in, I think August of 2009.

10 Since we've passed that date and there have been
11 developments in the market, both for electricity in
12 New England and also natural gas, what I did was to
13 essentially use the very same model that PSNH used
14 and simply updated the NYMEX electricity and natural
15 gas prices, and the result is as shown in this
16 column. I think it might have been better to label
17 it "modified" or "updated" rather than "adjusted."
18 But that's the intent. It's simply an update of the
19 price developed by PSNH, taking into account more
20 current NYMEX data.

21 MS. HATFIELD: Mr. Chairman, do the
22 Commissioners have the record requests at this point?

23 CHAIRMAN GETZ: Yes.

24 MS. HATFIELD: Thank you.

1 BY MS. HATFIELD:

2 Q. Mr. McCluskey, do you have the copy of the record
3 request that the Company filed on February 4th?

4 A. (Mr. McCluskey) I just have one, the rate-impact
5 analysis? That's the only one I have.

6 Q. And that one is numbered HD-02 Q-RR-005?

7 A. (Mr. McCluskey) That's correct.

8 Q. And it's dated January 26th, 2011?

9 A. (Mr. McCluskey) I don't have the cover page, so I
10 couldn't confirm that.

11 Q. Will you accept that, subject to check?

12 A. (Mr. McCluskey) Yes, I will.

13 Q. And the request that PSNH is answering is: Please
14 provide the assumed rate impact for 2015, using a
15 range of assumptions for market prices, wood prices
16 and REC prices; is that correct?

17 A. (Mr. McCluskey) I believe that's what we asked, yeah.

18 Q. And if we look at Page 2 of 2, that's where PSNH
19 provided the analysis; is that right?

20 A. (Mr. McCluskey) That's correct.

21 Q. And if we look at this page, there are different
22 scenarios that the Company has utilized; is that
23 right?

24 A. (Mr. McCluskey) Correct.

1 Q. And the top line shows that in all scenarios they've
2 used a facility size of 67.5 megawatts; is that
3 right?

4 A. (Mr. McCluskey) Correct.

5 Q. And that facility size relates to PSNH's revised
6 Exhibit 9; is that right?

7 A. (Mr. McCluskey) Correct. Yes.

8 Q. And if we look down in the left-hand column, which is
9 labeling rows, under "Avoided Costs of Products," the
10 second item is titled "REC Market, Percentage of
11 ACP." Do you see that?

12 A. (Mr. McCluskey) Yes, I do.

13 Q. Does that mean that in all their scenarios they
14 utilized the PPA REC price?

15 A. (Mr. McCluskey) Well, under the -- if you look at the
16 third column, "Case 1b," they've actually varied the
17 percentage to 100 percent. So it doesn't quite match
18 with the PPA.

19 Q. And have you had a chance to review the analysis that
20 the Company has provided?

21 A. (Mr. McCluskey) Yes, I have.

22 Q. If the REC price in the market is lower than that,
23 would that mean that there would actually be a higher
24 monthly bill impact as a result of the PPA?

1 A. (Mr. McCluskey) Yes. In fact, under the Avoided
2 Costs of Products section, we have prices for energy
3 RECs and capacity. If any of those is lower than
4 what's shown in this exhibit, then you would have a
5 greater impact on customers as a result of the PPA.
6 And conversely, if the prices are higher than what's
7 shown in this particular column, then the impact
8 would be less than what's shown.

9 Q. And have you tested these scenarios by using
10 different figures to look at what the rate impact
11 might be?

12 A. (Mr. McCluskey) Yes, I have. The Company actually
13 provided Staff with the spreadsheet. So we had the
14 ability to change the inputs to what we considered to
15 be more reasonable than what the Company has, and
16 which I did. And I've actually got two groups of
17 numbers: One, what I call the Laidlaw proposed
18 facility, which is at a capacity of 66 megawatts, and
19 then I redo the analyses under what I call the
20 Laidlaw expanded facility, which is the 67.5. And
21 so, just focusing on the Laidlaw proposed facility of
22 63 megawatts, assuming it's got the capacity factor
23 of 87.5, what I'm describing now is what I call base
24 case. And I will vary the assumptions under the base

1 case to see what happens under what could be called,
2 from a customer standpoint, worst-case and best-case
3 scenarios.

4 But under the base case, we started with a
5 63-megawatt facility, added a capacity factor that
6 Laidlaw recommended to SEC. And the first change we
7 have is wood price, \$34 a ton. We think that is the
8 appropriate wood price for the base case. Why?
9 Because Schiller wood costs over the last three years
10 have averaged just under \$34 a ton. Now, it may be
11 that in the future, fuel costs at Schiller are going
12 to change. But historically, over a recent period,
13 it's been very close to 34. And I suspect that's why
14 the Company used 34 in its development of the energy
15 prices.

16 So we start with a wood price of 34. The rest
17 of the PPA prices are as calculated by the Company in
18 its exhibit. Where we differ is with regard to the
19 avoided costs of products. Now, I'm doing this for
20 2014, which I assume is the first year of the
21 contract. And what I've done for energy is -- let me
22 start with RECs.

23 The REC price is the Synapse price for 2014,
24 which I have as just over \$32 a megawatt hour.

1 Capacity price we're using is the capacity price that
2 the Company uses, 2.95. So we don't have a problem
3 with that. The energy price is the energy price that
4 I calculated for 2014 using PSNH's model, but updated
5 for more current NYMEX numbers. That one is \$53,
6 roughly. When you insert those numbers into the
7 calculation, and the rest is as developed by PSNH, we
8 get a monthly bill impact of \$3.50 a month. That is
9 a significant impact in the first year of this
10 contract, \$3.50 a month. That's a major rate impact.
11 And that's for residential customers.

12 Then what I did was, I developed a scenario,
13 what I call high fuel, low market, high capacity
14 factor. Did the same type of analysis but varied the
15 energy capacity and REC prices. And that analysis
16 produces an impact of almost \$5.50. And then I have
17 another scenario, which is what I call low fuel, high
18 market, low capacity factor, and that produces a much
19 smaller impact of 36 cents per month.

20 So we think our base case which resulted in a
21 rate impact of \$3.50 a month is a reasonable outcome
22 and significantly different from what the Company is
23 getting, we think based on reasonable market prices.

24 Q. And when you say that's a reasonable outcome, are you

1 talking about the numbers that you used and not that
2 it shows that the PPA itself is reasonable?

3 A. (Mr. McCluskey) I'm talking about the market price
4 inputs I think are reasonable as a base case.

5 If I could just add? That \$3.50 impact is based
6 on migration rate of 31 percent. If we change the
7 migration rate -- I haven't done this calculation.
8 But if we change the migration rate to 34, 35 and
9 36 percent, which has been shown in the Company's
10 recent quarterly report, then we're going to push up
11 that impact significantly, because what's happening
12 is there's a smaller energy sales base in order to
13 spread over the economic cost of the PPA. So the
14 higher the migration rate, the greater the impact on
15 the consumers. This \$3.50 is based on 31 percent.
16 So, in a sense, it's a conservative number.

17 Q. Mr. McCluskey, do you have a copy of Mr. Sansoucy's
18 rebuttal with you?

19 A. (Mr. McCluskey) I do.

20 Q. Would you please turn to Page 47.

21 A. (Mr. McCluskey) Okay.

22 Q. At Line 1, Mr. Sansoucy is asked the following
23 question: "On Page 45, Mr. McCluskey, starting at
24 Line 9, talks about the conflict with least cost

1 integrated resource planning. What is your opinion?"

2 Do you see that?

3 A. (Mr. McCluskey) Yes.

4 Q. And then at Line 4, at the beginning of his answer he

5 states, "Least cost planning and the development of

6 new Class I RECs are mutually exclusive." And then

7 at Line 7 he states, "To compare this" -- meaning, I

8 believe, the PPA -- "to least cost integrated

9 resource planning and then condemn the PPA with

10 Laidlaw is misleading and should be ignored by the

11 Commission." Do you see that?

12 A. (Mr. McCluskey) I do.

13 Q. Do you believe that the Commission should ignore the

14 least cost planning statute?

15 A. (Mr. McCluskey) Absolutely not.

16 Q. And do you agree with Mr. Sansoucy, that lease cost

17 planning and the development of new Class I RECs are

18 mutually exclusive?

19 A. (Mr. McCluskey) No.

20 Q. And PSNH is complying with the RPS law right now; is

21 that right?

22 A. (Mr. McCluskey) It is. It's required to purchase a

23 certain quantity of RECs, and I believe it's doing

24 that.

1 Q. And would you believe that PSNH is trying to comply
2 with the RPS law in a way that is consistent with
3 both the least cost planning statute and with its own
4 least cost plan?

5 A. (Mr. McCluskey) Well, I'm not the analyst that
6 reviews the Company's energy service filings. But
7 I'd be very surprised if the Company were not trying
8 to minimize the cost of making the RPS law by buying
9 least cost RECs available, whatever class it's
10 purchased in.

11 Q. And would you agree, in reviewing the PPA under the
12 RPS law, the Commission must consider it in the
13 context of RSA 378, the sections that include the
14 least cost planning statute?

15 A. (Mr. McCluskey) Yes.

16 Q. Thank you. I have nothing further.

17 CHAIRMAN GETZ: Thank you.

18 Mr. Shulock.

19 CROSS-EXAMINATION

20 BY MR. SHULOCK:

21 Q. Good morning, Mr. McCluskey.

22 A. (Mr. McCluskey) Good morning.

23 Q. I'd like to direct your attention back to Record
24 Request No. 5 and then the analysis that you

1 conducted.

2 A. (Mr. McCluskey) Give me that? Which record request?

3 Q. It's Record Request No. 5.

4 A. (Mr. McCluskey) Is that the rate impact analysis?

5 Q. Yes, it is.

6 A. (Mr. McCluskey) Yeah.

7 Q. Now, PSNH developed a number of scenarios to
8 demonstrate the impacts of the PPA on energy service
9 rates in 2014. You subsequently revised that
10 analysis using inputs you thought were more
11 reasonable and came up with higher impacts; is that
12 right?

13 A. (Mr. McCluskey) Correct. I believe the year that
14 PSNH was using was 2015.

15 Q. I stand corrected.

16 What, if anything, does the impact on the energy
17 service rates in 2015 tell us about the
18 reasonableness of the rates in the PPA over a 20-year
19 period?

20 A. (Mr. McCluskey) The cost-effectiveness of the rates?

21 Q. Yes.

22 A. (Mr. McCluskey) They don't tell us anything.

23 Q. Okay.

24 A. (Mr. McCluskey) Let me retract that.

1 The cost-effectiveness cannot be demonstrated
2 through the rate impact analysis, which indicates
3 little impact. The cost-effectiveness study
4 essentially is comparing the cost of the products
5 purchased with the, say the market price of those
6 products. We can avoid doing that if we have
7 competitive solicitation, and the bidders will
8 determine what is the most appropriate price for a
9 particular product. But absent that, we have to do
10 this kind of analysis to determine whether it's
11 cost-effective against using those standard tests.

12 Now, if when you do your rate impact analysis
13 you include in -- you include in the avoided cost
14 estimates, the market energy prices that you use in
15 the cost-effectiveness study, I can say there's some
16 connection. But the problem with a rate impact
17 analysis is that the costs -- let's assume that
18 it's -- that the particular project that's been
19 analyzed is above market and there's a significant
20 cost impact. What the rate impact analysis does is
21 it spreads those costs over a much larger load, and
22 it can have the effect of reducing what appears to be
23 the impact of that on an economic project. So that's
24 the danger in using the results of a rate impact

1 analysis to draw conclusions regarding
2 cost-effectiveness.

3 Imagine we have a very, very small project, say
4 10 kilowatts, say a solar facility, that is shown to
5 be extremely economical. Using the rate impact
6 analysis, if you spread those economic costs over the
7 total customer base of the company, you might find
8 that there's a miniscule impact on rates. And the
9 danger is that you would use that conclusion to say,
10 well, it's something -- it's a project that maybe we
11 should go ahead, when in fact the project could be
12 two or three times more costly. So, that's the
13 danger. I think that we should not use a rate impact
14 analysis as the basis for determining
15 cost-effectiveness.

16 Q. Thank you. Now I'd like to direct your attention to
17 IPP Exhibit 28.

18 A. (Mr. McCluskey) Okay.

19 Q. In Subpart B of this data request, the IPPs asked you
20 to calculate interest on above-market REC payments
21 through 2025; correct?

22 A. (Mr. McCluskey) That's correct.

23 Q. And your conclusion was that there would be
24 \$74 million in additional interest on those

1 above-market REC costs through 2025; is that right?

2 A. (Mr. McCluskey) That's what it says here.

3 Q. And do you remember what percentage -- what interest
4 rate you applied in calculating that?

5 A. (Mr. McCluskey) I believe I used 5 percent. I think
6 it says in the second paragraph of the response,
7 5 percent per annum.

8 Q. And then we asked you to calculate interest on
9 above-market REC payments through 2033; correct?

10 A. (Mr. McCluskey) Correct.

11 Q. And your conclusion was that, using a 5-percent
12 interest rate, the above-market -- or the interest on
13 the above-market cost of those RECs would be
14 \$211 million; is that correct?

15 A. (Mr. McCluskey) That's correct.

16 Q. And then you concluded that the total above-market
17 REC payment with interest would be \$399 million; is
18 that right?

19 A. (Mr. McCluskey) That's correct. I want to add this
20 important assumption here. As I said earlier, the
21 interest added to the cumulative reduction account is
22 dependent not just on the interest rates but on the
23 assumed market price for the product. Here I'm using
24 the current price for Class I RECs, \$6.50, which is

1 just that; it's the current price. And it may not be
2 the price going forward. So, to the extent that RECs
3 are priced above that level in the future, then the
4 amount of the above payment and the associated
5 interest from that payment would actually be smaller
6 than what's shown in this calculation. So I just
7 want to make it clear that this particular analysis
8 uses that assumption. And it's only an assumption.

9 Q. And just for point of clarification, I believe you
10 said the current price that you used was \$6.50. And
11 did you intend to say 16.50?

12 A. (Mr. McCluskey) I did. 16.50. That's correct.

13 Q. Okay. Thank you.

14 Now I'd like to draw your attention to IPP 30.

15 A. (Mr. McCluskey) Okay.

16 Q. You're aware that in the Lempster Wind docket, the
17 Commission permitted PSNH to purchase more RECs than
18 were required for PSNH to meet its New Hampshire RPS
19 requirements?

20 A. (Mr. McCluskey) I believe that's the case, yes.

21 Q. Why is it your opinion that PSNH should not be
22 permitted to do the same here and pass the cost of
23 that acquisition on to its customers?

24 A. (Mr. McCluskey) It has to do with the difference in

1 prices. We believe that the prices in the PPA for
2 RECs are well above market; whereas, in the Lempster
3 agreement, it's my understanding that they were
4 priced below the market. So it would actually make
5 economic sense to sell RECs -- for PSNH to sell
6 Lempster RECs, because they could get a higher price
7 from some third party either in New Hampshire or
8 Massachusetts. So, in that particular case, it made
9 absolute economic sense to allow that to happen.

10 In this particular docket, where we have a
11 different opinion from PSNH on whether the RECs are
12 above market or below, we think it doesn't make
13 economic sense to sell those RECs. It's much more
14 economic to use them in order to meet PSNH's RPS
15 obligation.

16 MR. SHULOCK: Thank you. I have no
17 more questions.

18 CHAIRMAN GETZ: Thank you.

19 Mr. Rodier.

20 MR. RODIER: Mr. Chairman, I don't
21 have any at this moment. But what I'd like to do is
22 to leave the door slightly ajar, and maybe a little
23 later this morning, ask maybe -- probably not any --
24 but maybe a few, at most, if that's okay.

1 CHAIRMAN GETZ: Well, certainly the
2 petitioner gets in this case --

3 MR. RODIER: Okay. No questions.
4 That's okay. Thank you.

5 CHAIRMAN GETZ: Okay. Thank you.
6 Mr. Edwards.

7 MR. EDWARDS: Your Honor, I was a
8 little bit late in getting here this morning, and I'm
9 assuming that Mr. McCluskey has had most of the
10 questions. But I assume Mr. Frantz is also up there
11 to inquire of him with any questions?

12 CHAIRMAN GETZ: Yes.

13 MR. EDWARDS: I'd like to start with
14 Mr. Frantz.

15 CROSS-EXAMINATION

16 BY MR. EDWARDS:

17 Q. Were you aware that there were a couple of biomass
18 plants in the U.S. that are 100 megawatts?

19 A. (Mr. Frantz) I don't have any particular knowledge of
20 those facilities, no.

21 Q. So you also probably wouldn't be aware that those
22 facilities don't just use forest-derived wood, then.

23 A. (Mr. Frantz) No.

24 Q. They in fact use construction debris --

1 MR. BERSAK: Objection, Mr. Chairman.
2 Objection. He's already testified he doesn't know.

3 CHAIRMAN GETZ: Mr. Edwards, I mean,
4 this is verging from not cross-examination, but into
5 testimony on your part about what may or may not be
6 happening elsewhere. So I think you need to direct
7 your questions based on cross-examining Mr. Frantz on
8 his testimony.

9 BY MR. EDWARDS:

10 Q. Mr. Frantz, would you agree that the 67.5-megawatt
11 Laidlaw plant is probably the largest forest-driven
12 plant in the U.S., or certainly in New England?

13 A. (Mr. Frantz) I'm aware it's the largest proposed
14 facility for New Hampshire, and certainly one of the
15 largest in New England. I can't say for sure whether
16 it is the largest in New England.

17 Q. Would you agree that New Hampshire wood supply is
18 tapped versus untapped -- in other words, there are
19 other users?

20 A. (Mr. Frantz) There are certainly other users.

21 Q. Would you agree that the 67.5-megawatt Laidlaw
22 project, the largest forest-derived biomass plant at
23 least in the state, will be located basically in the
24 middle of this tapped forest?

1 A. (Mr. Frantz) Well, I don't quite understand what you
2 mean by "tapped." But to the extent there are other
3 facilities, it's in an area where there are other
4 facilities nearby, depending how you define "near."

5 Q. Were you aware that liquidated harvesting is
6 significantly happening in the Berlin area?

7 A. (Mr. Frantz) I'm not a forester, and my testimony
8 doesn't discuss liquidated forest practices.

9 Q. Are you aware of any sweeping legislative change that
10 has occurred in Maine as a result of liquidated
11 harvesting?

12 A. (Mr. Frantz) No, I'm not. I have a tough enough time
13 keeping track of New Hampshire legislation.

14 Q. Were you aware that one of these harvesters that can
15 no longer operate with this practice in Maine has
16 purchased and liquidated thousands of acres in close
17 proximity to Berlin?

18 A. (Mr. Frantz) I'm not aware of the forestry practices
19 in Maine.

20 Q. What impacts can wood shortages and/or cost increases
21 have on biomass plants already operating?

22 A. (Mr. Frantz) Well, all else equal -- I am an
23 economist. I will say all else equal, large
24 increases in demand have an upward pressure on price.

1 I don't believe forestry practices are exempt from
2 supply and demand.

3 Q. Assuming there are six operating facilities in the
4 North Country, with a combined output, let's say, of
5 approximately 120-megawatts, is it your opinion that
6 these plants offer more direct and indirect jobs than
7 the 67.5-megawatt project would offer?

8 A. (Mr. Frantz) I haven't looked at each individual
9 project and don't have the data for each individual
10 project to know whether or not what their direct
11 employment is or their indirect employment associated
12 with those direct purchases of wood. To the extent
13 that they have similar production technologies,
14 input, uses, if they're larger, they probably have a
15 somewhat significant effect on indirect and induced
16 effects. But I did not look directly at those
17 facilities.

18 Q. Does the continued existence of these plants
19 contribute to the state's goal of 25 percent by 2025?

20 A. (Mr. Frantz) I think all the uses of renewable
21 resources that are now used in the state and outside
22 the state that are certified to meet the New
23 Hampshire RPS requirements are important.

24 Q. Thank you.

1 Mr. McCluskey, the expert for the City of
2 Berlin, Skip Sansoucy, has stated that the existing
3 infrastructure should save considerable capital
4 costs. Do you agree with that concept?

5 A. (Mr. McCluskey) Capital cost of the plant? Is that
6 what you're referring to?

7 Q. The existing infrastructure should save considerable
8 capital costs. I'm wondering if you agree with that
9 concept.

10 A. (Mr. McCluskey) Well, if he's referring to the
11 existing infrastructure which Laidlaw would continue
12 to use in the development of the plant, then,
13 potentially, yes, it could avoid the need to acquire
14 capital, acquire new assets. So, in theory, I can
15 imagine the more plant that exists, the less that has
16 to be spent by the developer.

17 Q. So, given the savings, would you agree this should
18 lead to reduced debt service?

19 A. (Mr. McCluskey) It should result in a capital cost
20 that's lower than it otherwise would be, which would
21 have the effect of, under a certain capital
22 structure, would reduce the amount of loans that they
23 have to make and, hence, reduce the interest on those
24 loans.

1 Q. So if the project has less debt service, would you
2 agree the project should produce cheaper power than a
3 Greenfield project?

4 A. (Mr. McCluskey) Not necessarily. There's capital
5 costs, just one element of the cost of a project.
6 It's possible that a Greenfield project might use
7 equipment that's more efficient and, hence, reduce
8 the operating costs. So the net effect could be a
9 reduced average cost for the facility than using --
10 than starting with a facility with an existing
11 potentially inefficient power plant.

12 Q. In your opinion, have the savings in debt service
13 been reflected in the rate structure now being
14 considered in this PPA?

15 A. (Mr. McCluskey) I cannot comment on that. I don't
16 know what effect the cost of the facility would take
17 into the account in the development of the PPA
18 prices.

19 Q. In your opinion, has this project offered to sell its
20 wrapped-up rates for less than other projects, other
21 projects it proposed?

22 A. (Mr. McCluskey) Well, I've testified to the fact that
23 PSNH received unsolicited offers from two alternative
24 biomass projects, and PSNH's own analysis showed that

1 the levelized costs of those two unsolicited projects
2 was lower than the levelized cost for the Laidlaw
3 project.

4 Q. And do you recall those percentages?

5 A. (Mr. McCluskey) I believe the CPD project was
6 8.5 percent lower than the Laidlaw levelized, and the
7 Concord Steam project I believe was either 12 or
8 12.5 percent lower.

9 Q. Thank you.

10 Mr. Frantz, as a specialist in your profession,
11 I'm sure you understand the concepts of supply and
12 demand and micro and macro economics, and deal with
13 these concepts on a regular basis. And with your
14 understanding of economics, in very generic form, can
15 you explain economy of scale?

16 A. (Mr. Frantz) Economy of scale occurs when costs are
17 reduced as output increases. Average costs are
18 reduced as output increases.

19 Q. So, would you agree that this 67.5-megawatt project
20 should cost less than a smaller facility?

21 A. (Mr. Frantz) Well, you know, I think in general,
22 without looking at the actual facilities -- the
23 boiler, the actual fuel contracts -- there are a lot
24 of variables that go into that. And so I'll fall

1 back on my ceteris paribus, "all else equal." A
2 larger facility would have lower average costs than a
3 much smaller facility. But for any particular
4 project, I think you have to look at the actual cost
5 of the project.

6 Q. Would you not agree that a 67.5-megawatt project like
7 this would have a significant advantage over much
8 smaller plants in its utilization of labor?

9 A. (Mr. Frantz) The project stated that it would use 40
10 direct employees. I'm not aware of how many direct
11 employees are at other facilities. Again, I think
12 you need to know what exactly the labor force is, how
13 many shifts, in general. I haven't conducted that
14 analysis. So, to extend what is a traditional
15 economy of scale or scope to an individual project I
16 think would border on reckless.

17 A. (Mr. McCluskey) If I could just add? I think your
18 question was going to cost. But remember that
19 Laidlaw is not a rate-regulated entity. Utilities
20 establish their prices based on costs. This is not a
21 utility. Typically, the prices that they charge for
22 the products that they produce are based on the
23 market. They're in competition with other providers
24 of the same products. So you could well have a

1 facility that has actually got a lower average cost,
2 and they rightfully receive a price -- the same price
3 as anyone else because that is the way markets work.
4 So I just wanted to make clear that there's a
5 distinction between cost-based pricing and
6 market-based pricing that we are addressing --
7 supposed to be addressing for the Laidlaw facility.

8 Q. Thank you, Mr. McCluskey.

9 So, Mr. McCluskey, in your opinion, why could
10 smaller plants provide rates that have been quoted
11 recently of 8.5 and 12.5 percent below that of a
12 larger plant?

13 A. (Mr. McCluskey) Well, I'm not sure which plant you're
14 referring to. I'm not sure where the information
15 comes from. So I really can't comment on those
16 prices at all.

17 Q. I guess what I'm asking is, I'm referring back to the
18 two percentages you referred to recently of 8-1/2
19 percent and 12-1/2 percent. You mentioned one came
20 from Clean Power. And I guess what I'm asking is,
21 why could those smaller plants provide rates that
22 have been quoted recently of 8.5 and 12.5 percent
23 less than a 67.5-megawatt plant?

24 A. (Mr. McCluskey) Sorry. I misunderstood you. I guess

1 those two projects submitted bids that they felt they
2 could live with and make the required returns that
3 they need to stay in business. If the levelized
4 prices that I referred to had been the result of a
5 competitive bid -- which you heard we've not got one
6 here -- but had they been the result of a competitive
7 bid, then the Laidlaw project would not win out.
8 Presumably, they would select, after taking into
9 account other criteria, they would select the least
10 cost bidder. And that's, I think, the way it should
11 be. Regardless of the size of the project, how
12 efficient the equipment is of the project, at the end
13 of the day, if a particular developer wants the
14 business, they will sharpen the pencil and attempt to
15 undercut the prices that he feels other developers
16 will offer. And we think that's how it should be
17 done, and the lowest bidder should receive the
18 contract.

19 Q. Thank you. When it comes to federal grant funds, I'm
20 a little fuzzy. So you'll have to excuse me if I'm
21 not asking these questions entirely correctly.
22 Please feel free to correct me.

23 Just talking a little bit about federal grant
24 funds. Throughout the SEC process, prior to this

1 process with the PUC, it's been mentioned about
2 grants and that grants are available that amount to
3 30 percent of the capital costs; is that correct?

4 A. (Mr. McCluskey) There are different federal grants.
5 The ITC program -- investment tax credit, I can't
6 believe I forgot that. The invest tax credit does
7 provide a significant helping hand to developers.
8 And I think it is on the order of 30 percent of the
9 capital costs of the facility paid over the life of
10 the facility.

11 Q. Is it true the eligibility requires construction by a
12 certain point?

13 A. (Mr. McCluskey) I don't really know the details as to
14 how -- what they need to do to qualify for those
15 things. It's my understanding that the Laidlaw
16 project does qualify for the ITC, or a version of it,
17 which is actually a little bit more beneficial. And
18 they also receive a grant under the new market
19 development something. So my understanding is that
20 they are availing themselves of those two
21 opportunities, which I think all renewable projects
22 would attempt to seek. So there is certainly nothing
23 wrong with the developer getting the helping hand.

24 Q. So they have two choices of how they're going to get

1 compensated.

2 A. (Mr. McCluskey) Say that again?

3 Q. They have two different choices as to how they're
4 going to get compensated on these grants?

5 A. (Mr. McCluskey) No. They actually qualify for both,
6 the ITC, or a version of it. And they also receive
7 some additional funds through a different federal
8 program.

9 Q. Okay. So, is one of these choices to earn
10 protection -- production tax credit and sell it as a
11 revenue source?

12 A. (Mr. McCluskey) No. The production tax credit is an
13 alternative to the ITC. I think the general feeling
14 is that the ITC is more financially beneficial. So
15 they could use the ITC, or they could use the ITC or
16 a version that came out of the American --

17 A. (Mr. Frantz) American Recovery Act.

18 A. (Mr. McCluskey) -- American Recovery Act. And I
19 believe they selected the one that gives them the
20 biggest helping hand. And they've also availed
21 themselves of funds through the new market
22 development program.

23 Q. So, is it one of these programs where they get the
24 lion's share of their funds right up front as opposed

1 to over time?

2 A. (Mr. McCluskey) The modified ITC, my understanding,
3 that's the case, I believe, yeah. Instead of
4 receiving it over a period of time, they receive it
5 upfront.

6 Q. With what you know, has the financial information
7 you're aware of been reflected in the pro forma of
8 the rates where these -- where this company has the
9 benefit of these grants?

10 A. (Mr. McCluskey) Well, Staff is not aware of the
11 detailed negotiations between PSNH and Laidlaw. What
12 work PSNH did on these grants and how they worked
13 those into their determination of what a reasonable
14 set of prices are, we don't know. We can't comment
15 on that. The Commission issued a decision which said
16 that those discussions are confidential.

17 Q. With your knowledge of the project, if the Company
18 chooses to take the grant funds 60 days after
19 start-up, do you agree that that amount will be
20 somewhere in the range of \$45- to \$70 million?

21 A. (Mr. McCluskey) I don't have that figure in my head.
22 When I did the financial modeling using the cash flow
23 analysis, it was easier to model it using the
24 production tax credits. So the fact that I didn't

1 use the ITC version, I don't have a figure in my head
2 as to what would be the amount of dollars that they
3 would receive.

4 Q. Would you agree that if the owners take that grant
5 after 60 days, that they no longer are at risk for
6 their initial investments?

7 A. (Mr. McCluskey) No. There is a capital cost
8 associated with the facility which will not be
9 covered by the federal government in total. And
10 there's always the potential for the cost of the
11 project to be higher than what it initially
12 estimated. And so there is some risk which they are
13 not compensated for through the PPA prices. When I
14 say "not compensated," there's no automatic
15 adjustment mechanism that increases the PPA prices if
16 the capital cost of the project rises. So, the
17 company is at risk that it could be more costly than
18 it initially estimated.

19 Q. Would you agree that that risk would be significantly
20 dropped?

21 MR. BERSAK: Mr. Chairman, I think
22 we've gone well beyond Mr. McCluskey's testimony.

23 CHAIRMAN GETZ: Actually, risk of
24 what? Would you remind me what the underlying

1 question is? The risk of recovery of their
2 investment? Is that what your --

3 MR. EDWARDS: Yeah, their initial
4 investment.

5 CHAIRMAN GETZ: Mr. McCluskey?

6 A. (Mr. McCluskey) What's the question again?

7 BY MR. EDWARDS:

8 Q. Do you agree that their initial investment would be
9 dramatically decreased, as far as the risk would be
10 dramatically decrease?

11 MR. BERSAK: I don't believe, Mr.
12 Chairman, Mr. McCluskey discussed development costs,
13 development risks, investment tax credit, the new
14 market credits, or any of that in his testimony.
15 We've given Mr. Edwards great latitude in asking
16 questions. Sounds like, to me, he's more testifying
17 than cross-examining.

18 CHAIRMAN GETZ: Well, I think that
19 this line of questioning may in some respects go to
20 Mr. -- can be related to Mr. McCluskey's testimony.

21 But Mr. Edwards, it seems what it's
22 directed at is trying to elicit from Mr. McCluskey
23 some judgment about the internal returns or
24 assumptions of the Company, which he's testified to

1 that he's not aware of those issues. So I do think
2 it is duplicative.

3 MR. EDWARDS: Thank you.

4 BY MR. EDWARDS:

5 Q. Mr. Frantz, if we could turn for a moment to talking
6 about loggers. It's been said that many loggers have
7 gone out of business in the state as a result of lost
8 business and that loans will be made available for
9 these loggers to purchase new machinery for their
10 trade; is that correct?

11 A. (Mr. Frantz) My testimony doesn't address loans for
12 loggers. If you have a particular question
13 concerning labor force associated with it, I'd be
14 happy to talk about that.

15 Q. Do you have any idea how much it would cost for a
16 logger to set up enough equipment to be able to
17 function as a viable business?

18 A. (Mr. Frantz) Are you assuming that they either start
19 from scratch or have already sold their equipment?

20 Q. They've already sold their equipment.

21 A. (Mr. Frantz) It's a significant investment.

22 Q. Do you believe in the definition that biomass-grade
23 wood is waste wood, such as tops and branches?

24 A. (Mr. Frantz) Normally, the wood is actually the tops

1 left over from logging operations, or limbs, branches
2 that's been used for biomass.

3 Q. Would you agree that roundwood or pulpwood,
4 economically speaking, does not fall into this
5 category?

6 A. (Mr. Frantz) By definition, roundwood and pulpwood
7 are different uses.

8 Q. So, would you agree that the highest and best use of
9 roundwood which can be sold to a different user for,
10 say 48 per ton, is not to sell it to Schiller or some
11 other biomass company for 27 per ton?

12 A. (Mr. Frantz) I think you have some assumptions in
13 there that there isn't a viable alternative for those
14 higher-valued wood products, and therefore they would
15 find their way to a lower value option.

16 Q. Hasn't 1.3 million tons described as "available due
17 to the closure of mills recently" been focusing on
18 roundwood, pulp, which is a waste to sell it twice
19 the amount per ton?

20 MR. BERSAK: Objection, Mr. Chairman.
21 Mr. Frantz already said he didn't testify regarding
22 wood?

23 CHAIRMAN GETZ: Mr. Edwards, any
24 response?

1 MR. EDWARDS: Your Honor, I'm just
2 trying to point out that there's two different prices
3 of two different types of wood, and there's a
4 significant difference in price per ton. And I'm
5 just trying to find out from an economic standpoint
6 what Mr. Frantz's thoughts are regarding that.

7 CHAIRMAN GETZ: Mr. Frantz?

8 A. (Mr. Frantz) Well, I think that most rational people
9 would rather sell a higher valued product than a
10 lower valued product. And to the extent there's a
11 market, I'm sure they'll look for that market for the
12 higher valued product. If it's not there, I think
13 that's going to affect their decision on what to do
14 with that value of the product. If they can find
15 other markets, even if it's less, they may actually
16 go after those markets.

17 Q. What do you think the likelihood would be of a logger
18 purchasing new equipment if he had no market beyond
19 \$27 per ton, if the whole tree were to go for this
20 reasonable purpose?

21 A. (Mr. Frantz) I think there's a lot that goes into
22 deciding whether or not you're going to invest a lot
23 of money into an operation. And obviously included
24 in that is what kind of markets are out there and how

1 long will they be there and how much competition do I
2 have and what are my financing rates. I mean,
3 there's a lot of areas that are there. And I think
4 you are much better off asking someone who's a
5 logger.

6 CHAIRMAN GETZ: Mr. Edwards, how much
7 more do you have along this line?

8 MR. EDWARDS: I have two more
9 questions, Your Honor.

10 BY MR. EDWARDS:

11 Q. If we were to place the entire tree into the boiler
12 at the Laidlaw plant, at what efficiency rate did we
13 achieve in burning the entire tree?

14 CHAIRMAN GETZ: Are you suggesting
15 without chipping it or what?

16 MR. EDWARDS: You chip it first.

17 A. (Mr. Frantz) If it's all chipped, it's still going to
18 burn at the same levels as the tops. It's going to
19 be whatever the efficiency factor is of that boiler.

20 Q. And we've been told that the efficiency factor of
21 this plant is what?

22 A. (Mr. Frantz) Well, most wood plants are in the 18,000
23 to 22,000 BTUs per-kilowatt-hour basis. To the
24 extent this boiler is more efficient, it might be in

1 the 14 to 15,000 BTUs per-kilowatt-hour basis.

2 Q. So is that a percentage efficiency in the low 20s
3 range, 20, 22, 23 percent?

4 A. (Mr. Frantz) Those are what most people would
5 consider fairly inefficient heat rates for an
6 operation.

7 Q. What would you consider to be an average?

8 A. (Mr. Frantz) Well, it depends on the fuel you're
9 talking about.

10 Q. For a plant like this.

11 A. (Mr. Frantz) For burning biomass?

12 Q. Hmm-hmm.

13 A. (Mr. Frantz) You can get down to 13-, 14,000 BTU per
14 kilowatt hour. That's a pretty good heat rate for a
15 biomass facility.

16 Q. What percentage would you say that is?
17 Twenty-five-percent efficiency?

18 A. (Mr. Frantz) I'll have to calculate it. I'd have to
19 check and get back to you.

20 Q. I guess what I'm getting at is, from an economic
21 perspective, does it make any economic sense to use a
22 whole tree at a 25-percent efficiency rating?

23 A. (Mr. Frantz) Well, I think I answered that when I
24 said it would depend a lot on if you didn't have any

1 other better or higher value reasons to sell that
2 wood. If you have sawlogs, much rather sell sawlogs
3 and then just work your way down.

4 Q. Thank you.

5 Mr. McCluskey, just a hypothetical. If
6 Noble/Brookfield was to fill capacity in the Coos
7 Loop, what would Laidlaw need to do?

8 A. (Mr. McCluskey) Could you give me that again?

9 Q. If the Noble/Brookfield 100-megawatt project filled
10 the capacity in the Coos loop, what would Laidlaw
11 need to do?

12 A. (Mr. McCluskey) Well, I assume the transmission line
13 would have to be expanded in order to send the output
14 to the low centers in New Hampshire and elsewhere.

15 Q. What if the loop wasn't expanded? What would Laidlaw
16 need to do?

17 A. (Mr. McCluskey) If it wasn't expanded?

18 Q. Yes.

19 A. (Mr. McCluskey) Well, I can't see how, in that
20 hypothetical, how the project would proceed.

21 Q. Is that expansion a requirement of this PPA?

22 A. (Mr. McCluskey) Not to my knowledge.

23 Q. Thank you.

24 Mr. Frantz, in weighing out the economic benefit

1 the Laidlaw plant can have for New Hampshire, the
2 North Country, and Berlin, how much weight is given
3 to the economic impact such a project can have?

4 A. (Mr. Frantz) Well, I mentioned in my answers to
5 Attorney Hatfield that it's one factor, if you look
6 at the statute, the economic benefits. There's a
7 number of criteria, and this is one of those.

8 Q. Would you say that the economic benefit could
9 outweigh the economic sensibility of a substantially
10 higher rate to the ratepayer?

11 A. (Mr. Frantz) I believe I answered that, stating that
12 cost-effectiveness, in my opinion, certainly should
13 always be the key aspect of these criteria. I think
14 that when all else is close to equal, then obviously
15 you want to go with the economic benefits.

16 Q. Are you aware that Brookfield/Noble are beginning
17 their wind project next month?

18 A. Which project?

19 Q. Well, I'm referring to it as the Brookfield/Noble
20 Project. That's the 100-megawatt project in the
21 North Country.

22 A. (Mr. Frantz) I'm aware of the Noble project. I
23 thought it was 99-megawatts. I'm not aware of what
24 stage of completion it's at.

1 Q. I've been contacted by this company to find housing
2 for approximately 140 workers from outside of New
3 Hampshire, as well as 70 jobs from inside this area.
4 What immediate impact do you think that can have for
5 Berlin over the entire year economically?

6 MR. BERSAK: Objection. Facts not in
7 the record.

8 CHAIRMAN GETZ: What's the relevance?

9 MR. EDWARDS: I am trying to find out
10 from Mr. Frantz, by some very definite projects that
11 are in the works in Berlin, what kind of economic
12 impact those projects can have in comparison to this
13 one.

14 CHAIRMAN GETZ: And how would that
15 affect our decision in this case?

16 MR. EDWARDS: I understand that the
17 economic leg of your decision here is very important,
18 and I also understand that there are some very viable
19 projects coming to Berlin that are -- that could be
20 very important to that decision.

21 CHAIRMAN GETZ: Well, first of all, I
22 mean, you are testifying to what you know about facts
23 that aren't in evidence in this case. And I'm not
24 sure what the relevance of this line of inquiry is.

1 So let's move along to your next set of questions.

2 BY MR. EDWARDS:

3 Q. Mr. Frantz, are you familiar with the federal prison
4 project coming to Berlin?

5 MR. BERSAK: Objection. Same
6 objection, Mr. Chairman.

7 CHAIRMAN GETZ: Relevance, Mr.
8 Edwards?

9 MR. EDWARDS: Well, Your Honor,
10 between those two projects, there is 50 million in
11 payroll coming to the area, which I would think would
12 be a very valid argument as to some economic
13 stability coming into Berlin. That's very important
14 to Berlin.

15 CHAIRMAN GETZ: Well, let me stop you
16 there.

17 Mr. Frantz, is there any -- is your
18 opinion with respect to this PPA affected by other
19 economic developments and employment that would occur
20 in Berlin or the Berlin vicinity?

21 WITNESS FRANTZ: Only to the extent
22 that the multiplier effects mentioned by Dr. Shapiro
23 assume in all I/O models that there's an unlimited
24 supply of local labor for those multiplier effects to

1 be realized, to the extent there are leakages in
2 labor, because you can't get that supply of labor
3 from the local economy, it reduces the effects on
4 whatever project you happen to be analyzing.

5 CHAIRMAN GETZ: Is that something you
6 can quantify?

7 WITNESS FRANTZ: No.

8 CHAIRMAN GETZ: Mr. Edwards.

9 MR. EDWARDS: Your Honor, I have four
10 more questions on this that I would like to ask Mr.
11 Frantz, if I could.

12 CHAIRMAN GETZ: Well, let's see where
13 they go.

14 BY MR. EDWARDS:

15 Q. Hypothetically speaking, if these two projects were
16 to go online as projected for this spring and summer,
17 what kind of impact can a \$50 million payroll have on
18 the City of Berlin?

19 CHAIRMAN GETZ: When you say "these
20 two projects," you're talking about the --

21 MR. EDWARDS: I'm talking about the
22 windmill project and the prison.

23 A. (Mr. Frantz) I think for the size of the city of
24 Berlin, that would be a significant economic impact

1 for the city.

2 Q. Would you agree that, statistically, 90 percent of
3 that payroll stands to go back into the community in
4 Berlin?

5 A. (Mr. Frantz) I have no knowledge of whether -- how
6 much of that goes back, actually, in the city of
7 Berlin and how much is actually sent back to wherever
8 those construction workers actually live. That's one
9 of the concerns in all models, is what -- where does
10 that savings go? Does it stay in the local community
11 and recirculate and therefore drive the multipliers,
12 or does it actually leak out of the economy?

13 Q. Turning to the value that the Laidlaw project can
14 provide to Berlin to increase its assessed value, Mr.
15 Frantz, we've been told by the City of Berlin's
16 expert that the finished product could save the
17 ratepayer in Berlin 17 percent. Are you familiar
18 with whether or not that's over 20 years?

19 A. (Mr. Frantz) Are you talking about the taxpayer in
20 Berlin or the electric ratepayer in Berlin?

21 Q. I'm talking about the taxpayer. In other words, that
22 the impact that the assessed value can have on the
23 total value of Berlin, the City's expert has stated
24 that that figure is 17 percent. Are you aware that's

1 over 20 years?

2 A. (Mr. Frantz) I'm not aware of what period of time
3 that was for.

4 Q. Okay. When it comes to economic development and
5 assessing in a city, are you familiar with
6 neighborhood codes?

7 A. (Mr. Frantz) No, I don't assess for tax purposes.
8 I'm not an assessor.

9 Q. Would it surprise you that in close proximity to this
10 mill there is a neighborhood code, called a
11 Neighborhood Code C, that has a 20-percent decreased
12 rating as a result of all of the properties within
13 close proximity to this mill?

14 MR. BERSAK: Mr. Chairman, objection.

15 CHAIRMAN GETZ: I'm going to permit
16 this question. Let's move along.

17 BY MR. EDWARDS:

18 Q. I'm curious, from an economic standpoint, if this
19 mill is impacting a 17-percent decrease from what the
20 City's expert tells us, but it's having a 20-percent
21 decrease impact on a substantial number of properties
22 in close proximity to the mill, would you agree that
23 that 17 percent is not necessarily accurate?

24 MR. BERSAK: Objection, Mr. Chairman.

1 CHAIRMAN GETZ: Well, I'm going to
2 permit this because it's a similar line of
3 questioning we've heard from other witnesses, and I'd
4 like to get an answer from Mr. Frantz, if he has one.

5 WITNESS FRANTZ: Could you repeat the
6 question?

7 CHAIRMAN GETZ: 'Cause I think
8 ultimately where we were with the previous witness
9 was that you were raising the issues of whether there
10 could be positive or negative effects on residences
11 or business near to the plant, depending on certain
12 assumptions. Is that --

13 MR. EDWARDS: Correct.

14 A. (Mr. Frantz) Well, if that's the question, then I
15 think the answer is yes.

16 Q. Thank you. I have no other questions.

17 CHAIRMAN GETZ: Okay. I think it's
18 about time for recess. But let me try to get an
19 understanding of where we may be going.

20 Next to Mr. Boldt. Do you have an
21 estimate of how much cross you have?

22 MR. BOLDT: Maybe an hour, Your
23 Honor.

24 CHAIRMAN GETZ: Okay. And Mr. Bersak?

1 MR. BERSAK: Two-plus.

2 CHAIRMAN GETZ: Okay.

3 (Chairman and Commissioners conferring.)

4 CHAIRMAN GETZ: All right. Well,
5 let's take a brief recess now. What we intend to do
6 is take 15 or 20 minutes, come back, go for another
7 90 or so, take the lunch hour in the 1:00 to 2:00
8 range, and then come back and see how far we can get.
9 So we'll recess until about 11:15, 11:20.

10 (Whereupon a recess was taken at 11:00
11 a.m. and the hearing resumed at 11:25 a.m.)

12 CHAIRMAN GETZ: Mr. Boldt.

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

14 CROSS-EXAMINATION

15 BY MR. BOLDT:

16 Q. Mr. McCluskey, before we started this morning, I
17 wanted to make sure you had the Ventyx 2010 fall
18 reports, which I believe is Staff 12 and Staff
19 Exhibit 14. Do you have those two exhibits in front
20 of you?

21 A. (Mr. McCluskey) I have Staff Exhibit 14 and the 2010
22 report.

23 Q. Okay. Now, just for the record, confirm for me: You
24 prepared Staff Exhibit 14, that analysis?

1 A. (Mr. McCluskey) I did.

2 Q. Okay. And if I am reading the second page of that
3 report, the middle tier of numbers, those numbers
4 confirm Mr. Sansoucy's testimony that there would be
5 between 300 million and 400 million in savings to the
6 ratepayers over the life of the PPA, depending upon
7 which variables are used in the forecasting; correct?

8 A. (Mr. McCluskey) That's correct. It --

9 Q. Okay. In fact, your numbers show it would be 336
10 million to 391 million, depending upon which
11 variables; correct?

12 MS. AMIDON: Mr. Chairman, would you
13 ask Mr. Boldt to show down so that Mr. McCluskey can
14 hear the questions?

15 BY MR. BOLDT:

16 Q. Are you having any trouble hearing me, sir?

17 A. Well, I was responding to your previous question, and
18 you cut me off and started on another question.

19 Q. I'm sorry. I thought I heard a "Yes," so I went on.

20 A. (Mr. McCluskey) I was going to add something to the
21 "Yes."

22 Q. Well, if there's much that needs to be added, I'll
23 allow Ms. Amidon to come back and redirect. I think
24 that might be the most efficient way of handling

1 this, since we are trying to do a limited time for
2 the Commission.

3 CHAIRMAN GETZ: Well, actually, let me
4 set the ground rules.

5 MR. BOLDT: Okay. You always can.

6 CHAIRMAN GETZ: Certainly I'd like all
7 witnesses to answer "Yes" or "No" as directly as
8 possible to the question from counsel. But I also
9 think it is more efficient if they have the
10 opportunity to explain at a time more related to the
11 questions rather than waiting for redirect. So it's
12 helpful to our understanding of what's going on.

13 MR. BOLDT: I'll do my best, Your
14 Honor.

15 CHAIRMAN GETZ: Thank you.

16 BY MR. BOLDT:

17 Q. So did I read the two numbers from your calculations
18 correctly?

19 A. (Mr. McCluskey) You did. Whether they agree with
20 statements made by Mr. Sansoucy or not, I couldn't
21 say. These are the numbers that result from the
22 analysis that I did.

23 Q. Okay. And whether that analysis or Mr. Sansoucy's
24 analysis is correct, again, depending upon which

1 variables are used, you'd agree with me that there is
2 then no fund, no dollars in the cumulative reduction
3 fund at the end of the 20-year period; correct?

4 (Witness reviews document.)

5 Q. There is a savings to the ratepayers over that
6 period; correct?

7 A. (Mr. McCluskey) Well, let me just think about the
8 question. The cumulative reduction fund relates only
9 to energy payments. And so you seem to be focusing
10 on the total above- or below-market calculation under
11 the second block.

12 So, recognizing that the cumulative reduction
13 account applies only to energy, could you give me
14 your question again?

15 Q. If these numbers are correct, is it your opinion that
16 there is or is not money in the cumulative reduction
17 fund at the end of the period?

18 A. (Mr. McCluskey) You cannot answer that question based
19 on these numbers, because this second block shows for
20 each year an above- or under-market amount. What it
21 does not address is whether the energy costs are
22 above or below the energy costs in the PPA.

23 Let me say that again. It does not address
24 whether the market energy prices are above or below

1 the energy prices in the PPA.

2 Q. Okay. Thank you for that clarification.

3 CMSR. BELOW: Excuse me. I just need
4 to interrupt because I don't understand where we're
5 at. If we're looking at Staff Exhibit 14 --

6 MR. BOLDT: Yes, sir.

7 CMSR. BELOW: -- to get to the overall
8 number, don't you compare the total in the first
9 block with the total in the second block?

10 WITNESS McCLUSKEY: That's correct.
11 That's correct.

12 CMSR. BELOW: And can't you look at
13 the second page and look at the total for energy in
14 the first block, which is 965 million, versus energy
15 in the second block, which is 1,274,000,000?

16 WITNESS McCLUSKEY: That's correct.
17 That would be one way of doing it. So the issue is
18 whether the Ventyx market energy prices with carbon
19 is a reasonable proxy for market energy prices going
20 forward.

21 CMSR. BELOW: But if you use those
22 numbers, wouldn't that indicate whether you're over
23 or under market over the term, using these
24 assumptions?

1 WITNESS McCLUSKEY: If you assumed
2 that the -- with carbon, Ventyx energy prices were a
3 reasonable proxy of future market energy prices, then
4 these numbers would indicate that there would be no
5 above-market energy costs.

6 CMSR. BELOW: Okay. Thank you.

7 MS. AMIDON: Mr. Chairman, I
8 apologize. Would Mr. McCluskey please speak into the
9 mic for the benefit of the stenographer? Thank you.

10 BY MR. BOLTON:

11 Q. Mr. McCluskey, also on that same line, I believe you
12 testified this morning that you were concerned with
13 the CRF that would create a violation of the use and
14 useful principle.

15 A. (Mr. McCluskey) Used and useful.

16 Q. Used and useful. Thank you.

17 Now, if we are assuming there is no dollar
18 amount in the CRF, there is, I assume, no violation
19 of the used and useful principle; correct?

20 A. (Mr. McCluskey) That's correct. If in every hour
21 customers were not asked to pay above-market costs,
22 then there would be no additional payment to finance
23 the future purchase of a power plant. That's
24 correct.

1 Q. Now, to be fair to your position, your Exhibit 14
2 does support your contention that there is a
3 300 million to 400 million overpayment to the
4 ratepayers over the life of the PPA, depending upon
5 certain variables that you've selected; correct?

6 A. (Mr. McCluskey) Correct. The 333,000,000
7 above-market figure assumes a 63-megawatt power plant
8 with 87.5-percent capacity factor. And it assumes
9 the products, the market prices of the products are
10 as detailed in the Ventyx 2010 study.

11 Q. So, isn't it safe to say that, depending upon which
12 variables change over the life of this PPA, there
13 could be different swings in whether it's an
14 overpayment by the ratepayers or a savings to the
15 ratepayers; correct?

16 A. (Mr. McCluskey) Correct. If you're talking about
17 actual prices as opposed to forecasts? Yes.
18 Depending on how the actual prices turn out, that
19 would determine whether the PPA at any point in time
20 is above or below market.

21 Q. Now, I believe you testified during your additional
22 direct back last Tuesday, on February 1st, that you
23 had two major variable changes that you were
24 suggesting should take place. My notes reflect the

1 first was that you wanted to replace the Ventyx 2009
2 market energy projections with carbon legislation; as
3 used by Mr. Sansoucy, with the Ventyx 2010 market
4 energy projections without carbon legislation.

5 Correct? That's the first one.

6 A. (Mr. McCluskey) That's correct.

7 Q. And the second one, my notes reflect that you wanted
8 to replace the Ventyx 2010 REC pricing -- use the
9 2010 REC pricing projections instead of the REC
10 prices set by this PPA; correct?

11 A. (Mr. McCluskey) That's correct.

12 Q. Okay. Now, if you would, concerning that first
13 variable change, the "with" versus "without" carbon,
14 are you saying that your crystal ball projections,
15 you're confident that we're never going to have
16 carbon legislation?

17 A. (Mr. McCluskey) No, I'm not saying that.

18 Q. Okay.

19 A. (Mr. McCluskey) What I'm saying is that the base case
20 assumed by the Ventyx modelers, they apparently have
21 determined that there is not a sufficient probability
22 that carbon legislation or climate-change legislation
23 will pass at the federal government level; and, as a
24 result, they've determined that it should not be in

1 their base case projection.

2 Q. That's your assumption based on your read of the
3 Ventyx report?

4 A. (Mr. McCluskey) That's right.

5 Q. Now, in reading the Ventyx report, did you review its
6 executive summary?

7 A. (Mr. McCluskey) I did, yes.

8 Q. Okay. You have it in front of you; correct?

9 A. (Mr. McCluskey) I do.

10 Q. And I believe the Commission has that document as
11 well. If you turn to Page ES1, first page of the
12 executive summary, do you see at the beginning of the
13 second paragraph -- are you all there?

14 A. (Mr. McCluskey) Yup.

15 Q. -- where it reads, This Fall 2010 reference case
16 assumes no federal climate legislation. Throughout
17 2010, the likelihood of federal GHG legislation --
18 Greenhouse gas -- is that your understanding of that
19 acronym?

20 A. (Mr. McCluskey) That's correct.

21 Q. The likelihood of federal GHG legislation passing
22 continually decreased as of November 2010, with no
23 current active legislative. The act -- flipped my
24 page too quick. The likelihood of a climate bill

1 passing in the next two years is low as a result of
2 the current political climate. The Fall 2010 North
3 American Power Reference Case does not assume the
4 implementation of GHG legislation during our forecast
5 period. Did I read that correctly?

6 A. (Mr. McCluskey) That's correct.

7 Q. Okay. Now, you'd agree with me that, just as wind
8 blows on a turbine, winds blow in the political arena
9 back and forth, without any real ability to predict;
10 correct?

11 A. (Mr. McCluskey) Policy issues can change. I agree
12 with that.

13 Q. Now, staying on ES1, let's continue on. You see
14 where it states, Similarly -- that same paragraph.
15 Similarly, Ventyx does not assume the implementation
16 of a federal renewable energy standard as well and
17 that the Fall 2010 reference case meets individual
18 state RPS -- renewable portfolio standard -- through
19 the study horizon. Did I state that correctly?

20 A. (Mr. McCluskey) You did.

21 Q. Okay. And then the conclusion of that paragraph, you
22 see where it states, The Fall 2010 Federal
23 Environmental Legislation Case assumes the
24 implementation of Federal Greenhouse Gas legislation

1 and nationwide renewable energy standard beginning in
2 2015. See that?

3 A. (Mr. McCluskey) Yes, I do.

4 Q. So wouldn't you agree with me that this Ventyx report
5 both does and does not use carbon in its 2010
6 forecasting, just as Mr. Sansoucy did in his
7 Exhibit 9?

8 A. (Mr. McCluskey) No. With regard to the forecast
9 energy prices, it's clear that there is no assumption
10 of carbon in those energy prices. Now, that does not
11 mean to say that Ventyx might have other scenarios
12 that it's developed. But in terms of the energy
13 prices which run through the term of this PPA, it's
14 my understanding that there is no assumption of
15 carbon regulations that would increase cost and
16 increase prices.

17 Q. Okay. But again, that's one of the variables, with
18 or without. And the Ventyx executive summary
19 reflects that their report uses both. Gives a
20 scenario with and gives a scenario without; correct?

21 A. (Mr. McCluskey) They may well have some other
22 scenarios. But in terms of the energy prices that we
23 are using in this particular proceeding, they -- it's
24 my understanding that they do not include carbon.

1 Q. That was one of the assumptions you selected in
2 making your model, Exhibit 14; correct?

3 A. (Mr. McCluskey) It's -- you say "one of the
4 assumptions." I used the projection in the 2010
5 Ventyx report. I'm not sure whether that's an
6 assumption. I actually used the numbers that were
7 reflected on Exhibit 10 to Mr. Sansoucy's testimony,
8 which came from the 2010 report.

9 Q. So you didn't use -- just for clarity, you didn't use
10 the portion of the Ventyx report that included
11 carbon; correct?

12 A. (Mr. McCluskey) I did not. That's correct.

13 Q. Okay. Now, before we leave this page, let's go down
14 to the paragraph that begins, Under-market Overview.
15 Do you see where they define the Northeast Region as
16 including New York ISO, ISO-New England, Ontario,
17 Quebec, and the Canadian Maritime Provinces?

18 A. (Mr. McCluskey) That's correct.

19 Q. Okay. Now, concerning your second change of
20 variables, whether or not to use the Ventyx 2010 REC
21 pricing projections, let's turn in Ventyx to Page
22 5-14, which includes -- it shows Table 5-1.

23 CHAIRMAN GETZ: Sorry. Say that
24 again? What page?

1 MR. BOLDT: Page 5-14 has a Table 5-1
2 that looks like this (indicating).

3 BY MR. BOLDT:

4 Q. Now, I'm correct, aren't I, that you used in your
5 modeling for the REC prices the column that is
6 entitled "Northeast"?

7 A. (Mr. McCluskey) That's correct.

8 Q. Okay. And you see at the top of that table that
9 these numbers are in 2010 dollars per megawatt hour;
10 correct?

11 A. (Mr. McCluskey) That's correct.

12 Q. That means there's no factor built in for inflation
13 in these numbers; correct?

14 A. (Mr. McCluskey) That's correct.

15 Q. Now, turn back to Page 5-12. That's two pages
16 before. Do you see that final sentence of that first
17 paragraph where it states, In preparing the forecast
18 REC values, Ventyx made the following assumptions in
19 real 2010 dollars for marginal wind generators? So
20 these are REC prices, wind REC prices; correct?

21 A. (Mr. McCluskey) That's what it says.

22 Q. Okay. Now let's continue on with their assumptions,
23 the bullets that are right there.

24 The first one is they calculated the REC value,

1 represents a marginal regional renewable energy
2 resource. I read that correctly, didn't I?

3 A. (Mr. McCluskey) That's correct.

4 Q. And they assumed the extension of the production tax
5 credit per the American Recovery and Reinvestment Act
6 of 2009.

7 A. (Mr. McCluskey) That's correct.

8 Q. Reading that?

9 A. (Mr. McCluskey) Yeah.

10 Q. Now, they state the PTC is 21 cents per kilowatt
11 hour. Is that correct? Or do you think there's a
12 typo there, that it should be 2.1?

13 A. (Mr. McCluskey) No, I think it's 21 cents. I need to
14 check that. The PTC for wind is different from
15 biomass. I need to double-check with regard to
16 whether that's 2.1 or 21 cents.

17 Q. Well, if it's 21 cents, then the PTC for a megawatt
18 is \$210. If it's 2.1, it's \$21.

19 A. (Mr. McCluskey) That's correct.

20 Q. Doesn't it make more sense that it's -- I mean,
21 subject to check, obviously. But isn't -- your
22 understanding is it's \$21, not \$210?

23 A. (Mr. McCluskey) That's correct. I think that's
24 correct. But as I said, I need to check on it.

1 Q. We can check that.

2 MS. HATFIELD: Mr. Chairman, this is
3 the City's exhibit. So perhaps they could just
4 clarify that that is a typo rather than asking Mr.
5 McCluskey?

6 MR. BOLDT: I'm asking for his
7 understanding. It's our understanding it's a typo.

8 CHAIRMAN GETZ: Okay.

9 MS. AMIDON: Pardon me. So does that
10 mean that Mr. McCluskey doesn't have to go back and
11 do the calculation?

12 MR. BOLDT: I believe he's answered
13 my questions, Mr. Chairman.

14 CHAIRMAN GETZ: I'm taking that he's
15 accepted it, subject to check.

16 BY MR. BOLDT:

17 Q. Now, as we just discussed, that equates to a source
18 of revenue for the REC producer of \$21 per REC,
19 because a REC is 1 megawatt hour; correct?

20 A. (Mr. McCluskey) That's correct.

21 Q. Now, am I correct that your Exhibit 14 does not
22 include the \$21 per REC in your calculations?

23 A. (Mr. McCluskey) Actually, the \$21 is reflected in the
24 REC prices that's shown on the Table 5-1.

1 Q. Okay. Let me collar you on that, Mr. McCluskey.
2 These numbers are the Ventyx numbers. And it clearly
3 is stating that --

4 CHAIRMAN GETZ: Well, I'm losing
5 track. When you say "these numbers," are you
6 referring to --

7 MR. BOLDT: In 5-1.

8 BY MR. BOLDT:

9 Q. So let me ask the question a different way.
10 You're assuming that the column labeled
11 "Northeast" includes the \$21?

12 A. (Mr. McCluskey) Yes.

13 Q. And you have a negative number of \$21 for 2011?

14 A. (Mr. McCluskey) No. If I could just explain? My
15 understanding of these REC prices, these are the
16 results of a modeling exercise by the Ventyx people.
17 It's my understanding that they have a supply and
18 demand model, and they model what renewable resources
19 will be at the margin and will establish the REC
20 prices in this market --

21 Q. So your --

22 A. (Mr. McCluskey) If I could finish?

23 CHAIRMAN GETZ: Let him finish.

24 MR. BOLDT: Sorry.

1 A. (Mr. McCluskey) And when they do -- in doing -- in
2 implementing that supply and demand model, they
3 determined what the costs are, what is required for a
4 renewable resource in order to make that resource
5 cost-effective. And you take into account in
6 determining the required REC price that it just makes
7 that resource competitive, and take into account all
8 of the subsidies that are received from the federal
9 government. The greater the subsidy -- in this case,
10 the PTC subsidy -- the less they need in REC revenues
11 to make them competitive.

12 So the result of the modeling of these REC
13 prices reflect the fact that they are receiving
14 incentives from the federal government. If they did
15 not receive those incentives, they would -- the
16 developers would demand higher REC prices, which
17 would increase the prices that we see in Table 5-1.
18 So in that sense, these REC prices reflect any grants
19 or loans that they receive from the federal
20 government.

21 Q. That's your understanding of what Ventyx does;
22 correct?

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

24 Q. Okay. Now, let's look, actually, at what Ventyx says

1 they do.

2 On this same page, you see right below the first
3 two bullets where it states, Ventyx has based its
4 forecast of REC values on the premise that renewable
5 energy generators rely on RECs to complement energy
6 and capacity revenues to meet their production costs
7 and levelized capital requirements. Another source
8 of revenue is the PTC.

9 Now, would you agree with me that levelized
10 capital requirements is a financing concept that
11 basically extends a level payment over a certain
12 period of years?

13 A. (Mr. McCluskey) That's the idea of a -- that's what
14 levelized means. But this paragraph is supportive of
15 what I said.

16 For renewable developers, there's three sources
17 of revenue: Energy revenue, capacity revenue and
18 RECs. These developers require a certain stream of
19 RECs. Those that can bid into any competitive market
20 at a low REC price are the ones that win these
21 requests for proposals. And so this paragraph is
22 supporting my statement that, for renewable
23 developers, the capacity in energy revenues are not
24 sufficient to provide the total return that they're

1 looking for. They need this third revenue stream.
2 And it's these prices that the modelers determine
3 that these wind generators -- why wind? Because the
4 wind generators are generally the most cost-effective
5 renewable resource. They are the ones that are going
6 to establish the model price for RECs. Everyone
7 else, biomass, solar facilities, will have to take
8 the REC price that the most competitive renewal
9 generators produced. And that is life in the
10 competitive market.

11 Q. But aren't you --

12 A. If you can't compete with the most cost-effective
13 renewable generators, you're not going to be in
14 business.

15 Q. So you said that there are only three sources of
16 revenue: Energy, capacity and RECs; correct?

17 A. (Mr. McCluskey) Well, there may be some plants that
18 biomass may have a fourth stream, if they can sell
19 some heat to some project. But typically, there are
20 three sources of revenues for renewable generators.

21 Q. But aren't you ignoring the sentence that Ventyx
22 states, "Another source of revenue is the PTC"?

23 A. (Mr. McCluskey) No. The three major sources of
24 revenue from the products sold. You can treat the

1 PTC as another revenue stream if you wish. But,
2 really, it's just subsidy that the federal government
3 has in order to promote these kinds of resources. So
4 if you want to treat it as a fourth source, fine.
5 The effect of it is to reduce the REC revenues that
6 the developers need.

7 Q. So if the PTC was not there, the REC price would be
8 correspondingly higher; correct?

9 A. (Mr. McCluskey) That's correct.

10 Q. Now look at the methodology that is listed at the
11 bottom of Page 512 to the top of Page 513. The first
12 step of Ventyx methodology is to estimate the average
13 levelized capital requirement in dollars per megawatt
14 hour by renewable type. Now, again, per the
15 references above, this means we're talking about
16 marginal wind; correct?

17 A. (Mr. McCluskey) It says "by renewable type." So they
18 are referring to different types of resources.

19 Q. Well, the only one they're referring to in that page
20 is marginal wind.

21 A. (Mr. McCluskey) No. I think you're misunderstanding
22 their calculation. I think their calculations are
23 showing that the wind generators are the generators
24 that establish the market price. This clearly states

1 that they will -- that they've estimated the capital
2 requirements by renewable type, not just wind.

3 Q. Well, they don't use anything in its text other than
4 marginal wind. You'd agree with me there?

5 A. (Mr. McCluskey) As I've said, their supply/demand
6 modeling will include supply from various types of
7 resources. Those resources that are at the margin in
8 this supply/demand analysis are the ones that
9 establish the price.

10 Q. Mr. --

11 A. (Mr. McCluskey) So if we have a significant amount of
12 wind resources, which are generally considered to be
13 the lowest-cost renewable resources, we may have wind
14 forcing out any other renewable projects, and their
15 analysis may indicate that those wind generators are
16 the ones that are going to establish the market
17 price.

18 Q. Mr. McCluskey, isn't it true that you stated in prior
19 testimony that you've never seen the Ventyx report
20 before; correct?

21 MS. AMIDON: Mr. --

22 CHAIRMAN GETZ: I think that's a fair
23 question. Let's hear the question.

24 BY MR. BOLDT:

1 Q. You've never seen the Ventyx report before; correct?

2 A. (Mr. McCluskey) That is correct.

3 Q. So your testimony over the last couple minutes of
4 what you believe Ventyx means in its report is pure
5 speculation; isn't, sir?

6 A. (Mr. McCluskey) No. I've been in this business for
7 30 years. I think I know how to read these reports.
8 It's standard practice for modelers to create a
9 supply and demand model and stack up each type of
10 resource based upon their incremental costs. Those
11 resources that happen to be at the margin when the
12 demand is met are the ones that establish the price.
13 I'm reading this to say that those resources are wind
14 resources that are going to determine what the REC
15 prices are. And any other resource, whether it be
16 biomass or solar, that wants to sell in this
17 Northeast market is going to have to accept the price
18 established by the wind resources or they don't play
19 in that market.

20 Q. So you'd agree with me, then, that wind has a lower
21 capital cost than wood, in part because it doesn't
22 have fuel costs; right?

23 A. (Mr. McCluskey) Well, they don't have fuel costs.
24 They are very, obviously, very capital-intensive.

1 The -- what's your question?

2 Q. That wind has a lower capital cost requirement than
3 wood, in part because it has no fuel costs.

4 A. They have no fuel costs. I'm not saying that they
5 have lower capital costs.

6 Q. So the industry standard of it's roughly \$2.5 million
7 per megawatt for wind and \$3.5 million per megawatt
8 for wood is something that you're familiar with and
9 you would agree with?

10 A. (Mr. McCluskey) I'm not familiar with those numbers.

11 Q. Okay. Now, similarly, there's not usually a large
12 residual job creation from a wind project as there is
13 in the wood basket for a wood project; correct?

14 A. (Mr. McCluskey) I haven't studied the job creation of
15 these resources, but I've heard that's the case.

16 Q. Let's turn back to the methodology, the text that
17 Ventyx actually says they use.

18 The second one there at the bottom of Page 5-12,
19 do you see where it states they estimate expected
20 gross margins, plural, for renewable generation in
21 the state as a combination of the following: A,
22 energy market gross margins -- again, plural -- from
23 the Ventyx fall reference case; and the second is the
24 production tax credit? Did I read that correctly?

1 A. (Mr. McCluskey) Yes.

2 Q. Now, the use of the plural, margins, it's safe to
3 assume that means both energy and capacity
4 projections, as included in the report?

5 A. (Mr. McCluskey) I think that's a reasonable
6 assumption.

7 Q. Okay. Going to the top of Page 5-13, the third step
8 in their methodology is they calculate the deficit in
9 meeting the levelized capital requirements, Item 1,
10 from the gross margins -- again, plural -- calculated
11 in Item 2. Did I read that correctly?

12 A. (Mr. McCluskey) Yes.

13 Q. And this means that these two products increase, then
14 the price of the RECs declines; correct?

15 A. (Mr. McCluskey) I think what it's saying is that if
16 the -- they're looking to see how much of the capital
17 costs of the facility will be covered from the energy
18 and capacity revenues. And to the extent that they
19 fall short, what is often referred to as
20 insufficiency, it's the REC price that is designed to
21 make that up.

22 Q. But Mr. McCluskey, we have to use No. 2. And No. 2
23 states it's the energy and capacity margins -- we
24 just discussed that -- and the PTC.

1 A. (Mr. McCluskey) Correct.

2 Q. Correct?

3 A. (Mr. McCluskey) Correct.

4 Q. Okay. Now, the fourth step that they take is they
5 calibrate the REC prices in 2010 through 2011 to
6 reflect the currently traded REC market prices. Did
7 I read that correctly?

8 A. (Mr. McCluskey) Correct.

9 Q. Now, you recall Mr. Traum's revised direct testimony
10 in this case, particularly Exhibit 5 of his
11 materials. Do you have that available in front of
12 you?

13 A. (Mr. McCluskey) I have his direct testimony. Which
14 is it?

15 Q. The revised Traum exhibit -- or revised direct
16 testimony that came in right before our first day of
17 hearing. If you'd look at Page 22 of that document.

18 A. (Mr. McCluskey) I have his direct testimony filed
19 December 17th. Is that what you're referring to?

20 Q. Well, there was a revised one. But that one should
21 work. I think the exhibits are the same.

22 A. (Mr. McCluskey) Okay.

23 Q. If you see Attachment KET5, which I believe is
24 Page 22, it's a statement from Evolution Markets.

1 A. (Mr. McCluskey) Yes.

2 Q. Okay. And you see there at the bottom of that
3 document where it states that there are 20,000
4 vintage 2010 RECs eligible as Class I in
5 Massachusetts, New Hampshire, Connecticut and Maine
6 that were auctioned at an average price of \$13.16?
7 Did I read that correctly?

8 A. (Mr. McCluskey) I see that. Yes, you did.

9 Q. Okay. Now, simple math. "Average" means some that
10 were higher and some that were lower; correct?

11 (Witness reviews document.)

12 A. (Mr. McCluskey) Yes. Since they're referring to
13 several states, this price presumably is referring to
14 the average of different prices in different states.

15 Q. Okay. And it also states that there were 15,000
16 vintage 2011 RECs eligible for Class I in those same
17 states that auctioned at an average of \$18.90. Did I
18 read that correctly?

19 A. (Mr. McCluskey) That's correct.

20 Q. Now, you'd agree with me that simple math would state
21 that that's a 43.6-percent increase in the market
22 price of Class I RECs in just one year; correct?

23 (Witness reviews document.)

24 A. It appears that the Class I average price has risen

1 from one year to the next. That's correct.

2 Q. Now turn back to the Ventyx chart you used in your
3 calculation, Page 5-14. Let me know when you're
4 there.

5 A. (Mr. McCluskey) Just give me it to me once more.

6 Q. Page 5-14.

7 A. (Mr. McCluskey) Yes.

8 Q. The table you used in calculating Table 14.

9 A. (Mr. McCluskey) Okay.

10 Q. You'll see the first entry in the Northeast column
11 that you used for 2011 is \$13.56.

12 A. (Mr. McCluskey) That's correct.

13 Q. So the actual price, as reflected in Mr. Traum's
14 Exhibit 5 of \$18.90, is similarly higher by a factor
15 of 43 percent; correct?

16 A. (Mr. McCluskey) That's correct.

17 Q. But you did not use actual market prices in your
18 calculations in Exhibit 14; correct?

19 A. (Mr. McCluskey) That's correct. Nor did I use actual
20 energy prices or actual capacity prices. I used
21 consistently the forecasts contained in the Ventyx
22 report.

23 Q. Turn back to Page 5-13, the immediately prior page.

24 Do you have water by any chance? Are you okay?

1 A. (Mr. McCluskey) I'm fine.

2 Q. You see in the middle there's that Figure 5-13?

3 A. (Mr. McCluskey) Yes.

4 Q. And that is labeled "Renewable Energy Credit Supply
5 Curve Example." And you see in the paragraph
6 immediately preceding that where this figure is
7 explained, correct, how they came up with it?

8 (Witness reviews document)

9 A. (Mr. McCluskey) Yes.

10 Q. And it states that it is a supply curve for all
11 renewable assets in the appropriate renewable market
12 area. Did I read that correctly?

13 A. (Mr. McCluskey) That's correct.

14 Q. And you'd agree with me that this points to the
15 different areas listed on Table 5-1, the one we were
16 just referring to: Midwest, Northeast, the WECC,
17 which is a western state region; correct?

18 A. (Mr. McCluskey) Just one moment.

19 Q. Sure.

20 (Witness reviews document.)

21 A. (Mr. McCluskey) Yes. I think the term "renewable
22 market area" would be referring to the different
23 areas referenced elsewhere in the report.

24 Q. And it states that the X axis, the axis along the

1 bottom, shows the cumulative renewable capacity and
2 cumulative gigawatt hours; correct?

3 A. (Mr. McCluskey) Correct.

4 Q. And that the Y axis, the one on the left-hand side,
5 represents the deficit calculated in Step 3 above.
6 See that?

7 A. (Mr. McCluskey) Yes. Just let me look at Step 3
8 again.

9 Q. Certainly.

10 (Witness reviews document.)

11 A. (Mr. McCluskey) Yes.

12 Q. Okay. Now, that deficit by that calculation does not
13 include the \$21 PTC, does it?

14 A. (Mr. McCluskey) No, I don't believe that's the case.

15 Q. You believe that it does include or does not include?

16 A. (Mr. McCluskey) I don't -- when they determined the
17 deficit, what I refer to as the insufficiency, they
18 are saying what REC revenues they need in order to
19 make these projects cost-effective.

20 Q. But they're taking into account the PTC in Step 2;
21 correct?

22 A. (Mr. McCluskey) That's correct.

23 Q. And they are subtracting from Step 2, Step 1;
24 correct?

1 (Witness reviews document.)

2 A. (Mr. McCluskey) Give me that question again?

3 Q. They are subtracting Step 1 from Step 2; correct?

4 (Witness reviews document.)

5 Q. To reach the deficit --

6 A. (Mr. McCluskey) I think it's the reverse. I think
7 they're subtracting 2 from 1.

8 Q. Okay. Either way, it is subtracting an element that
9 includes the PTC to reach the deficit, which is the
10 REC price; correct?

11 A. (Mr. McCluskey) That's correct.

12 Q. So, simple mathematics means that you cannot have the
13 element of the PTC on both sides of the equations;
14 correct?

15 A. (Mr. McCluskey) And I don't believe it is on both
16 sides of the equation.

17 Q. Thank you. So the REC price deficit does not include
18 the PTC?

19 A. (Mr. McCluskey) No. I disagree. I believe it does.
20 All revenues from energy and capacity markets, plus
21 any revenues from subsidies, are taken into account
22 in determining what the required REC price is. And
23 it's that insufficiency or deficit that you refer to
24 is what establishes the REC price.

1 Q. But your interpretation of what Ventyx is doing does
2 not comport with what Ventyx says it is doing;
3 correct?

4 A. (Mr. McCluskey) No.

5 Q. When you have -- also, you see on that page that the
6 flat section of the curve represents the costs of
7 typical wind units, while the increasing portion of
8 the stack represents new additions with higher
9 capital costs? See that? Last sentence of that
10 paragraph?

11 (Witness reviews document.)

12 A. (Mr. McCluskey) Yes.

13 Q. Okay. And wood plants, like the one covered in this
14 PPA, would be one such new addition with higher
15 capital costs; correct?

16 A. (Mr. McCluskey) I believe so.

17 Q. And it also states, continuing on at the bottom of
18 this page, there is an increase in prices through
19 2020 as state RPSS begin to ramp up and more capacity
20 is needed to meet energy needs. Did I read that
21 correctly?

22 A. (Mr. McCluskey) You did.

23 Q. It continues. As we get past the bulk of these new
24 renewable additions, and higher gas prices result in

1 greater market revenues, RECs begin to decline and
2 continue to do so throughout the end of our study
3 horizon.

4 A. (Mr. McCluskey) That's correct.

5 Q. Now, this greater market revenue is the result of
6 increases in market prices for energy and capacity;
7 correct?

8 A. (Mr. McCluskey) If it's energy revenue... if I can
9 just read that?

10 (Witness reviews document.)

11 A. (Mr. McCluskey) The higher gas prices result in
12 higher energy revenues. They are not going to impact
13 the capacity market revenues.

14 Q. But in essence, as gas prices, oil prices increase,
15 that influences the energy prices; correct?

16 A. (Mr. McCluskey) If gas prices are at margin of units
17 in a particular wholesale power market, then increase
18 in gas prices will impact market energy prices. If
19 the oil units are not at the margin, then the
20 decrease in oil prices has no effect on the market
21 energy prices.

22 Q. Now, you'd agree with me that it's a fairly safe
23 assumption that oil and gas prices are going to
24 escalate in the future?

1 A. (Mr. McCluskey) I don't think you can necessarily say
2 that they're going to increase. If you just go -- if
3 you just look at the recent period from 2008 through
4 the current period, gas prices -- natural gas prices
5 have actually fallen.

6 Q. And isn't it true that the standard price has usually
7 been around \$6 per million BTU?

8 A. (Mr. McCluskey) For natural gas?

9 Q. Yeah.

10 A. (Mr. McCluskey) It varies considerably.

11 Q. Varied so much, in fact, during the life of this
12 hearing it went to \$20 at the Newington station,
13 didn't it?

14 A. (Mr. McCluskey) I've got no information to support
15 that statement.

16 Q. Now, you'd agree with me that oil and gas prices
17 escalate faster in periods of uncertainty,
18 international risk, monetary crises, wars, things of
19 that nature; correct?

20 A. (Mr. McCluskey) Well, certainly oil prices respond to
21 those effects. The natural gas market is very
22 different from the international oil market. It's
23 essentially a United States-based, natural gas-priced
24 market. So it's developments within the United

1 States which generally drive natural gas prices. And
2 there's been one major development which has impacted
3 natural gas prices, and that is the development of
4 shale, natural gas resources.

5 Q. That's the Marcellus Shale?

6 A. Marcellus is one. But there's been significant
7 deposits in Texas which were developed before
8 Marcellus.

9 Q. You're aware that Marcellus has actually been put
10 into a moratorium?

11 A. (Mr. McCluskey) No, I'm not aware of that.

12 Q. You're not aware of New York Senate Bill S8129B?

13 MS. AMIDON: Mr. McCluskey answered
14 the question.

15 CHAIRMAN GETZ: Well, I think
16 follow-up's appropriate. Let's get that on the
17 record.

18 BY MR. BOLDT:

19 Q. You're not aware of New York Senate Bill S8129B that
20 passed putting a moratorium on the Marcellus gas
21 drilling?

22 A. (Mr. McCluskey) I'm not. But you need to understand
23 that the Marcellus development runs into part of New
24 York, right through Pennsylvania and into West

1 Virginia. The majority of the resources are in
2 Pennsylvania. And I can tell you that the regulatory
3 climate in Pennsylvania is significantly different
4 from New York. So what New York does is not
5 necessarily going to impact the production from that
6 development.

7 Q. Are you aware of the 850-member Responsible Drilling
8 Alliance in Pennsylvania that has called for such a
9 moratorium in Pennsylvania?

10 A. (Mr. McCluskey) There has been activity in each of
11 the three main states with regard to this resource.
12 My understanding, based on conferences which I've
13 attended, is that it's having very little impact in
14 Pennsylvania on how much of the resource is
15 developed.

16 Q. When was that last seminar you attended, sir?

17 A. (Mr. McCluskey) About year ago.

18 Q. Okay. Would you agree with me that Ventyx is saying
19 that the REC prices decline in the circumstances of
20 energy and capacity increasing because there is less
21 of a delta to cover?

22 A. (Mr. McCluskey) That's it. I'm trying to explain
23 that, their supply and demand model. If the revenues
24 from the energy market increase significantly, then

1 there is going to be less of a insufficiency; and
2 therefore, all developers of renewable resources
3 require lower REC prices to achieve the target
4 returns. And if those projects are decided based on
5 competitive bids, those developers are forced to cut
6 their prices to the bone just to achieve the minimum
7 target returns that they're looking for. That's how
8 this REC market works. It's very dependent on
9 revenues from the other products to determine what
10 the prices are in the REC market.

11 Q. In essence, there's is a seesaw back and forth with
12 the market pricing.

13 A. (Mr. McCluskey) That's correct.

14 Q. Okay. Now, you stated earlier in your testimony
15 today that this PPA does fix the energy, capacity and
16 REC prices. Would you agree that by taking those
17 variables off the table, this PPA eliminates the
18 seesaw back and forth?

19 A. (Mr. McCluskey) Well, I don't recall today talking
20 about fixed prices within the PPA. I think I've
21 testified that the capacity prices and the REC prices
22 are fixed. The energy price has a fuel adjustment
23 mechanism to it. So if fuel prices increase, then
24 the energy price is going to decrease. That clearly

1 is not a fixed energy price. That can vary depending
2 on the volatility in the fuel costs incurred by
3 Schiller.

4 Q. Now, do you remember your testimony, when you were
5 talking about some undesignated New York PPA that
6 fixed the RECs and then used short-term energy and
7 capacity pricing? Do you remember that testimony
8 this morning, sir?

9 A. (Mr. McCluskey) The RFP establishes the price that
10 developers will receive for RECs. The New York ISO
11 markets, the conditions in those markets, capacity
12 and energy, will determine the revenues that the
13 developers receive for their energy capacity prices.

14 Q. So I trust the answer to my question is, yes, you do
15 remember your prior testimony?

16 A. (Mr. McCluskey) I think I do, yes.

17 Q. And you stated at that time that that was a reason to
18 support your basis, your opinion that this PPA did
19 not have to have the fixed prices for each of the
20 three elements.

21 A. (Mr. McCluskey) I said it does not have to have fixed
22 prices for energy and capacity. In fact, I was
23 particularly talking about energy. I said that you
24 could have a market-based energy price and that would

1 not necessarily preclude a renewable resource from
2 being selected and being successful.

3 Q. Let me put you a hypothetical. If the market prices
4 for energy, capacity and RECs increase above those
5 set by this PPA, would you agree with me that the PPA
6 is a good deal for the ratepayers and in the public
7 interest?

8 A. (Mr. McCluskey) So you're saying if, after the fact,
9 we look back and determine whether the market prices
10 were actually above or below, we can conclude that it
11 was a good or a bad deal. Is that what you're asking
12 me?

13 Q. Correct. If our crystal balls, which are very murky
14 right now, are clarified by actual events to show
15 that this PPA is below market on energy, capacity and
16 RECs, then this PPA is a good deal for the
17 ratepayers; correct?

18 A. (Mr. McCluskey) After the fact, that's how it would
19 turn out. That's correct.

20 Q. And isn't it true that your calculations in
21 Exhibit 14 do not take into account the upcoming
22 retirements of existing power plants that are listed
23 in Mr. Sansoucy's rebuttal Exhibits 3, 4, and 4A?

24 A. (Mr. McCluskey) No, I don't agree with that. The

1 calculations in Exhibit 14 use the Ventyx energy
2 capacity and REC prices. Any retirement that the
3 modelers for Ventyx -- they would determine when
4 various power plants will be retired. And that will
5 be one of the factors that determines what the future
6 market energy price will be. So, the market energy
7 prices that I'm using fully take into account the
8 prospect of new power plants coming online, old power
9 plants being retired.

10 Q. You didn't do any independent modeling; correct?

11 A. (Mr. McCluskey) I did not. That's correct.

12 Q. And you're assuming that Ventyx did.

13 A. (Mr. McCluskey) I'm assuming they would use the
14 standard techniques for creating a market price
15 model.

16 Q. Now, let's look at some of your testimony concerning
17 wind versus wood. Is it your contention that there
18 is no difference between a wind generator and a wood
19 generator; it's apples to apples?

20 A. (Mr. McCluskey) Could you point me to my testimony
21 where I --

22 Q. I'm going in general and your direct on the stand
23 last Tuesday. Put it this way -- well, let's just
24 open the question.

1 Is it your contention that there is no
2 difference between a wind generator and a wood
3 generator?

4 A. (Mr. McCluskey) From what standpoint?
5 Cost-effectiveness?

6 Q. You pick the standard.

7 A. (Mr. McCluskey) Well --

8 MS. AMIDON: I think we need a little
9 more specific question to assist Mr. McCluskey to be
10 able to answer.

11 BY MR. BOLDT:

12 Q. Well, you'd agree with me that it costs approximately
13 2.5 million per megawatt for wind; correct?

14 A. (Mr. McCluskey) I don't have that figure in my head,
15 no.

16 Q. So you've not used that in any of your comparison
17 models?

18 A. (Mr. McCluskey) Not to my knowledge. You'd have to
19 point me to comparisons that you're referring to.

20 Q. Let me ask this, then: Are you aware that the
21 ISO-rated capacity for a wind generator is
22 approximately 10 to 12 percent of the nameplate-rated
23 capacity?

24 A. (Mr. McCluskey) I may have heard that. I couldn't

1 say. That's not in my memory at the moment.

2 Q. Okay. Now, you do have the Lempster PPA in your
3 memory; correct?

4 A. (Mr. McCluskey) Any particular aspect you want to ask
5 me a question about?

6 Q. I do. But I wanted to make sure, because you
7 testified previously on some benefits of the Lempster
8 PPA. I don't want to get into exact minutia of it
9 because it's confidential, but I'm wanting to make
10 sure that I heard you correctly.

11 You're familiar with the Lempster PPA?

12 A. (Mr. McCluskey) I'm familiar with the pricing of the
13 PPA. That's correct.

14 Q. Now, again, without giving me the exact figure used
15 in the Lempster PPA, do you agree that the
16 Lempster -- ISO-rated capacity for that project is in
17 the ballpark of 10 to 12 percent?

18 A. (Mr. McCluskey) That's not a PPA figure. When you
19 talk about the Lempster PPA, I think you're talking
20 about energy prices, capacity prices, REC prices.
21 And anything else I have not researched.

22 Q. Would you agree with me -- and my mathematical skills
23 are limited I will admit -- that to get, in a
24 hypothetical situation, 67.5 megawatts of capacity

1 that the Laidlaw plant has, that you would need to
2 produce 675 megawatts of wind if the ISO-rated
3 capacity is 10 percent?

4 A. (Mr. McCluskey) That's not a calculation I can do in
5 my head. Subject to check, I'll accept that.

6 Q. Okay. Would you agree that that equates to
7 approximately 350 wind towers?

8 MS. AMIDON: Mr. McCluskey said he
9 couldn't calculate that in his head. I'm not quite
10 sure where this question is going.

11 A. (Mr. McCluskey) I don't know the answer.

12 BY MR. BOLDT:

13 Q. Okay. Now, the Noble wind project that was
14 questioned by Mr. Edwards, I believe that is
15 approximately 99 to 100 megawatts of power; correct?

16 A. (Mr. McCluskey) I heard Mr. Frantz say 99.

17 Q. And that's approximately 50 towers? Is that your
18 understanding?

19 A. (Mr. McCluskey) I couldn't say yes or no to that.

20 Q. Mr. Frantz, do you know?

21 A. (Mr. Frantz) I actually don't know. I thought there
22 were 3-megawatt towers for 33 --

23 (Court Reporter interjects.)

24 A. (Mr. Frantz) So there would have been 33 towers. But

1 I'm...

2 Q. So whether it is a factor of 300 new towers or 350
3 new towers to get the necessary 675 megawatts of
4 power to equate to the Laidlaw plant, would you agree
5 with me that we don't have mountain top in New
6 Hampshire for 300 to 350 wind turbines?

7 WITNESS FRANTZ: May I answer that?

8 CHAIRMAN GETZ: Please.

9 A. (Mr. Frantz) I think there's been reports done, one
10 by Ross Gittell, stating that we had enough wind
11 resources to support 2,000 megawatts of wind in New
12 Hampshire. That was for the RGGI study that was
13 ultimately used to pass the RGGI legislation.

14 Q. Now, is that based solely on the wind rose, the
15 charts of wind patterns in the state, not where you
16 could actually site the tower?

17 A. (Mr. Frantz) I think there's a big difference between
18 what potential's out there and what actually gets
19 sited and approved.

20 Q. And did it include offshore?

21 A. (Mr. Frantz) I don't believe the study included
22 offshore. But I think you'd need to refer to his
23 study if you'd like.

24 Q. Do you agree with me -- let's go back to you, Mr.

1 McCluskey -- that due to the lack of predictability
2 in the wind, each wind tower has to have an
3 appropriate oil- or gas-fired generator to back it
4 up?

5 A. (Mr. McCluskey) That's not something that I've been
6 researching recently. I may have heard that in the
7 past, but it's not like I could really comment on
8 today.

9 Q. Mr. Frantz, do you agree?

10 A. (Mr. Frantz) It's clear that you need some resources
11 to back up wind resources. I mean, most people --
12 how much that is, what types of resources, you
13 know...

14 Q. Has to have some backup, though; right?

15 A. (Mr. Frantz) Correct.

16 Q. And you're both aware that the wind can blow too fast
17 for a wind turbine and it has to shut down; correct?

18 MS. AMIDON: I'm just wondering where
19 this is going, Mr. Chairman.

20 CHAIRMAN GETZ: I think this is a
21 relevant line of inquiry. Let's move along.

22 A. (Mr. Frantz) In general.

23 BY MR. BOLDT:

24 Q. Pardon?

1 A. (Mr. Frantz) I haven't looked at that. I don't know
2 where they cut out.

3 Q. But if there is a cut-out --

4 A. (Mr. Frantz) There is a cut-out at some point.

5 Q. And that creates a disruption in the grid; correct?

6 A. (Mr. Frantz) It can.

7 Q. Sure. Now, do you know whether wind creates
8 inductive power or asynchronous power?

9 A. (Mr. Frantz) I'm not an engineer.

10 Q. Okay. Mr. McCluskey, do you know?

11 A. (Mr. McCluskey) I don't.

12 Q. Now, would you agree with me that it's the expressed
13 public policy in this state to support the forestry
14 industry? Either of you.

15 A. (Mr. Frantz) Could you refer us to the specific
16 legislation?

17 Q. Certainly.

18 MR. BOLDT: If I may approach? Just
19 a couple statutory references.

20 (Atty. Boldt hands documents to the
21 witness. Witness reviews document.)

22 BY MR. BOLDT:

23 Q. The question was: Are you aware it is the expressed
24 public policy of the state to support the forestry

1 industry? And you asked were there some references.
2 I've handed you copies of RSA 227-G:1. Do you see
3 where it states that the public welfare of this state
4 requires the maintenance, protection, conservation,
5 multiple use and rehabilitations of forests for
6 social, economic, environmental benefits that result
7 from a diverse forest cover? Such benefits include a
8 viable -- excuse me. They include forest products, a
9 viable forest-based economy, recreation
10 opportunities, scenic values, healthful surroundings,
11 various other things.

12 You see there the text of RSA 227-I:1 talking
13 about the need for accurate and detailed information
14 concerning the state's forest resources? Did I read
15 that correctly?

16 A. (Mr. Frantz) Yes.

17 Q. And you see RSA 227-J:1, where it states the public
18 welfare of this state requires the care and
19 protection of forest cover adequate to certain --
20 adjacent to certain waters of the state, along public
21 highways, and the proper disposal of slash and mill
22 residue resulting from forest operations in certain
23 circumstances to help conserve the amount and quality
24 of surface waters. It goes on with other public

1 benefits. Did I read that correctly?

2 A. (Mr. Frantz) Yes.

3 Q. And then, finally, RSA 672:1-III(c), this is the
4 zoning and planning enabling language that states
5 that forestry, when practiced in accordance with
6 accepted silviculture principles, constitutes a
7 beneficial and desirable use of New Hampshire's
8 forest resource. Forestry contributes greatly to the
9 economy of the state through a vital forest products
10 industry. Did I read that correctly?

11 A. (Mr. Frantz) Yes.

12 Q. So, is it safe to say that it is the public policy of
13 this state to support the forestry industry?

14 (Witness reviews document.)

15 A. (Mr. McCluskey) I guess it is.

16 Q. Well, these statutes --

17 A. (Mr. Frantz) Do you mind if I read a little bit more?

18 Q. By all means. Which one?

19 A. (Mr. Frantz) Reading all of them.

20 (Witness reviews document.)

21 CHAIRMAN GETZ: Mr. Frantz?

22 A. (Mr. Frantz) Well, I think it's clear from these
23 statutes and declaration of purposes that the forest
24 industry in New Hampshire is a vital and important

1 industry to the state of New Hampshire, and that it's
2 important to the health and well-being of the state.
3 Now, forestry encompasses a whole lot of practices.

4 Q. Positively. Positively.

5 A. (Mr. Frantz) And so, to try to narrow that down to
6 one little issue I think is probably not fair. But
7 in general, there are -- obviously to the state and
8 the legislature that passed this, there are a lot of
9 benefits, and it's an important industry. I don't
10 think anyone would deny that.

11 Q. Wonderful. Just wanted to make sure.

12 Now turning to the statute we're dealing with
13 today, RSA 362-F:1. You had a copy of that in your
14 earlier materials. Do you have that now?

15 A. (Mr. Frantz) Under Purpose, again, 362?

16 Q. 362-F:1, the Purpose statement of this electric
17 renewable portfolio standard.

18 You'd agree with me that it reads, "Renewable
19 energy generation technologies can provide fuel
20 diversity to the state and New England generation
21 supply through the use of local renewable fuels and
22 resources..." Did I read that correctly?

23 A. (Mr. Frantz) Yes.

24 Q. Now, the only local renewable fuels and resources we

1 have are wood, wind and solar; correct -- and water?

2 A. (Mr. Frantz) I was going to mention hydro.

3 Q. Right. But we don't have natural gas. That's not a
4 renewable.

5 A. (Mr. Frantz) Correct. Last I checked, we're a little
6 short on coal also.

7 Q. Right. And we haven't figured out a way to burn
8 granite.

9 A. (Mr. Frantz) We'd be a very wealthy state, indeed, if
10 we did.

11 Q. And if you drop to the bottom, the last sentence, "It
12 is, therefore, in the public interest to simulate
13 investment in low-emission renewable generation
14 technologies in New England and, in particular, New
15 Hampshire, whether at new or existing facilities";
16 correct?

17 A. (Mr. Frantz) Correct.

18 Q. So this is a statute that puts the emphasis on the
19 use of local resources; correct?

20 A. (Mr. Frantz) It does.

21 Q. And one of the criteria that this Commission is
22 charged with in evaluating this PPA is the economic
23 development and environmental benefits for New
24 Hampshire; correct?

1 A. (Mr. Frantz) Yes.

2 Q. Now, let's turn, Mr. McCluskey, to your testimony
3 concerning competitive bid process. Am I correct in
4 saying that you believe this PPA should have been put
5 out to competitive bid?

6 A. (Mr. McCluskey) First of all, could you -- where in
7 my testimony are you referring?

8 Q. You spoke about it at length this morning. You spoke
9 about it at length on Tuesday.

10 A. (Mr. McCluskey) Okay.

11 Q. Do you recall that testimony?

12 A. (Mr. McCluskey) So that's the testimony you're
13 referring to.

14 Q. That's the testimony, yeah.

15 A. (Mr. McCluskey) And the question is what?

16 Q. That you believe this PPA should have been put out to
17 competitive bid.

18 A. (Mr. McCluskey) That's correct.

19 Q. Now, you'd agree with me that nowhere in RSA 362-F is
20 there a requirement that the PPA be submitted for
21 competitive bid?

22 A. (Mr. McCluskey) That's correct.

23 Q. You would agree with me that, if a competitive bid --
24 an RFP for short -- had been put out, then Laidlaw,

1 with its control over the existing, unused
2 67.5-megawatt boiler in Berlin, would have been a
3 responsive, viable bidder with an advantage by having
4 that existing system; correct?

5 A. (Mr. McCluskey) Certainly would qualify to bid. And
6 whether it would have an advantage would depend on
7 the prices that it was willing to bid in at.

8 Q. Well, you're not aware of anyone else having an
9 existing, unused 67.5-megawatt boiler lying around
10 somewhere else in New Hampshire, are you?

11 A. (Mr. McCluskey) That's correct. In fact, you keep
12 saying 67. I'm not aware that the existing facility
13 can produce 67 megawatts. The expanded facility that
14 Laidlaw is referring to could produce 67 megawatts.

15 Q. Are you aware of anybody with a 65-megawatt --

16 A. (Mr. McCluskey) I'm not, no.

17 Q. -- boiler?

18 So someone else who would want to respond to
19 this RFP would have had to build a new boiler;
20 correct?

21 A. (Mr. McCluskey) If the RFP was limited to biomass
22 facilities, then that would be the case. If they
23 wanted to compete, then they would have to develop a
24 new facility.

1 Q. And the likelihood of someone spending upwards of
2 \$245- to \$280 million to create a new plant is
3 somewhat slim, correct, in light of Laidlaw's
4 existing plant?

5 A. (Mr. McCluskey) Well, I think we've actually seen
6 that there are a couple of developers out there that
7 were willing to offer PSNH alternative prices.

8 Q. But neither of those two plants had 65-megawatt
9 boilers in place.

10 A. (Mr. McCluskey) They were generally smaller. That's
11 correct.

12 Q. Yes. And no one else had site-evaluation approval
13 from the New Hampshire Site Evaluation Commission.

14 A. (Mr. McCluskey) At the time the solicited offers came
15 in, I'm not sure whether Laidlaw had site approval.

16 Q. In fact, no one else, to your knowledge, is even in
17 queue for this size of a plant; correct?

18 A. (Mr. McCluskey) To my knowledge, that's correct.

19 Q. And no one else has a site that is connected with
20 municipal sewer and water capable of meeting the
21 needs of the size of a plant such as Laidlaw's?

22 A. (Mr. McCluskey) As I've said, the two that I'm
23 familiar with were smaller. I'm not clear on how far
24 along those projects were at the time that they

1 submitted their unsolicited offers.

2 Q. And no one else, to your knowledge, has existing wood
3 yards, scales, water-treatment facilities, or even
4 the right to withdraw substantial amounts of water
5 from a major New Hampshire river, do they?

6 A. (Mr. McCluskey) As I've said, I'm not familiar with
7 the details of the development of those two projects
8 at the time the offer was made.

9 Q. No one else responding to an RFP, to your knowledge,
10 would have an approximate 60-acre site with
11 additional industrially zoned land adjacent to it.

12 CHAIRMAN GETZ: Mr. Boldt, I think
13 we've covered this area well enough.

14 MR. BOLDT: Well, I had just a few
15 more along those lines, just to make the record
16 clear, Mr. Chairman, if I may be allowed to continue
17 very briefly.

18 CHAIRMAN GETZ: He's already testified
19 a couple times he can't -- he's not in a position to
20 compare what the specifics were of these other
21 potential competitors to the specific facts of the
22 Laidlaw --

23 MR. BOLDT: No, I'm talking about an
24 RFP in general, Mr. Chairman. I'm not talking just

1 about the two unsolicited smaller bids. I'm talking
2 about if an RFP had gone out as he requests --

3 CHAIRMAN GETZ: But he's already
4 testified he doesn't know about the two projects that
5 he's aware of. How can he -- I assume his answer is
6 he's certainly unaware of all the projects that he's
7 unaware of. I don't want to drift into a Rumsfeld
8 moment, but I'm not sure how this is moving along
9 the --

10 MR. BOLDT: I'll try to avoid that,
11 Mr. Chairman.

12 BY MR. BOLDT:

13 Q. A responding party to the RFP would have to have the
14 same things or better than Laidlaw has to have a
15 better bid; correct?

16 A. (Mr. McCluskey) They could have -- unless the RFP
17 specified a certain capacity, there could be all
18 kinds of projects that are put forward to PSNH. The
19 terms of the contract could be different, the size of
20 the contract could be different, certainly the prices
21 of the contract could be different. And that would
22 be up to PSNH to determine what was the most
23 attractive. A smaller project may best fit the REC
24 requirements of PSNH rather than a larger project.

1 Since we haven't developed the RFP, never mind issued
2 it, we really don't know what we would be asking the
3 market to respond to.

4 Q. Are you saying that the RFP has to be developed
5 through your office?

6 A. (Mr. McCluskey) I didn't say that.

7 Q. Just to be clear --

8 A. (Mr. McCluskey) PSNH is a regulated entity.

9 Typically, certainly in Massachusetts, any RFP issued
10 by a utility has to be approved by the regulator.

11 And I would think that the regulator in New Hampshire
12 would also have some input into the contents of the

13 RFP. Ensuring fair play between potential bidders is
14 an important issue, and I'm sure the Commission would

15 want to weigh in on how the RFP was developed.

16 Q. So, simply having an RFP itself doesn't mean that
17 there would be anything different in this PPA.

18 Laidlaw could still have come in, because of its
19 location, the available infrastructure, the job

20 market, the skills available in this community, to
21 still have a winning bid on the RFP for its plant of

22 this size.

23 A. (Mr. McCluskey) If Laidlaw responded to this RFP that
24 we're talking about, it may well have been the

1 winning bidder. But it's quite possible that the
2 prices are very different from the ones that were
3 negotiated.

4 Q. And it's quite possible that it could be exactly what
5 we have today; correct?

6 A. (Mr. McCluskey) It is. But when you --

7 Q. That's all.

8 A. (Mr. McCluskey) If I could finish? When Laidlaw is
9 exposed to competition from other developers, it will
10 be forced to establish prices that it thinks will win
11 the bid and provide the kind of return it's looking
12 for. So I would -- I'd be shocked if the prices from
13 a competitive bid produced the prices that we are
14 seeing in this PPA.

15 Q. But you don't really know. That's just speculation,
16 isn't it, sir?

17 A. (Mr. McCluskey) Well, I think I know how the market
18 operates. That's why we have competitive bids. We
19 want the various bidders to compete against each
20 other and to give customers the maximum benefit from
21 the project, from the purchase that PSNH makes.

22 Q. And you have agreed with me already, but let's just
23 make sure. Based on which variables, this PPA could
24 have a \$300- to \$400 million benefit to the

1 ratepayers; correct?

2 A. (Mr. McCluskey) Depending on the prices that are used
3 to benchmark the PPA, you could have all kinds of
4 outcomes.

5 Q. Mr. Frantz, in your direct testimony, you basically
6 state that you did not perform any analysis, any
7 modeling on your own. You were relying on Mr.
8 McCluskey's analysis and modeling; correct?

9 A. (Mr. Frantz) Well, I was. But I will state that
10 during the development of his testimony, we
11 conferred, as we do in our division all the time. I
12 mean, he talked to me, he talked to others. It's a
13 very collegial environment. And we discussed issues
14 and models and assumptions and what goes into the
15 testimony, including the final writing of it.

16 Q. Certainly. No doubt about it. I'm not expecting you
17 to work in a vacuum. I'm just wanting to make sure
18 that there's not something else that was not produced
19 in your testimony. In essence, everything that was
20 produced in Mr. McCluskey's, you've adopted.

21 A. (Mr. Frantz) I adopted.

22 Q. Correct. So that, if there are flaws in Mr.
23 McCluskey's product, your opinions are equally
24 shaped; correct?

1 A. (Mr. Frantz) My testimony was based on his analysis,
2 as we worked together and went through it. That's
3 correct.

4 Q. And you'd agree with me that, if the public policy of
5 this state is to have a viable forest product --
6 forest economy and renewable portfolio standard, then
7 to have a PPA to meet that standard, it has to be
8 financeable; correct?

9 A. (Mr. Frantz) Well, there's a few pieces to that.
10 Could you read that back for me, please?

11 BY MR. BOLDT:

12 Q. If we assume that the public policy of this state is
13 to have a viable forest economy and a renewable
14 portfolio standard, as stated in the statute, that to
15 meet that standard, a PPA has to be financeable.

16 A. (Mr. Frantz) Okay. Well, the first part is that we
17 need a viable forestry, which we've already
18 established is in the statute. Whether or not that
19 actually, explicitly includes biomass is not explicit
20 in the statute. But let's assume it does. The
21 second part, then, is that we have renewable
22 standards for Class I in this case, which may or may
23 not include biomass. It could just be wind. But if
24 we link them together, I think we need projects that

1 absolutely are financeable.

2 MR. BOLDT: No further questions, Mr.
3 Chairman.

4 CHAIRMAN GETZ: Okay. Thank you, Mr.
5 Boldt.

6 I think we're at a good juncture for
7 the lunch recess. It's quarter of one. I understand
8 the parties need to talk about the briefing issues,
9 so let's resume at 2:00. Thank you.

10 (WHEREUPON, the Day 4 AM Session
11 recessed for lunch at 12:47 p.m. Day 4
12 Afternoon Session to resume under separate
13 cover so designated.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed
Shorthand Court Reporter and Notary Public of
the State of New Hampshire, do hereby
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