

STATE OF VERMONT
DEPARTMENT OF PUBLIC SERVICE

RE: THE ADDISON COUNTY PLANNING COMMISSION'S
REQUEST FOR A DETERMINATION OF ENERGY COMPLIANCE
PURSUANT TO 24 V.S.A. SECTION 4352

October 15, 2018
6 p.m.

14 Seminary Street
Middlebury, Vermont

Public Hearing held before the Vermont
Department of Public Service, at the Addison County
Regional Planning Commission, 14 Seminary Street,
Middlebury, Vermont, on October 15, 2018, beginning at 6
p.m.

P R E S E N T

Vermont Department of Public Service:

June Tierney, Commissioner
Sheila Grace, Special Counsel
Dan Potter, Energy Policy and Program Analyst

Also present:

Adam Lougee, Executive Director, Addison County
Regional Planning Commission

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1 COMMISSIONER TIERNEY: So good evening.
2 Thank you for being here. My name is June Tierney.
3 I'm the Commissioner of the Department of Public
4 Service, and with me tonight are Dan Potter, a policy
5 and program analyst for the Department of Public
6 Service who works on Act 174 enhanced plans and their
7 certification; then to my left is Sheila Grace, our
8 very capable staff attorney who provides the legal
9 counsel and support for those reviews as well.

10 Just to give you a little bit of context
11 for our public hearing tonight this is an opportunity
12 for me to hear from the community members about the
13 proposed energy portion of the Addison County energy
14 plan, and basically what's happening now is -- I need
15 to speak up a little -- the energy plan has been
16 submitted to my office for review and certification
17 under Act 174, and if your plan is deemed to have met
18 all of the criterion that pertain to these types of
19 planning processes and is served by and is compliant,
20 then your plan is entitled to substantial deference
21 from the Public Utilities Commission when Section 248
22 proceedings are underway to site -- among other
23 things, to site energy generation projects and
24 facilities related to that.

25 We don't really know yet what

1 substantial deference means. This is a legal phrase
2 that has yet to be interpreted by the Public
3 Utilities Commission, but the first step to getting
4 there is to have a number of these plans certified
5 and for people who propose to receive Certificates of
6 Public Good under Section 248 with the review that
7 happens under, among other things, this plan.

8 You should know that the provision of
9 Section 248 pursuant to which these regional plans,
10 and to the extent they have been adopted town plans,
11 are considered is just one of many criteria that goes
12 to a Section 248 review for a given project, but it's
13 a very important piece of it because this is where
14 the Public Utilities Commission really gets a window
15 into what the community is thinking about where it
16 wants to locate its generation facilities in order to
17 meet its energy needs going forward. So it's time
18 well worth spending on the planning, and I
19 congratulate the community for a very thorough
20 product that I have in front of me tonight.

21 We'll see how it goes with the ultimate
22 review, but tonight is your night to talk to me about
23 what you think of the plan, comments you would like
24 to have me consider as I weigh the certification, and
25 my understanding is that Mr. Lougee is going to

1 provide a brief overview of the plan; is that
2 correct, Adam?

3 MR. LOUGEE: I will. I'll provide a
4 brief overview of it. I have a couple of extra
5 copies here of just the energy section of the plan if
6 anybody is --

7 COMMISSIONER TIERNEY: Before I hand it
8 over to you --

9 MR. LOUGEE: Excuse me. I apologize.

10 COMMISSIONER TIERNEY: No you shouldn't
11 apologize. I didn't make it clear I wasn't giving
12 you a microphone yet, but just to clarify a little
13 bit about our process we have a sign-up sheet to go
14 around where folks have been good enough to give me
15 their names. Folks here have indicated they are not
16 sure whether or not they actually want to make a
17 comment. There is one definitive no, but we'll see
18 about that, Ms. Brinkman. In any case I will be
19 turning this over to you folks shortly to see if I
20 can change your minds and get you to comment, but
21 before that Mr. Lougee is going to give us his
22 presentation.

23 The last detail is tonight is not the
24 only night to comment. If you walk away from tonight
25 and you say rats there's something I really wish I

1 had taken the opportunity to say, you know we have
2 e-mail, we have snail mail, we have smoke signals.
3 We have whatever. You can contact us. Please do and
4 let us know what's on your mind about the plan, or if
5 you know of neighbors who couldn't make it tonight
6 but wanted to comment, please do it that way. What
7 is our deadline, folks?

8 MS. GRACE: November 6th.

9 COMMISSIONER TIERNEY: So before --
10 until November 6th to get this particular job wrapped
11 up. So any time before November 6th would be just
12 great for comments, and now, Mr. Lougee, if you would
13 kindly give us that overview that would be great.

14 MR. LOUGEE: Very good. Thank you,
15 Commissioner.

16 COMMISSIONER TIERNEY: Absolutely and,
17 I'm sorry, one more thing. We have a court reporter
18 here, a lady I've worked with for nearly 20 years
19 now, JoAnn Carson, and she's a super, super court
20 reporter, very accurate, and I have her here so that
21 I can be absolutely sure I capture everything
22 accurately that you have to say. If you should
23 choose to speak, will you please mention your name at
24 the outset so Ms. Carson can actually write that
25 down. Thank you. Now go ahead, Mr. Lougee.

1 MR. LOUGEE: Okay. Let's see. So there
2 are a couple extra copies of the regional plan
3 floating around. Also if you would like to see it,
4 it is on our web site www.acrpc.org, and it's under
5 the energy section about halfway down the page. I
6 will say most of the people sitting in this room are
7 on my energy committee.

8 COMMISSIONER TIERNEY: So I see from the
9 sign-up sheet, but we do have John Travis who is a
10 citizen.

11 MR. LOUGEE: Yes he is.

12 COMMISSIONER TIERNEY: Very much, Mr.
13 citizen.

14 MS. KURRELMAYER: He's Mr. John Q.
15 Public.

16 COMMISSIONER TIERNEY: Understood. I'm
17 glad to meet you at long last.

18 MR. LOUGEE: So they are all pretty
19 intimately familiar with the plan in that we spent a
20 lot of nights in this room together drafting it.

21 COMMISSIONER TIERNEY: You sound a lot
22 like you're trying to get out of your homework, Mr.
23 Lougee, however, I'm not going to let you off the
24 hook because we have a transcript here and the
25 transcript is going to be posted and there's always

1 Jane Doe public who may choose to have a look at the
2 transcript. So if you wouldn't mind --

3 MR. LOUGEE: Excellent.

4 COMMISSIONER TIERNEY: Thank you.

5 MR. LOUGEE: Good. So in drafting this
6 plan we -- the Department put out guidelines for
7 elements that the regional plans all needed to
8 contain. This plan largely reacts to make sure that
9 we included all the maps and all the strategies,
10 target strategies for thermal use, electrical use,
11 transportation use, land use that needed -- that were
12 needed to satisfy those criteria. Each of those
13 constitute chapters within the plan.

14 So starting off with existing uses,
15 Addison County is moving towards thermal targets.
16 These were targets that were developed with the
17 Public Service Department and the Regional Planning
18 Commissions and the Vermont Energy Investment
19 Corporation, and then pathways to implementation.
20 When we focused on our pathways to implementation we
21 focused largely on things that the Regional Planning
22 Commission or our member municipalities had control
23 over. You will see a lot of educational targets.
24 You will see a lot of targets for municipal work.
25 You will see some targets specific to the Regional

1 Planning Commission. We did not propose any new
2 taxes for landowners nor did we think we could tell
3 them they had to buy electric vehicles or heat pumps,
4 but we do include a lot of educational material about
5 how important those things are for this plan and the
6 state's energy plan which this supports and feeds
7 into to work successfully.

8 Some I guess I'll say maybe unique or
9 interesting focuses of our plan that may be a little
10 bit different from some of the other regional
11 commissions at a regional level we chose to use the
12 constraints that were basically developed with the
13 Center For Geographic Information Systems. So we do
14 did not add any regional layer of constraints on to
15 the constraints either -- well the natural resource
16 constraints that were adopted at the state level
17 either as known constraints or possible constraints.
18 So they are -- it's basically what existed from the
19 GIS layers. We, my committee and I, decided that we
20 thought it would be more appropriate for the towns to
21 decide where they wanted these, where they didn't
22 want these. The Green Mountain National Forest is a
23 large section of the mountainous area of Addison
24 County.

25 COMMISSIONER TIERNEY: Vermont.

1 MR. LOUGEE: Well in both spots. A lot
2 of the highest spots in Addison County are wilderness
3 areas so we felt that those as wilderness areas they
4 would take care of themselves so we didn't have some
5 of the issues that other regions did, and we've also
6 had a lot of solar development in Addison County and
7 already a lot of our municipalities have come to
8 differing opinions on mass.

9 So, for example, we have had the Town of
10 Panton and probably I suspect the Town of Ferrisburgh
11 will both have 5 megawatt solar facilities in them.
12 So about 40 acres, but have decided to work with GMP,
13 the utility, and allow them and basically get some
14 other benefits for their towns like storage in
15 return. So rather than talking about mass and scale
16 of some of these things we also decided that we would
17 be silent to that.

18 We did include pretty extensive siting
19 guidelines that are site specific. So what we think
20 a good site looks like, what we think a bad site
21 looks like, which is similar to the siting exercise
22 that the state committee went through last year. We
23 tried to frame those in a way where they would be
24 appropriate for consideration under both criteria 248
25 (B) (1) and 248(B) (5) and specifically the aesthetic

1 criteria so that we use the Quechee analysis and the
2 undue adverse impact as a way to create those
3 guidelines. So we think they should work well before
4 the Public Utilities Commission.

5 COMMISSIONER TIERNEY: A lot of people
6 think that. Sorry.

7 MR. LOUGEE: Hope springs eternal.

8 COMMISSIONER TIERNEY: It has to. Now
9 more than ever.

10 MR. LOUGEE: Let's see. Getting to the
11 -- basically the summary, the state plan calls for 90
12 percent renewables by 2050. We believe this plan
13 supports that goal in that, especially looking at the
14 land use target strategies, there is -- given that we
15 did not place at the regional level a lot of
16 constraints on where this type of development could
17 take place, the potential vastly exceeds the amount
18 that Addison County would need to satisfy its
19 targets. We are also blessed with about 90 megawatts
20 I believe of hydro capacity in the region. So
21 already we have about 136 I believe megawatts. We're
22 projected to use about 260 megawatts and that's
23 projected to stay flat out to 2050. So we felt that
24 the -- that we could basically reasonably implement
25 the target -- the remaining target given what we have

1 here to begin with, and basically work with those
2 calculations to put this plan together.

3 COMMISSIONER TIERNEY: Excellent. Have
4 you anything else to add?

5 MR. LOUGEE: Not at this moment.

6 COMMISSIONER TIERNEY: Okay. Well thank
7 you very much for that summary and so I'm going to
8 turn to the portion where I talk to my new friends.

9 First let me begin by thanking you for
10 your public service and your devoting time and effort
11 to this complicated endeavor. I have to tell you the
12 other day I was with the Governor in Caledonia County
13 at a landfill there, and they had a very interesting
14 exhibit that showed the different layers of the
15 landfill, and they told me that a bag of trash in a
16 plastic bag takes about seven years to decompose
17 before it yields a gas that can then be used to
18 generate electricity, and I don't know about you
19 folks, but I've arrived at that stage in my life when
20 seven years doesn't sound all that long any more, and
21 it just made me appreciate again the importance of
22 thinking ahead and planning for the future that we
23 want and that you may want to make possible for the
24 people in your care who are on this planet.

25 So our horizon in the energy world is a

1 little longer than seven years and it's important to
2 preserve a degree of flexibility because there's a
3 fine line between being foresightful and thoughtful
4 good stewards of the future and being that dead hand
5 that controls from the grave and locks people into
6 something that isn't of their choosing at the moment
7 when it's by rights their turn to choose.

8 So I very much look forward to hearing
9 from Dan and Sheila their assessment of the plan as I
10 work my way through it myself for certification
11 purposes, but at this point I respect that I have a
12 maybe, a two not sures, a blank, a line, really Mr.
13 Grip is it?

14 MR. GRIP: Grip.

15 COMMISSIONER TIERNEY: I can't talk you
16 into saying something please?

17 MR. GRIP: This was -- this was quite an
18 effort and I think that we did a pretty good job of
19 accommodating some divergence of opinions, but we
20 were pretty united in acceptance of the state goals
21 and the intent and recognized the importance of this
22 issue. I personally feel like this is the issue of
23 our generation and we need to -- we need to address
24 it. We need to address it aggressively.

25 COMMISSIONER TIERNEY: Well I would go

1 you one step further, Mr. Grip, Jeremy Grip, and say
2 it's a very interesting way to look at it. It's the
3 issue of many generations and that's what makes it so
4 compelling. For each generation they could say that
5 and when you put it in the collective you begin to
6 understand just how consequential this is. So thank
7 you for that observation and thank you for being such
8 a good sport. Were you involved as part of the
9 ACRPC; is that right?

10 MR. GRIP: Yes.

11 COMMISSIONER TIERNEY: Thank you.
12 Appreciate that.

13 MR. GRIP: I was the chair.

14 COMMISSIONER TIERNEY: You were the
15 chair; is that right? Well double thank you for that
16 service. I'm the chair or briefly the chair of the
17 Nuclear Decommissioning Citizens Advisory Panel for
18 the Vermont Yankee plant and I was very relieved to
19 only briefly be chair. I know such a plan doesn't
20 get written overnight so your tenure must have been a
21 good bit longer than mine. So thank you. I'm going
22 to skip over the emphatic no sitting next to you and
23 come back to her later in the hope of shaming her,
24 and so I'm going to go to Mr. Conrad. Is it Ross
25 Conrad?

1 MR. CONRAD: Yes.

2 COMMISSIONER TIERNEY: You have a maybe
3 here. Can I move you to a yes?

4 MR. CONRAD: Well I'm usually not one to
5 be too shy about sharing my opinions.

6 COMMISSIONER TIERNEY: So let's hear it,
7 Mr. Conrad. I think you have earned that if you have
8 done your time on the commission.

9 MR. CONRAD: Well yeah I was part of the
10 energy committee. Personally I, you know, I don't
11 think this plan or the state's planning goals goes
12 far enough and fast enough to what really, really
13 needs to happen, but I think it's what for the most
14 part trying to take everyone's opinions into account
15 it's kind of a middle ground in my view.

16 COMMISSIONER TIERNEY: Well, you know, I
17 was reading a book not too long ago. It was called
18 The Water Will Come, and my own story very briefly is
19 that I lost a home in Tropical Storm Irene, but I'm
20 just fine. I am just fine, but it really made an
21 impression on me about what is happening in our
22 world. So I read these books just to stay current in
23 my thinking, and there was a chapter about President
24 Obama visiting Alaska and it mentioned ice shelves
25 falling into the ocean and the like, and like you

1 there was somebody -- a journalist traveling with him
2 saying basically dude what are you waiting for we've
3 got to move, we've got to move very, very quickly,
4 and you know Mr. Obama, who is a more than average
5 intelligent person, said to him you know I get it.
6 You get it. My kids get it, but you have to bring
7 everybody else along. That's the way it is because
8 these kinds of plans don't stick. They don't have
9 staying power if you don't bring a consensus along
10 with you.

11 So I can appreciate your impatience in
12 the best sense of the word, but it's wise to try to
13 set a pace that others can keep up with who are
14 perhaps not of equal conviction to the urgency of the
15 question. You're about to say something and I owe
16 you that courtesy so why don't you tell me what I
17 have inspired in thought.

18 MR. CONRAD: Well it is also my
19 understanding that this plan is not like set in
20 stone.

21 COMMISSIONER TIERNEY: Exactly.

22 MR. CONRAD: It's kind of a working
23 document so it can be updated and amended as needed.
24 So I look forward to that being part of the process.

25 The only question that I really had was

1 it's my understanding if this plan is approved the
2 Regional Planning Commission here in Addison County
3 will allow the Regional Planning Commission to
4 approve other towns' plans, and yet I think the
5 approval of other plans is very different than having
6 a good plan ourselves, and it's not clear to me what
7 the criteria are for the Regional Planning Commission
8 to be approving other plans and making that judgment.
9 It's not like in here it tells you that kind of
10 thing. So that's something that wasn't -- that's not
11 been made clear. Maybe the information is out there.
12 I just haven't seen it or heard about it or maybe it
13 still needs to be developed.

14 COMMISSIONER TIERNEY: I think the
15 information is out there and what I would recommend
16 that you do, because you strike me as somebody who is
17 quite serious about the subject matter, that you feel
18 free to contact either one of the people here with me
19 tonight. Sheila is an attorney and Dan is very
20 experienced in planning, and either one of them can
21 help you find the information you're looking for. If
22 I'm not mistaken, there is a framework about this and
23 those criteria do already exist. I want to go one
24 step farther and say that the Regional Planning
25 Commissions use a version, if not identical to the

1 one that I use to approve this plan, but don't hold
2 me to it because in this position I'm not practicing
3 law and I get to say that for a change, but she is so
4 please feel free to speak with Ms. Grace. Did you
5 have anything else or are you good?

6 MR. CONRAD: At this time I think I'm
7 good. Thank you.

8 COMMISSIONER TIERNEY: Okay. Very good.
9 Is it Mr. Grant? I'm so soft spoken I apologize.
10 People have been on me for years so --

11 MR. GRANT: I forgot my hearing aid.

12 COMMISSIONER TIERNEY: Oh that's even
13 worse. It happens to me when I forget my readers I
14 personally am useless. You at least obviously have a
15 use without your hearing aid.

16 MR. GRANT: Well I have had readers for
17 years, but the hearing aid is new so it's not a
18 habit.

19 COMMISSIONER TIERNEY: I can see you
20 have a lanyard too and I need to accept that and
21 start using that.

22 MR. GRANT: It's ready to go.

23 COMMISSIONER TIERNEY: Smart. Well now
24 you know what I basically want which is will you be
25 commenting? Do you have any comments to make

1 tonight? I'm sure you do if I just talk -- beg you
2 nicely.

3 MR. GRANT: If you're really begging me,
4 I really don't understand the semi-volunteer system
5 going on here. Like the state has certain qualities
6 that they would like towns to put into their town
7 plans and we're ready to help them do that if they
8 want, but it's volunteer. For instance, if town X
9 doesn't want to bother making a plan for solar panels
10 and you try to tell them you know without a plan they
11 can put them anywhere they want, even in your school
12 yard, they still go well we'll see, wait around, and
13 I think that we need a heavier foot if we want them
14 to do that. If they don't mind having solar panels
15 and, you know, in the middle of their town green,
16 then that's their problem, but it's part of Vermont
17 and we want to have Vermont all up to date and
18 looking good.

19 Then we have another problem, traffic
20 area. We're trying to -- sort of talking trucks into
21 going to a windy narrow road, main truck route from
22 the rest of the world to the northeast, and instead
23 of going up the main road they are going now because
24 we don't want them to go through the city any more,
25 and then you say how in the hell are we going to get

1 trucks to follow that windy messy road unless you
2 rebuild it -- the whole thing, and it's a straighter
3 road which is another big problem.

4 So anyway that's my question how the
5 state is hoping that people will follow their ideas
6 besides trying to meet your requirements if they
7 change the town, but they don't have to change the
8 town plan's energy system, do they? They can leave
9 it as it is and you don't have to approve anything.

10 COMMISSIONER TIERNEY: That is correct.
11 My understanding is that communities engage in this
12 planning if they wish to exercise greater control
13 than if they have none at all, and to some extent
14 this is an outgrowth of a good 10 to 15 years of
15 litigation that we've been experiencing around the
16 siting of renewable projects in the state in the
17 absence of this kind of planning and is almost
18 complete deference to the Public Utility Commission
19 in making these decisions under Section 248.

20 So there was, if you will, a ground
21 swell or a very significant push by an accumulated
22 sense of citizens who have made that felt in
23 Montpelier that we need to be doing something more
24 affirmative and more structured so that we can be
25 sure local communities and regions have a greater say

1 in how this goal is achieved in concert with
2 prevailing values and other considerations in our
3 landscapes and our communities.

4 MR. GRANT: 25 years ago our town plan
5 was like 10 pages.

6 COMMISSIONER TIERNEY: And now it's more
7 like a bible.

8 MR. GRANT: Because people didn't want
9 to have all this planning.

10 COMMISSIONER TIERNEY: Yes. This is
11 true. I mean there's a fascinating book called --
12 it's about a dirt road, The Fast Ride On A Dirt Road
13 or something like that. It was very interesting to
14 me because I read it as a law student when I first
15 came to Vermont in 1990, and it really brought home
16 to me the long standing debate around Act 250 and the
17 process by which we came to adopt that statute, and
18 the larger regulatory vision that the state
19 government had at that time about how that should fit
20 with regional planning and actually statewide
21 planning, and that was never fully realized because
22 the political will wasn't there to adopt a statewide
23 plan for land use, and so I think the lesson of
24 history from that informed how Vermonters have
25 approached energy planning and, in other words,

1 people have known better than to try to lock
2 everything into a state plan because it does not go
3 over well in this state with 14 counties and 160 some
4 odd plus towns that all have very individualized
5 characters and a very, very sincere desire to be self
6 determining.

7 MR. GRANT: But you can still see the
8 difference when you drive from New York State into
9 Vermont.

10 COMMISSIONER TIERNEY: Indeed you can
11 and I think that's probably why because we're so
12 fiercely assertive when it comes to our identity as
13 communities, but anyway to your point I very rarely
14 hear there should be a heavier foot of state
15 government on anything, and I think I understand the
16 context within which you are making that comment and
17 it's not far off from what Mr. Conrad is saying about
18 how we need to get going on these plans, and I think
19 you have done very well to do the planning that you
20 have done, and you have to trust the wisdom of the
21 crowd so to speak that the job is going to get
22 finished in a manner that will enjoy legitimacy in
23 the state, and I realize I'm doing more talking than
24 you are and that's not the idea here. So let me be
25 quiet now and thank you for indulging me.

1 MR. GRANT: One more question.

2 COMMISSIONER TIERNEY: Please ask a
3 question.

4 MR. GRANT: How did they get that sign
5 law years and years ago because I'm sure a lot places
6 like motels who would want to have roadway signs
7 saying stop at Joe's motel 10 miles. How did they do
8 that? Big foot.

9 COMMISSIONER TIERNEY: No I wouldn't say
10 it was a big foot as much as there were a handful of
11 people who intimately understood how our landscape
12 was being transformed by wild west free attitude
13 toward development principally in the ski industry
14 and second home industry, and there was a recognition
15 that if we don't put some parameters on this we're
16 going to find ourselves looking nothing like Vermont,
17 and worse still, though, it would follow
18 environmental degradation of our resources because of
19 careless development.

20 So really if you're very interested in
21 the topic you should look into some of the history
22 around Governor Hoff and Governor Dean Davis's
23 administrations and you will find answers to your
24 questions I think. Mr. Conrad, another comment.

25 MR. CONRAD: May I ask a question

1 following up on what Mr. Grant has said?

2 COMMISSIONER TIERNEY: Why don't we do a
3 little bit of town meeting style tonight. Yes why
4 don't we.

5 MR. CONRAD: So it came into mind if a
6 community chooses not to do enhanced town planning
7 for the energy portion of their plan, but the Addison
8 County Regional Planning Commission's plan does get
9 approved and we have an enhanced plan, can we, if we
10 chose to, step in during hearing process to push for
11 something that isn't necessarily -- the town doesn't
12 have a lot of say in but would go with our plan and
13 kind of support towns that haven't done this process
14 in that way? Is that --

15 COMMISSIONER TIERNEY: So this is the
16 moment where as a recovering lawyer I'm supposed to
17 say that counsel will address the question, but you
18 know what. I don't want to be disingenuous so
19 instead what I will say is let me attempt to answer
20 that very quickly if you will hold me harmless
21 because I'm not practicing law, and Ms. Grace will
22 answer questions if I say something terribly wrong
23 and you want to follow up in greater detail.

24 I have a liability of having been the
25 most immediate past general counsel of the Public

1 Utility Commission so I'm burdened with more
2 knowledge than I want about the law in this regard,
3 but basically what you have asked is can we intervene
4 or can we participate in Public Utility Commission
5 proceedings when a town that does not have a plan is
6 the subject of a site for a project, and the answer
7 to that is yes you can, and to be perfectly clear you
8 can try to, and then it's incumbent on the Public
9 Utilities Commission to decide whether to permit you
10 to intervene, and they are very -- they are very
11 accommodating in applying those standards for
12 intervention. So it's definitely worth a try.

13 Beyond that you needn't necessarily be a
14 party intervening in order to make your views known.
15 They may not be necessarily binding on the Public
16 Utility Commission, but my sense from you that what
17 you have in mind is to at least state the views so
18 that the Utility Commission has the benefit of
19 knowing what you think and can be at least mindful of
20 that in asking questions and assessing application,
21 and to that end you needn't be an intervenor, you can
22 simply write or you can attend. I don't know whether
23 they would let you speak if you are not a party, but
24 if you're not there you sure as heck can't.
25 Depending on what your ability is to go and take

1 chances or contact them you can do that.

2 MR. CONRAD: This is more about more
3 than just expressing views. This would be about a
4 town didn't get an enhanced plan, they have got a
5 project that's proposed, they have got issues with
6 it, but because they don't -- they only have due
7 consideration which tends to be not a whole lot of
8 consideration generally.

9 COMMISSIONER TIERNEY: I will push back
10 on you just a little bit.

11 MR. CONRAD: Okay.

12 COMMISSIONER TIERNEY: That's where the
13 who of the Public Utilities Commission very much
14 matters and the period of time in which due
15 consideration felt like it meant next to nothing was
16 a very different time with a completely different
17 membership on that Commission. Since that period of
18 time we have three members who have never been the
19 authors of those opinions. So I wouldn't --

20 MR. CONRAD: Let's assume at some point
21 in the future the Commission changes and we go back
22 to this other time.

23 COMMISSIONER TIERNEY: Yes. I invited
24 this so I'm going to have to deal with this.

25 MR. CONRAD: Would the Regional Planning

1 Commission, if we had an approved plan, be able to
2 kind of stand in for the town without an approved
3 plan to fight for what their position might be if we
4 chose to and have standing that would help a town
5 through that. Even though they didn't go through
6 this process we could kind of do it for them if you
7 will? Lack of better terms.

8 COMMISSIONER TIERNEY: I understand very
9 well what you're asking and the way I would answer
10 that is to say that I probably have reached the limit
11 where I can go with you on this and you can
12 understand that I'm being sincere in that, but it's a
13 very good question worth looking at, but you used a
14 very technical term standing, and the short answer to
15 that is no the Regional Planning Commission would not
16 have standing for the town. That's a very technical
17 legal term, but I would be loathe to sit here and
18 tell you that I know absolutely the answer to your
19 question. That's something worth exploring with
20 counsel or through your own reading because my
21 experience is that with many things in the law you
22 don't need to be a lawyer in order to make an
23 effective argument. You just need to be a critical
24 thinker.

25 So I would encourage you to pursue your

1 thinking, and forgive me for not giving you a more
2 detailed answer and you might consider giving Miss
3 Grace a call. She will talk you through that. We'll
4 call it legal yoga in my office. It's the one where
5 I ask Sheila to stretch and she says but Commissioner
6 that hurts.

7 I'm going to move on, Mr. Conrad. That
8 was a very adroit way in which you asserted yourself
9 into Mr. Grant's question, and I have to work my way
10 down to Mr. Travis who is the citizen John Q. Public.
11 Now you say you're not sure, but I'm hoping you're
12 sure now and you really do want to say something
13 tonight.

14 MR. TRAVIS: No. I defer to the
15 committee members.

16 COMMISSIONER TIERNEY: That's the
17 problem with John Q. Public. John Q. Public is
18 always deferring to other people, but you have been
19 kind to entertain it. Maybe you will change your
20 mind again when I tell you I'm aiming for batting a
21 thousand. You don't have to decide now. I'm going
22 to move to Ms. Kurrelmayer is it? Perhaps that will
23 change your mind after that. Go ahead, Miss
24 Kurrelmayer. Do you have a comment you would like to
25 make?

1 MS. KURRELMAYER: Well I have been
2 thinking about what some of the other folks have said
3 and some of the things you have said about planning
4 and the town I represent, and it seems -- because my
5 town didn't want to have anything to do with
6 planning. They wanted the town to stay the same.
7 Their idea of a town plan would be to build a wall
8 around the town, and what they have come to realize
9 over the 30 plus years of -- since planning has come
10 into our lives that it actually takes more thinking
11 and more planning to make sure things stay the same
12 than it does to implement change, and so they have --
13 really in some ways have figured that out and made
14 concessions to -- in their planning to make sure some
15 things stay the same, but actually they have embraced
16 change more than I realized they would, but I think
17 that's what's happened in many communities is that
18 they realize it actually takes more time and effort
19 to make sure things don't change.

20 COMMISSIONER TIERNEY: That's
21 fascinating.

22 MS. KURRELMAYER: One of the things that
23 in discussion with the Selectmen in my town
24 concerning moving into the extra added energy
25 planning is on the idea of selecting areas where, you

1 know, we would prefer things like solar panels be
2 erected, and one of the problems we have had in
3 considering this is if -- it's a small farming town.
4 There's not much there, but if you say well this area
5 is good because it's out of sight, it's near the
6 power line, it's -- eventually it's going to come
7 down to saying that this landowner has deference over
8 that landowner in terms of being able to put, you
9 know, a successful economical solar array up, you
10 know, one that would make money, and how do you --
11 how do you get around saying that one landowner is
12 worthy of it whereas another one -- I mean it's going
13 to look like you're playing favorites so that one
14 landowner can make money and another one can't, and
15 that's -- that's one of the issues that's come up as
16 we've thought about choosing selected spots for where
17 we would like solar panels to be put up.

18 I mean there's plenty of solar panels
19 already up in town, but it's -- they have been put up
20 by people who live and own land in town themselves.
21 So they have sited them in ways that keep them out of
22 the way of the public and keep them out of sight as
23 much as possible. The only one we had that was going
24 to plunk it down in the middle of a busy intersection
25 which would have ruined a viewshed that just was

1 iconic, the only one that wanted to do that was
2 someone who was -- didn't live in town. They bought
3 a piece of land. They were going to put up the solar
4 array and they didn't care. They didn't live there
5 and they didn't care about what it looked like. They
6 didn't know anything about the town, and even the
7 staunchest property rights owner believers in town
8 said that was a terrible spot to put it. So in terms
9 of finding good spots to put the panels how do you
10 get around saying that one landowner gets it and
11 another doesn't.

12 COMMISSIONER TIERNEY: That's a very
13 interesting observation, and what I would add to that
14 is better you than Montpelier so -- and that's part
15 of the -- to pick up on a theme we had a moment ago
16 why this planning process is something to embrace,
17 however imperfect it may be, it's a genuine attempt I
18 think by the Legislature that has in its collective
19 wisdom embarked on the vision of a renewable energy
20 future to be responsive to a citizenry that is saying
21 yes we want to do this, but we want to do it in a
22 manner that is -- that is duly respectful of our
23 ability to some extent control our destiny.

24 MS. KURRELMAYER: I think the people who
25 worked and wrote this plan were extremely clever

1 because it is as much an economic development plan
2 for the state to keep the money we're spending on
3 energy in the state rather than sending it out. So,
4 you know, to use that front and center as a way to
5 get everybody on board was, you know, amazing. That
6 was really an excellent idea, and I think even if
7 people don't believe in or care about the benefits of
8 reversing climate change, to see right away the
9 benefits of economic development for the state
10 without ruining the state in many ways is terrific.

11 COMMISSIONER TIERNEY: It is and what
12 you're putting your finger on too is a very ancient
13 issue in utility history and regulation because
14 before we dealt with this particular problem of where
15 to site distributed generation of a renewable
16 character we were dealing with where is the line
17 going to go, whose land is going to be burdened by
18 the pole, who is going to make money off a
19 right-of-way versus who is going to be dispossessed
20 through condemnation.

21 MS. KURRELMAYER: That's what we're
22 dealing with.

23 COMMISSIONER TIERNEY: Precisely. This
24 is a legal nerd student telling you the issue is not
25 new and it's never been comprehensively or

1 definitively settled, but it's a perennial in our
2 civic world or our civic context and in our relations
3 with each other which in turn is why process by which
4 these questions are subject settled is so important
5 and should be a process that is accepting of many
6 participants not just a single process that only is
7 accessible to the few who are licensed to take
8 advantage of it or who know how to take advantage of
9 it and they have clients.

10 So I don't know that I'm giving you
11 satisfaction, but I am trying to give you comfort in
12 saying that the realistic view is that is a problem
13 that's never going to go away.

14 MS. KURRELMAYER: Well because there
15 can't be a definitive answer because every situation
16 is going to be different by necessity.

17 COMMISSIONER TIERNEY: That's right and
18 sensibilities change too, and this is kind of what I
19 was getting at about being visionary, not being the
20 dead hand controlling from the grave. A solar panel
21 is ugly today let's say for the sake of discussion.
22 If kids are sent off to Saudi Arabia to die so we can
23 bring that last barrel of oil home because we need
24 that barrel of oil, those panels are simply not quite
25 so ugly. Some people would say that is my point or

1 last winter when we had a pretty close call with
2 natural gas in the region and I spent the good part
3 of New Year's Eve coordinating calls from home with
4 our utilities and the Governor's Office and Secretary
5 of Transportation. You know we were making sure that
6 Vermonters weren't going to be cold and that there's
7 going to be enough gas around, but you know Boston
8 was in some serious trouble, and when those moments
9 come the ability to generate our own power is
10 suddenly much more precious than we realize. So
11 change of context catches up too in this process.

12 MS. KURRELMAYER: Sure, but like I said
13 the way it's been cloaked with economic development
14 is very -- that's -- that was really well done
15 because if you want to get rid of some of the -- iron
16 out these energy wrinkles, you have to make it -- I
17 mean the plan has to work for everyone or it's not
18 going to work at all, and if by attacking it as
19 economic development is the way to get it done, then
20 --

21 COMMISSIONER TIERNEY: Indeed.

22 MS. KURRELMAYER: I'm just not sure that
23 you're getting -- that the state is getting the word
24 out about the plan because nobody seems to know about
25 it. It's not coming up as a topic of conversation in

1 the -- between the candidates for Governor.

2 COMMISSIONER TIERNEY: Forgive me.

3 Which plan are we talking about? The Comprehensive
4 Energy Plan?

5 MS. KURRELMAYER: Yes. The
6 Comprehensive Energy Plan.

7 COMMISSIONER TIERNEY: Now I'm going to
8 say --

9 MS. KURRELMAYER: And the fact we need
10 to get moving pretty quickly if we're going to get to
11 75 percent by 32 and 90 percent by 2050. I mean
12 that's coming up pretty quick.

13 COMMISSIONER TIERNEY: So I'm going to
14 revert to form here and say that that's not for me to
15 comment on. I thank you for your comment on it
16 though.

17 MS. KURRELMAYER: It seems like the
18 state has put out this plan and it's not publicizing
19 it at all. It doesn't feel like it's being
20 publicized except maybe through RPCs, but we don't
21 have, you know, an advertising budget.

22 COMMISSIONER TIERNEY: Got you and I
23 appreciate that observation. Mr. Grant, before I
24 come back to you I am going to see what our other
25 folks in the room are feeling by way of appetite and

1 then we'll come back to you. How is that? I'm still
2 going to skip over Ms. emphatic no, that would be Ms.
3 Brinkman, hoping to shame her into comment, but we
4 have two people who have joined us this evening that
5 have -- Ms. Bailey and Mr. Dayton, is it? Would
6 either one of you care to give a public comment on
7 the plan? Ms. Bailey.

8 MS. BAILEY: Yes. I've been thinking a
9 lot about the new IPCC report which shows that we
10 have a shorter window than we thought to become
11 energy independent, and I'm wondering --

12 COMMISSIONER TIERNEY: This is the
13 International Panel on Climate Change?

14 MS. BAILEY: Yes. I'm wondering how
15 that will affect you as a Commission because I see
16 two things. In doing the energy planning, although
17 I've also worked here as regional, I'm also now
18 involved with my town.

19 COMMISSIONER TIERNEY: Excellent. I
20 knew there was somebody like you here tonight.
21 Couldn't get enough of it.

22 MS. BAILEY: You know. I've been a long
23 time involved in this. We've been seeing each other
24 in different venues which is very nice. When I look
25 at the figures for the requirements for my particular

1 town as far as how much renewable energy we need to
2 produce, it looks like a lot is loaded at the end for
3 requirements and not a lot in the first group of
4 years, and that concerns me as I see the IPCC report
5 which I'm hearing one decade to two decades we have
6 to be energy independent. So I'm wondering if
7 there's a way that you folks would be looking at it
8 differently with that new information as far as how a
9 town plan or our region's plan would be accepted if
10 we did not put more emphasis on the early years.

11 The other thing I'm wondering about is
12 the natural gas emissions. I just spent 15 minutes
13 on Route 7 earlier today while they are digging the
14 transmission line down to East Middlebury from here,
15 and then I look at the IPCC report and it doesn't
16 match up with the reality that we have basically
17 given Vermont Gas the permission to develop the whole
18 state with natural gas.

19 COMMISSIONER TIERNEY: Not the whole
20 state. 41 miles.

21 MS. BAILEY: Yeah, but there's more
22 plans for them to even develop further out than just
23 coming to Middlebury. You know it's math and such
24 already. So I'm wondering how that will figure in,
25 in that, and the early years not being as aggressive

1 in these energy plans how that will figure in with
2 how the Commission will look at applications for new
3 energy development.

4 COMMISSIONER TIERNEY: I want to be
5 clear about one thing and that is I am not the
6 Commission. I am the Commissioner of the Department
7 of Public Service, and I'm sensing your question to
8 some extent the reference to the Commission is the
9 Public Utility Commission or no?

10 MS. BAILEY: You're right.

11 COMMISSIONER TIERNEY: So let me speak
12 to that piece and the answer is very easy. I don't
13 know, but I do say this with all sincerity and that
14 is that it takes your voice to make it possible for
15 the Commission to be aware of the kind of
16 distillation of facts and analysis that you're
17 offering here tonight. So that I have to tell you
18 public comments are sincerely valued in the process.
19 They are considered and they often -- very often -- I
20 know in my own experience it's true they inspire the
21 kinds of questions that you want these people to be
22 thinking. In other words, if you are teeing it up as
23 elucidly as you just did and you are conveying that
24 to the Public Utility Commission or to the
25 Commissioner of the Department of Public Service and

1 was able to infer that to them, that puts them in a
2 position to consider the point that you have
3 expressed, the cogent analysis, and to then think
4 where their discretion allows these things to be
5 considered or to explain how their discretion does
6 not, and thereby making it clear that the line of
7 approach on an issue that maybe perhaps doesn't lie
8 in that form or through my agency as much as it lies
9 in the Legislature where I have to say, you know,
10 this plan tonight is a very concrete and meaningful
11 outcome of citizen engagement with the Legislature to
12 force this because Act 174 wasn't going to happen.
13 It didn't just happen out of nowhere. It happened
14 because legislators were engaged and Executive Branch
15 agencies were engaged, and the shared understanding
16 came to be that we needed to do something like this.

17 So I imagine that's not -- it's me and
18 my trademark soft way of deflecting, but it's for
19 good cause and I do thank you for the comment though.
20 It's very cogent. Mr. Dayton, have you a comment
21 tonight?

22 MR. DAYTON: I do not.

23 COMMISSIONER TIERNEY: Mr. Dayton, you
24 strike me as somebody who could comment so I'm going
25 to go to the party of no now and say Ms. Brinkman

1 will you help me shame Mr. Dayton into making a
2 comment.

3 MS. BRINKMAN: First of all, just stop
4 using the word shame because --

5 COMMISSIONER TIERNEY: Invite.

6 MS. BRINKMAN: There you go.

7 COMMISSIONER TIERNEY: Okay.

8 MS. BRINKMAN: As opposed to becoming so
9 negative. The reason why I said no was because I
10 thought this was like a formal statement, but if
11 we're having a discussion, yeah I'm all about
12 discussion.

13 COMMISSIONER TIERNEY: Well I'm choosing
14 to have a discussion. In natural order I would not,
15 but I can see that people are here tonight who would
16 like to engage and we're not potted plants and this
17 is Vermont and we are able to do this, and so I'm
18 trusting all of you to not abuse the process and I
19 don't want to be negative so you're all for the
20 discussion. Maybe you will inspire Mr. Dayton. So
21 go ahead.

22 MS. BRINKMAN: I do have just a couple
23 observations in going through this process. One of
24 the things that I think we felt the most frustrating
25 part of writing this plan was coming to the sections

1 for like action that we needed to like take to
2 inspire the other -- our other communities to take
3 action, and we're always coming around to well how
4 can we make that happen. You know we can suggest
5 that this happens and suggest education and put out
6 some web sites for potential financial assistance,
7 but it's very frustrating when really all you can do
8 is kind of nudge. It's like the state is nudging the
9 regional plans and then we're nudging the
10 municipalities and they are like nudging their
11 citizens, but there isn't -- it's frustrating because
12 there aren't really tangible actions that you can
13 really take. It was hard to come up with words --
14 more words to suggest educational pieces and maybe
15 give presentations. I think that was a little bit
16 frustrating because you're working without real
17 action.

18 COMMISSIONER TIERNEY: If I may
19 reciprocate here, this is a conversation that I
20 frequently have with the Legislature around
21 telecommunications where we have a legal obligation
22 to have a telecommunications plan that looks out 10
23 years and then we have certain urgent connectivity
24 issues in this state that demand action yesterday,
25 and so somebody like you would be frustrated perhaps

1 to be commissioned to execute on a 10-year plan that
2 speaks in lofty terms and safely unspecific and so
3 forth when what you really want to know is how are
4 you going to get broadband built to Cornwall or some
5 place. They may have it though so wrong example, but
6 my heart was in the right place. Bethel Vermont,
7 let's say that. Even after they have more
8 connectivity, but anyway what I frequently have to
9 try to persuade the Legislature to remember is that
10 there's a difference between a plan and a 10 point
11 action bulletin; and what you're describing, if I
12 understand you correctly, is the frustration
13 recognizing the need for that 10 point action
14 bulletin and doing that in the context of talking
15 about a plan that is sort of gauzey and has a lot of
16 -- what's the word I want -- hortatory language or
17 you exhort people to do things when you really want
18 to mandate them.

19 MS. BRINKMAN: Or at least find a way
20 for that to actually happen because one of the
21 frustrations is we recently had a public forum and my
22 aspect was energy planning for the future and there's
23 no shortage of people that want to do the right
24 thing, but the frustration is having no finances to
25 do that. You know there just isn't enough monetary

1 incentives to go along with this that actually makes
2 it really work for individual towns.

3 COMMISSIONER TIERNEY: Go along as in
4 specific actions to mitigate damage to the
5 environment, greenhouse gas emissions, and to deploy
6 renewable energy?

7 MS. BRINKMAN: Yes. So what we're
8 encouraging -- we're trying to encourage folks to add
9 more insulation to their homes to prevent energy loss
10 or to purchase an electric vehicle or to invest in
11 solar panels on your roof or invest in that community
12 solar array, and there are a lot of folks that don't
13 have those resources even if you provide the
14 education. So that's a frustrating piece when
15 writing this. We get to the end of every section and
16 it was like okay how do we actually try to encourage
17 this to all happen and try to get creative with words
18 where we really don't have any actual strength.

19 COMMISSIONER TIERNEY: Let me suggest to
20 you I think it's helpful to take us back every once
21 in a while and to take stock of the achievement that
22 has been had. This is not unlike what you were just
23 saying to me a moment ago don't be negative trying to
24 achieve something positive. You didn't have this
25 kind of plan just a short time ago, and the daughter

1 of a psychoanalyst that I am just that consciousness
2 is transformative. So right there you've changed the
3 discourse in your community around energy from
4 something that people, if at best thought of in
5 silence and in singular terms, and at least for a
6 critical mass of thoughtful people you've created
7 community around the issue and that in turn has the
8 power to inspire or drive change. It's the old
9 pebble and the pawn thing.

10 One of the things I've been interested
11 to observe in just two years -- a little anecdote for
12 you -- is this. I took office in January of 2017 and
13 before I became Commissioner I had spent so many
14 years at the Public Utility Commission as a hearing
15 officer and as a general counsel. Before that I was
16 counsel in the Department that I'm now Commissioner
17 of. So I'm been swimming in this water for a very
18 long time. It's getting tiresome though. No. The
19 reason I point to that is that I had spent so much
20 time focusing on greening our grid, greening our
21 energy supply, getting it even greener, darker shades
22 of green, envisioning those shades of green, dealing
23 with the pipeline, and I had always wanted to say to
24 my commissioners but it's transportation that
25 matters, and I get down to the Department as

1 Commissioner and what do I discover but a young hire
2 who had been hired for just that purpose, and so I
3 said to myself, self, let us drive this baby.

4 So we really started focusing on the
5 electrification of the transportation sector because
6 it was sorely in need of a push, and yes so
7 frustrating to realize that, you know, people are --
8 we're not going to have huge fleets of EVs tomorrow,
9 but it sure starts with somebody using the bully
10 pulpit, somebody pushing the consciousness and the
11 awareness of the issue, and we adopted that in our
12 agency as a strategic goal. We're going to have a
13 certain number of vehicles on the road by 2020?
14 2022?

15 MR. POTTER: '22.

16 COMMISSIONER TIERNEY: Thank you very
17 much, and we really started pushing not just the
18 issue, but also pulling from across state government
19 to get agencies to start using synergies and efforts
20 to really congregate around the plan, and then I hate
21 to say it, but there's a reason why we have that
22 phrase look for the silver lining, and so VW did a
23 terrible thing, although we all know they aren't the
24 only ones, that's a joke kind of. I used to be a
25 white collar crime defense attorney, but that

1 settlement money made it possible to make some real
2 progress on the deployment of charging stations and
3 planning for that. So there's a silver lining.

4 MS. BRINKMAN: I have that application
5 downloaded and printed out, but it's also like 25
6 pages and it's incredibly --

7 COMMISSIONER TIERNEY: That's a separate
8 question. Let me finish. There you go harshing my
9 mellow again.

10 MS. KURRELMAYER: As you said you're
11 soft spoken and I keep hearing you say look for the
12 solar lighting and not the silver lining.

13 COMMISSIONER TIERNEY: So a new turn of
14 phrase is born. That's very creative. I'm sure
15 that's how Shakespeare's mind worked, but back to my
16 anecdote so we're down there trying to inspire people
17 with VW money and lo and behold finding myself
18 invited to speak at conferences about electric
19 vehicles and that's one of the things a Commissioner
20 does. So I'm traveling to a variety of regional
21 meetings and the like speaking about electric vehicle
22 developments and on the panels with me are folks from
23 the industry, people I don't usually see because I
24 regulate utilities not automobiles, and I'm reading
25 for these conferences as well in preparation for all

1 the great wise things I'm going to say, and you know
2 it's not rocket science, and I can't claim perfect
3 credit for it, but the light bulb does go on in my
4 head when I read about how GM is retooling its
5 production line to roll out numerous electric
6 vehicles within the decade, and how China and Japan
7 and most of Europe have moved in this direction. Dan
8 is cringing just because he knows all the stats, but
9 it's true.

10 My point is that Adam Smith's invisible
11 hand of capitalism is at work here, and so just in
12 two years the thinking around electric vehicles has
13 changed dramatically, not just the thinking but the
14 reality behind it, and so fasten your seat belts.

15 MS. BRINKMAN: I have had my name on the
16 Tesla list for a year and a half. I'm almost there.

17 COMMISSIONER TIERNEY: Well I'm nothing
18 but jealous then.

19 MS. BRINKMAN: And also got my daughter
20 a hybrid that she's now driving in Hawaii where she's
21 going to grad school, but the only other point that I
22 wanted to bring up was just -- and it's related to
23 the 25-page grant application for the solar, the
24 checklist for the municipalities to move their energy
25 plan to the enhanced energy plan is also very

1 onerous, and as a reminder these are people that have
2 a couple of hours each month that they are sitting at
3 their -- around the planning commission tables and
4 the volunteers that are putting in their time to try
5 to get these efforts going. I just wish that the
6 process was a little easier, a little more
7 streamlined. There's only so much help that -- the
8 Regional Planning Commission they have been given
9 some funds to help towns, but I hate to say this.
10 Obviously there's never enough because the volunteers
11 that are trying to pull these plans together it's a
12 daunting task.

13 COMMISSIONER TIERNEY: Let me just
14 interject there. I hear you. If you look at some of
15 the decisions that we've rendered in these
16 certification processes, because I think we have
17 links on the web page now, right, you'll see where I
18 express my awareness of the very thing you just said
19 and appreciation for the volunteers who put the time
20 in, and that complexity you're talking about is --
21 it's good for you to comment on that. It is because
22 it's a point that I am mindful of and that I have
23 made I think to Senator Bray. I think, Adam, you
24 were present when we were at the PUC the other day
25 and I was asking or bringing to their attention how

1 difficult it is for local governance bodies to
2 respond to tight deadlines that they issue and would
3 they please consider not putting something out and
4 giving you a two-week turnaround time when in many
5 cases folks -- there needs to be better appreciation
6 for how things are actually working on the ground as
7 opposed to how folks in Montpelier sometimes forget
8 and are expecting things to proceed at their pace,
9 and these two certainly sat in meetings with me where
10 more than once I have reminded all of us that we
11 don't run utilities. We don't run local
12 selectboards. We are in an agency of Montpelier
13 doing what I deem to be good work, but it's important
14 to make sure you keep in mind a perspective of people
15 who are actually doing these things in their
16 communities, and so thank you for bringing that
17 forward, and I right there am going to claim credit
18 for worming out of you a comment that you were so
19 emphatically not going to give me.

20 Mr. Dayton, have I made any progress?

21 MR. DAYTON: Sure.

22 COMMISSIONER TIERNEY: Thank you.

23 MR. DAYTON: Maybe just a perspective.

24 We talked about incentives. I'm really worried about
25 this deadline of trying to get to 90 percent by 2050.

1 That's pretty aggressive, and I'm wondering if we
2 also have to be thinking about the other side of the
3 coin which is making it more unattractive to use
4 non-renewable energy sources.

5 COMMISSIONER TIERNEY: Mr. Dayton, I'm
6 so glad to meet you because Ms. Carson's been using
7 that very tone with me for close to 20 years. You
8 have convictions, JoAnn, I appreciate that, but so
9 it's so nice to have somebody else play. My
10 alternative voice is a field voice from my Army days
11 and it's rude indoors so I try not to use it, but I
12 think that that's the fun of being with a group like
13 this. I don't imagine you agree on everything, but
14 you're engaged in your forward thinking and I respect
15 that, and I would urge you to, Mr. Dayton, to
16 consider that much has been achieved and you must
17 pace yourselves a little, Mr. Conrad, because
18 otherwise you could find yourselves pushed off the
19 trail by people coming behind you who just they don't
20 want to be -- how do I put it -- pushed to a place
21 that they are not comfortable going to now.

22 With those ice shelves melting in the
23 Arctic it's pretty clear that we don't have the
24 luxury of taking the time that would allow us to be
25 comfortable, but this is the human condition, and so

1 what I would say to all of you who have expressed
2 some vision tonight is keep proclaiming your
3 perspective. Keep making your voice heard. I
4 believe as the daughter of a psychoanalyst in the
5 validity of archetype and I think those archetypes
6 find expression often in religion, for instance, and
7 so when you hear of figures like John the Baptist,
8 cry in the wilderness, not treated well for having
9 the temerity to say out loud what was coming, it's a
10 good reminder this is an ancient theme of humanity
11 and its communities and how people relate to each
12 other recognizing that we're more dependent on each
13 other than perhaps sometimes we want to admit. So
14 you feel a little hobbled by people who don't quite
15 get it, but that's my brother, that's my sister, and
16 I have to be accepting of that just as they are
17 accepting of my long winded flights of fancy,
18 especially these two, as I speak my piece.

19 I didn't realize that the pizza man was
20 Mr. Marks. You snuck up on me. Mr. Marks has known
21 me for many years in all those prior incarnations I
22 was talking about, and, Ben, you're here tonight not
23 to deliver pizza, but because you're doing good civic
24 work I'm sure. Did you have anything you wanted to
25 say on the record?

1 MR. MARKS: Well I sit on the Cornwall
2 Selectboard so I'm one of those decision makers
3 that's one voice among many, and I guess we have
4 maybe a slightly different perspective which is we
5 sort of looked at the carrot and the stick and
6 decided that due deference was fine, and that the
7 amount of effort it would take to get to substantial
8 deference wasn't worth the extra protections.
9 Notwithstanding Adam's often generous offers to try
10 to help us craft something that would tick all the
11 boxes, and even with a utility lawyer on the
12 Selectboard, the general feeling was it was too much
13 of a lift for a small town with a part-time
14 government.

15 COMMISSIONER TIERNEY: Well thank you
16 for making that observation because I think these are
17 very important things for me to hear and to relate to
18 the Governor who has certainly tasked me with being
19 his eyes and ears in these circles, and I think he
20 would find those comments very relatable. I think he
21 would find your comments very relatable, too, Mr.
22 Conrad.

23 MR. MARKS: I would only add --

24 MS. KURRELMAYER: That's very
25 interesting because your town already has quite a

1 comprehensive and complex energy portion to your
2 plan.

3 MR. MARKS: That we do.

4 MS. KURRELMAYER: So I'm surprised to
5 hear you say you didn't want to go any further.

6 COMMISSIONER TIERNEY: Well if I could
7 just interject something there, what I heard Ben to
8 say was that they didn't think the difference between
9 due deference and substantial deference warranted the
10 additional lift and there's a kernel of wisdom in
11 there. It's not completely wise.

12 MS. KURRELMAYER: He didn't hear the
13 portion where you said it's a different set of people
14 now.

15 COMMISSIONER TIERNEY: But he more than
16 anybody in that room would appreciate that because --
17 do you still practice?

18 MR. MARKS: I do.

19 COMMISSIONER TIERNEY: He would know.

20 MS. KURRELMAYER: I wasn't trying to say
21 --

22 COMMISSIONER TIERNEY: You are fine.
23 You are just fine and I appreciate you bringing that
24 forward. I did some mediation work in Cornwall a
25 couple years ago actually around school consolidation

1 I think. Do they always do their own thing around
2 here? Just a question.

3 MS. BRINKMAN: The lift that you
4 mentioned, though, is significant and I know I've
5 already said that. I'm like just re-emphasizing that
6 the lift is significant.

7 COMMISSIONER TIERNEY: Let me mirror
8 that to you. You have emphasized to me the great
9 effect that the lift is very heavy.

10 MS. BRINKMAN: It is.

11 COMMISSIONER TIERNEY: Fair enough.

12 MR. MARKS: There was one thing that I
13 would add to that which is we recently in the last
14 several years had an experience of being sort of on
15 the other side of the state's official position on
16 natural gas because if you recall Vermont Gas wanted
17 to put a pipeline through town to serve the
18 Ticonderoga paper mill, and the town was -- I would
19 say there were no proponents of the project. The
20 town was divided between people who felt that we were
21 sort of being fleeced because we happened to be the
22 shortest distance between two points who I'll call
23 the sort of business lobby and folks who just felt
24 that this was the wrong time to be installing any
25 kind of fossil fuel infrastructure which I'll call

1 the kind of environmental lobby, and the surprising
2 thing to us about the state process and one of the
3 eye opening sort of insights behind our Act 178
4 ambivalence was that in order --

5 COMMISSIONER TIERNEY: 174.

6 MR. MARKS: 174. Sorry. My mistake --
7 was that in order to achieve this heightened status
8 we basically have to sign on to all the state's
9 energy goals which include getting natural gas to
10 Rutland. Now from an economic perspective we don't
11 have any problem with that. We just didn't see why
12 we were integral to that solution, but if we had
13 signed on to the state's energy goals, we wouldn't
14 have been able to oppose the project because it was
15 in service of those goals, and so the other insight I
16 guess locally for us was that agreeing in advance
17 that the state planning documents were ones that we
18 agreed whole heartedly was problematic when there
19 were these unanticipated consequences. We had all
20 these folks who would show up to meetings with the
21 DPS representative and say but we are the public. If
22 we're against this how can the Department of Public
23 Service be giving us sort of the equivocal answer as
24 to whether or not we're going to get the state's help
25 on this, and of course poor Louise Porter was there

1 trying to explain she was sort of an advocate for the
2 state's position not the advocate for the individual
3 families who were opposing the project in town, and
4 so an additional feature of our reluctance to sign
5 on, if you will, was a desire to retain autonomy in
6 the -- in terms of being able to make arguments in
7 the future about whether or not these public policy
8 trade-offs were worth it for us, which we were
9 acutely aware of they might be and then again they
10 might not be.

11 COMMISSIONER TIERNEY: Okay. So the
12 last word of the evening is going to go to Mr. Grant
13 who actually was the very person asking or commenting
14 that there ought to be a heavier boot because we need
15 to get this done. So here's one example as to why
16 you might not want the boot to be any heavier, but to
17 you, now what would you -- what is your last
18 observation tonight?

19 MR. GRANT: Well these are quick asides.
20 One, in Germany which is trying to get rid of
21 external energy like oil and homegrown things like
22 coal because of the cost and being independent and
23 they have been having informal contests between
24 cities and towns to see who can get the most acreage
25 of solar panels on their roofs, and I was looking at

1 some. I don't see any panels. Well if you get up
2 high you can see them, and anyway I was thinking
3 maybe the Vermont Legislature could try to start an
4 informal competition between let's say Bennington and
5 Middlebury.

6 COMMISSIONER TIERNEY: You know this is
7 beautiful because you're giving me the perfect
8 opportunity to invite Mr. Lougee to think very hard
9 about how the regional planning commissions could do
10 something like this and you need not await action
11 from Montpelier. I think it's genius myself.

12 MR. GRANT: The other aside is I was
13 asking a planner don't you try to hide these 50 meter
14 tall windmills. Oh yeah there's a hill over there
15 and it's in our township, and on the other side of
16 the hill we have several white windmills we don't
17 have to watch, and I said what about the town next
18 door; well that's their problem. They get away with
19 it.

20 With our planning division here we have
21 a wonderful mapping division that can find all those
22 hills.

23 COMMISSIONER TIERNEY: All I can say to
24 that is -- and I shouldn't say anything because it's
25 public comment evening, but as it happens I grew up

1 in Germany and in Bavaria specifically. So what you
2 have described would have been -- is immediately
3 recognizable to me as a very German trait. So, you
4 know, (German spoken) which in the Army is (German
5 spoken). So it doesn't matter it's not our problem.
6 That's a wonderful image you have left me with
7 because when I drive in from the airport to my
8 parents' house I pass one of those hills that has one
9 of those wind turbines on it in Munich, and I have
10 periodically asked the cab drivers how did that
11 happen and I get different answers from them, but
12 uniformly there is this declaration at the end that
13 goes something like (sound) and that's German for
14 it's never going to happen again.

15 So anyway I think we got comments from
16 everybody, did we not? I think we did so I still
17 have my batting average of a thousand which is what
18 it's all about. Go Red Sox.

19 MR. CONRAD: Commissioner, I just want
20 to thank you for choosing to make this more of a
21 discussion rather than a more formal hearing type. I
22 think it was more enjoyable and informative.

23 COMMISSIONER TIERNEY: I agree
24 wholeheartedly. I'm glad I took that risk with you.
25 Ms. Bailey.

1 MS. BAILEY: I have a quick question for
2 information. In our town we have a hydro plant.
3 When we were doing our energy plan -- Adam is going
4 to laugh -- we find out we get no credit for that in
5 producing any energy for our town. The person -- the
6 towns that get the credit are the ones that have the
7 water supplying the hydro, and my feeling is it ought
8 to be one-third, one-third, one-third. Without the
9 water our plant doesn't produce electricity. Without
10 the plant the water has no electricity to produce.

11 COMMISSIONER TIERNEY: This too sounds
12 like a very German discussion.

13 MS. BAILEY: So Adam says I'm going to
14 leave that in your bailiwick. You can get that
15 figured out. To whom do I speak about this?

16 COMMISSIONER TIERNEY: Well so I'm this
17 person who grew up in Germany, but what you don't
18 know is I'm six generations from the west and this
19 kind of water dispute is defined in Arizona and
20 California and Utah and Nevada for a very long time,
21 and I frankly don't know the answer to that question,
22 but I would think that -- who is your legislator or
23 who are your legislators?

24 MS. BAILEY: Peter Conlin and Chris Bray
25 and Clare Ayer.

1 COMMISSIONER TIERNEY: I would think if
2 you started by contacting them and asking them to
3 work through state government they could get you an
4 answer. In the west there would be a local water
5 district or water commission and that's who you would
6 work through. In Vermont I frankly don't know.

7 You're talking about, depending on your
8 perspective, a locational issue where the dam is or
9 you're talking about the water resource itself which
10 my dim memory of that in Vermont is that we have a
11 doctrine whereby we regard water resources as one of
12 the people. So they don't belong to any one person.
13 It would cut against your argument, but again well
14 worth pursuing because this is a state that defines
15 hydro power as renewable, and so it does seem odd to
16 me at 7:23 when I haven't had dinner that there would
17 be no credit, but I can't speak to the issue any
18 more. It just seems odd to me if this is about
19 enhanced energy planning and there's a Comprehensive
20 Energy Plan that wants to see us be 90 by 2050
21 notwithstanding your reservations, Mr. Dayton, it
22 does seem peculiar that a community that hosts a
23 hydro facility would get all the credit and the
24 communities through which the water flows doesn't,
25 but I don't know.

1 MS. BAILEY: I figured it was a contract
2 the DPS hired --

3 COMMISSIONER TIERNEY: No. Certainly
4 not.

5 MS. BAILEY: -- did the work for the
6 mapping and the assignments.

7 COMMISSIONER TIERNEY: No. Not the
8 case.

9 MR. LOUGEE: Commissioner, if I may?

10 COMMISSIONER TIERNEY: Before you do,
11 Adam, let me just point out the excellent work that
12 -- mapping and planning work that's been done by the
13 regional planning commissions, and a \$300,000
14 allocation for two or three years that ratepayers pay
15 for. Go ahead, Mr. Lougee.

16 MR. LOUGEE: I would say we got the
17 information from the Energy Action Network and they
18 probably looked at the dam location as opposed to the
19 penstock and the generator. So that's where we got
20 the information.

21 COMMISSIONER TIERNEY: So you're saying
22 that might actually be an incidental determination as
23 opposed to a legal fact that's binding?

24 MR. LOUGEE: That would be my -- yes.

25 COMMISSIONER TIERNEY: Have you met Mr.

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Marks?

MS. BAILEY: Vaguely.

COMMISSIONER TIERNEY: So you might spend some time with him because as a licensed attorney he has certain pro bono obligations. He will probably be delighted to speak with you about this, and on that friendly note I'm going to adjourn our meeting this evening and thank you very much. It's been a real pleasure to spend time with you and your community.

(Whereupon, the proceeding was adjourned at 7:30 p.m.)

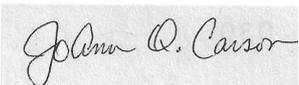
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I, JoAnn Q. Carson, do hereby certify that I recorded by stenographic means the public hearing re: The Addison County Regional Planning Commission's request for a determination of energy compliance at the ACRPC Offices, 14 Seminary Street, Middlebury, Vermont, on October 15, 2018, beginning at 6 p.m.

I further certify that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting, and the foregoing 62 pages are a transcript of the stenograph notes taken by me of the evidence and the proceedings, to the best of my ability.

I further certify that I am not related to any of the parties thereto or their Counsel, and I am in no way interested in the outcome of said cause. Dated at Burlington, Vermont, this 18th day of October, 2018.



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JoAnn Q. Carson
Registered Merit Reporter
Certified Real Time Reporter