

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350
www.dps.ny.gov

PUBLIC SERVICE COMMISSION

AUDREY ZIBELMAN

Chair

PATRICIA L. ACAMPORA

GARRY A. BROWN

GREGG C. SAYRE

DIANE X. BURMAN

Commissioners



KIMBERLY A. HARRIMAN

Acting General Counsel

KATHLEEN H. BURGESS

Secretary

Re: Case 11-T-0534 - Rochester Area Reliability Project

Evidentiary Hearing 6/19

**** Please note this is a Preliminary transcript, subject to later edits when reviewed by the parties and the Administrative Law Judges assigned to the case.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

CASE# 11-T-0534 - APPLICATION OF ROCHESTER GAS AND
ELECTRIC CORPORATION FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION OF
THE "ROCHESTER AREA RELIABILITY PROJECT," APPROXIMATELY
23.6 MILES OF 115 KILOVOLT TRANSMISSION LINES AND 1.9
MILES OF 345 KILOVOLT LINE IN THE CITY OF ROCHESTER AND
THE TOWNS OF CHILI, GATES AND HENRIETTA IN MONROE
COUNTY.

Thursday, June 19, 2014
10:30 a.m.
Third Floor Hearing Room
Three Empire State Plaza
Albany, New York 12223-1350

ELIZABETH H. LIEBSCHUTZ
MICHELLE L. PHILLIPS

Administrative Law Judges
Three Empire State Plaza
Albany, New York 12223-1350

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Case 11-T-0534 6-19-14

APPEARANCES:

FOR DEPARTMENT OF PUBLIC SERVICE:

STEVEN BLOW, ESQ.
ASHLEY MORENO, ESQ.
Assistant Counsel
Office of General Counsel
Three Empire State Plaza
Albany, New York 12223-1350

EDWARD C. SCHROM, JR.
RICHARD W. QUIMBY
RICHARD H. POWELL
JAMES J. DEWAAL MALEFYT
COREY ENSTRUE

FOR ROCHESTER GAS AND ELECTRIC:

JOHN DRAGHI, ESQ.
860 United Nations Plaza 18B
New York, New York 10017

DAVID FINGADO
Manager, Electric Capital Delivery
89 East Avenue
Rochester, New York 14649-0001

CAROL HOWLAND
Lead Analyst - Compliance
18 Link Drive
P.O. Box 5224
Binghamton, New York 13902-5224

PAUL DOMASK
TIM LYNCH
DAVID CONROY
JOHN MURPHY

FOR NYS DEPARTMENT OF AGRICULTURE AND MARKETS:

DIANE SMITH, ESQ.
MICHAEL SAVIOLA
10B Airline Drive
Albany, New York 12235

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Case 11-T-0534 6-19-14

FOR NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

LARRY ECKHAUS, ESQ.
STEVE MILLER
RUDYARD EDICK
625 Broadway, 14th Floor
Albany, New York 12233-1500

FOR 4545 EAST RIVER ROAD:

DWIGHT KANYUCK, ESQ.
KNAUF SHAW LLP
1400 Crossroads Building
2 State Street
Rochester, New York 14614

FOR THE KRENZER FAMILY:

RICHARD EVANS, ESQ.
EVANS AND FOX, L.L.P.
95 Allens Creek Road
Rochester, New York 14618

STEPHEN BENNETT, ESQ.

MARIE KRENZER
ANNA KRENZER
THOMAS KRENZER

FOR U.R.S.:

JASON CLOUGH
JAMES MICHALSKI
JOHN LACEY
WILLIAM TREMBATH
THOMAS E. BUTLER
GARY PALUMBO

FOR NEW YORK STATE POWER AUTHORITY:

ANDREW NEUMAN

1	Case 11-T-0534	6-19-14
2	I N D E X O F P R O C E E D I N G S	
3	D.P.S. STAFF ENVIRONMENTAL PANEL	
	Richard Powell	
4	James DeWaal Malefyt	
5	Cross Examination by Mr. Evans	1243
	Cross Examination by Mr. Draghi	1258
6	Cross Examination by Mr. Evans	1262
	Redirect Examination by Mr. Draghi	1356
7	Recross Examination by Ms. Smith	1359
8	D.P.S. STAFF ENGINEERING PANEL	
9	Richard Quimby	
	Edward Schrom	
10	Direct Examination by Mr. Moreno	1266
11	Cross Examination by Mr. Evans	1295
	Examination by A.L.J. Liebschutz	1353
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Case 11-T-0534 6-19-14

E X H I B I T I N D E X

Marked as
Description

82 1307
Rochester RG&E for 2012 peak load one thousand four
hundred and two point six megawatts

1 Case 11-T-0534 6-19-14

2 A.L.J. PHILLIPS: We are
3 continuing the evidentiary hearing in the reopener
4 phase of Case 11-T-0534, for shorthand the
5 Rochester Area Reliability Project.

6 We have already sworn in the
7 panel -- D.P.S. staff panel, environmental. They
8 were sworn in yesterday. I am just reminding them
9 that they are still under oath. I believe we are
10 continuing with cross examination by Mr. Evans.

11 MR. EVANS: Good morning. I had
12 not yet started. So this is a beginning.

13 A.L.J. PHILLIPS: Okay.
14 Correct. I'm just saying we're continue -- we
15 began cross examination with other parties and as
16 we are continuing this morning, you are the first
17 person to start.

18 MR. EVANS: Thank you, your
19 Honor.

20 RICHARD POWELL; Previously sworn

21 JIM DE WAAL MALEFYT; Previously sworn

22 CROSS EXAMINATION

23 BY MR. EVANS:

24 Q. Good morning, gentlemen.

25 A. (Panel) Good morning.

1 Case 11-T-0534 6-19-14
2 Q. Would the panel kindly look at
3 your sworn testimony on page sixteen, line eight
4 through ten. Which one of you gentlemen or of all
5 of you would be capable of answering the question
6 as to who looked at the Town of Chili comprehensive
7 plan that is referenced on page sixteen? Which one
8 of you?

9 MS. MORENO: Mr. Evans, could I
10 just ask for clarification? Are you looking at the
11 clean version of the testimony that was circulated?

12 MR. EVANS: There's been so many
13 versions, Counsel, I don't know what I'm looking at
14 anymore. If you wish to direct me to another page
15 I will be happy to do so. But the pages --.

16 MS. MORENO: Could you please,
17 sir, just mention what you're referencing.

18 There's -- on page sixteen of the
19 copy I'm looking at, there's a reference here to
20 scenic or protective views. Is that what you're
21 looking at?

22 MR. EVANS: No, I'm looking at
23 page sixteen of what I received initially. And if
24 it's a substitute page, just guide -- guide me and
25 tell me what's the page number. And it begins at

1 Case 11-T-0534 6-19-14
2 the top with support agriculture, and on my lines
3 eight to eleven it says reference to the plan
4 doesn't prohibit. So maybe one of the gentlemen on
5 the panel -- if you got a different page just let
6 me know.

7 MR. BLOW: Your Honor, the
8 problem is that -- that what is in the -- what's
9 corrected in the -- sent in on the C.D. as
10 corrected testimony, which was accepted without
11 objection, is going to have different page numbers
12 to some extent. It's going to be confusing when we
13 go back and try to look at things for briefing, et
14 cetera.

15 MR. EVANS: With regard to
16 looking at C.D.s, suffice it to say, when you get
17 served on a Friday at 445 in the afternoon, I
18 candidly did not have the time nor did my
19 associate. All I want is a simple reference, if
20 anybody can give it to me as to the correct page.

21 MS. MORENO: I'd be happy to,
22 sir. Could you just read the line?

23 MR. EVANS: Yes.

24 MS. MORENO: Is it the Town of
25 Chili comprehensive plan encourages?

1 Case 11-T-0534 6-19-14

2 MR. EVANS: You got it.

3 MS. MORENO: Okay. That is at

4 page fifteen beginning at line ten.

5 MR. EVANS: Line ten. Okay.

6 Line ten.

7 And then give me the page

8 reference for the statement that the plan

9 encourages the development of some formerly

10 agricultural land, et cetera. I have page sixteen.

11 What do you have?

12 MS. MORENO: We're looking at the

13 bottom of page fifteen, line twenty-two --

14 MR. EVANS: Okay.

15 MS. MORENO: -- at the very end

16 it begins the plan --.

17 MR. EVANS: Hold on. The plan of

18 that -- what page is that please?

19 MS. MORENO: Page -- at the very

20 bottom of page fifteen, line twenty-two.

21 MR. EVANS: Line twenty-two. And

22 give me the page and line for, quote, the plan does

23 not prohibit.

24 MS. MORENO: That would be at

25 page sixteen beginning at line three.

1 Case 11-T-0534 6-19-14

2 MR. EVANS: I'm sorry, what line

3 number?

4 MS. MORENO: Line three.

5 MR. EVANS: Thank you very much.

6 Thank you for the assistance.

7 MS. MORENO: My pleasure.

8 BY MR. EVANS: (Cont'g.)

9 Q. Panel, directing your attention

10 to revised testimony on what I've been told is page

11 fifteen, line ten, beginning with the words the

12 Town of Chili comprehensive plan. Do you see that?

13 A. (Powell) Yes.

14 Q. And my question on the table is

15 which one of you or if all of you have from

16 familiarity with the Chili comprehensive plan and

17 looked at the same in preparation for your

18 testimony?

19 A. I reviewed the -- I reviewed the

20 plan.

21 Q. Okay. And, Mr. Powell --

22 A. Yes.

23 Q. -- with regard to the statement

24 as set forth on page sixteen, line three, I'd like

25 you to read that sentence and advise me where

1 Case 11-T-0534 6-19-14
2 specifically in the comprehensive plan did it state
3 that it does not prohibit the use of agricultural
4 land for construction of Station 255 on Site 7. A
5 specific page reference and paragraph number.

6 A. I didn't find a specific page --
7 page where it states that. It's my conclusion
8 based on my review of the plan.

9 Q. So we're clear for the record,
10 you saw nothing in the comprehensive plan of the
11 Town of Chili that, in fact, said that the
12 construction of a substation is permitted on
13 agricultural land in the Town of Chili, is that
14 correct?

15 A. And -- in the plan, you're
16 correct.

17 Q. I'd like to direct your attention
18 to the filed statement by David Dunning, supervisor
19 of the Town of Chili, dated August 28 of 2013,
20 which has been filed in this case.

21 And if you wish to locate it you
22 may. Let me know if you need to see it.

23 A. I've got a copy of it someplace.

24 Q. If you'd like a copy we could
25 supply you with that.

1 Case 11-T-0534 6-19-14

2 A. Please.

3 A.L.J. PHILLIPS: Do you have a
4 copy for the bench also?

5 MR. BLOW: I think so, your
6 Honor. Just let me check my file. Just for
7 clarity -- clarity, your Honor, I don't believe
8 this has been marked as an exhibit or anything or
9 sponsored at all. It was -- but it was a filing
10 that was made.

11 A.L.J. PHILLIPS: Yeah, I believe
12 it's a correspondence from Chili recently, and it
13 is in D.M.M., just double checking.

14 MR. EVANS: I believe what is
15 filed, your Honor, last week by the Town of Chili.
16 I believe it was last Thursday or last Wednesday
17 with notification to all the parties including --.

18 A.L.J. PHILLIPS: I -- I have
19 a -- a document 6-13-14 was when it was filed which
20 is last Friday, Town of Chili, if I can see what
21 you handed out.

22 Okay. Yes.

23 Their document is in D.M.M.
24 it -- when you pull up the document it has the same
25 date of the document that you gave me which is

1 Case 11-T-0534 6-19-14

2 August 28, 2013.

3 First line reads, did each of the
4 parties to the joint proposal, open paren., J.P.,
5 close paren., J.P., fully understand the
6 agricultural impacts of Station 255 slash
7 Alternative Site 7 when they entered into the J.P.
8 You have a portion highlighted. This is a two --
9 it's two pages doublesided.

10 MR. BLOW: Your Honor, my point
11 was that I understand that it is in the
12 correspondence record. It's not in an
13 evidentiary -- the evidentiary record at this point
14 and nobody is planning, that I am aware of, to
15 sponsor it.

16 A.L.J. PHILLIPS: Correct.
17 That's my understanding as well.

18 A.L.J. LIEBSCHUTZ: Mr. Blow, do
19 you -- having acknowledged those facts, I'm not
20 sure we see a problem with that, but --.

21 MR. EVANS: Well, maybe he didn't
22 read it last week.

23 MR. BLOW: I did read it. I read
24 it in -- in August 2013. It's my --.

25 MR. EVANS: Did you read it last

1 Case 11-T-0534 6-19-14

2 week though?

3 MR. BLOW: Yes, I read it last
4 week.

5 My problem is and we can -- we
6 can go on and -- and do -- I just made a statement
7 that it's -- that it's one thing to be in the
8 record, the correspondence file. It's another
9 thing to be in evidence.

10 MR. DRAGHI: And, your Honor, if
11 I can just finish I -- I object to the use of this
12 as evidence.

13 Town of Chili or Mr. Dunning is
14 actually a party to this proceeding. He's opted
15 not to appear here, be cross examined on statements
16 in there that I believe are incorrect. I think,
17 you know, to allow that into evidence without
18 giving us the opportunity to cross-examine the
19 sponsor -- the person who wrote it, you know, would
20 be wrong.

21 MR. BLOW: And, your Honor, the
22 environmental panel testimony was submitted --
23 direct testimony was submitted on March 21st. The
24 rebuttal testimony was variously scheduled but
25 ultimately scheduled to be submitted on May 9. The

1 Case 11-T-0534 6-19-14
2 Town of Chili chose not to submit rebuttal
3 testimony. And, chose not up until -- even up
4 until June 16th chose not to -- or June 17th or
5 June 18th or June 19th to submit rebuttal testimony
6 or a rebuttal exhibit.

7 MR. EVANS: Your Honor, this is
8 being offered by the Krenzer's not by the Town of
9 Chili.

10 The fact is that it's cross
11 examination and I have the right to take documents
12 which have been previously filed in this case with
13 the Public Service Commission, utilize the
14 documents which, in fact, the panel acknowledges
15 having seen before and use it as a cross
16 examination.

17 A.L.J. PHILLIPS: Are you
18 proffering this as an exhibit? That -- my
19 understanding was that you are not?

20 MR. EVANS: No, I'm not
21 proffering it as an exhibit at this time. But it's
22 a file document, it's part of the record.

23 A.L.J. PHILLIPS: We all know
24 that.

25 MR. EVANS: Yeah.

1 Case 11-T-0534 6-19-14

2 A.L.J. PHILLIPS: I think I
3 stated that.

4 MR. EVANS: So -- so rather than
5 spend twenty minutes.

6 A.L.J. PHILLIPS: Do you have a
7 question?

8 MR. EVANS: Yes, I have a
9 question if Mr. Blow is finished with his
10 procedural objections to a relevant point.

11 A.L.J. PHILLIPS: I'll -- I'll
12 allow you to go along with --

13 MR. EVANS: Thank you very much.

14 A.L.J. PHILLIPS: -- proceed with
15 your question.

16 MR. EVANS: I've been trying to.

17 A.L.J. PHILLIPS: And if there's
18 an objection based on how it's stated we'll deal
19 with that.

20 MR. EVANS: I've been trying to,
21 except for the interruptions with regard to
22 procedural issues that have no bearing on cross
23 examination. All right.

24 UNIDENTIFIED SPEAKER: Your
25 Honor -- your Honor, if I might just very quickly

1 Case 11-T-0534 6-19-14
2 weigh in. When I received this I wondered what --
3 how this would -- would be dealt with, and it seems
4 to me that in -- in -- it is similar to a statement
5 filed by the public which is in the commission's
6 files maybe referred to, but the weight of the
7 evidence is different. But -- but its weight is
8 different than evidentiary.

9 MR. EVANS: That could be argued
10 in a brief I assume.

11 A.L.J. PHILLIPS: Yeah, that can
12 be argued in a brief. And I still don't know
13 exactly what he's planning to do with it because I
14 haven't heard the question yet.

15 MR. EVANS: I can't get a
16 question out.

17 A.L.J. PHILLIPS: So --.

18 MR. EVANS: I have all these
19 lawyers objecting to the procedure.

20 UNIDENTIFIED SPEAKER: Didn't
21 want to be left out.

22 A.L.J. PHILLIPS: That's okay.
23 That's -- it's early morning. Let's calm down.

24 MR. EVANS: Believe me I know
25 where you are and where you sit.

1 Case 11-T-0534 6-19-14

2 A.L.J. PHILLIPS: If you can ask
3 your question, we'll deal with it after we hear it.

4 MR. EVANS: Thank you. I'm going
5 to now ask a question. Anymore objections to me
6 proceeding with a question? Thank you.

7 BY MR. EVANS: (Cont'g.)

8 Q. To the panel please. Mr. Powell,
9 have you had an opportunity to take a look at the
10 filed letter by the supervisor of the Town of Chili
11 dated August 28th, 2013?

12 A. (Powell) Yes.

13 Q. In the first paragraph, last
14 sentence, the letter states that, quote, as
15 testified, the siting of Substation 255 is not
16 consistent with the Town of Chili 2030
17 comprehensive plan, parens, evidence submitted,
18 closed parens. Did you see that sentence?

19 A. Yes.

20 Q. Are you disagreeing with the
21 supervisor of the Town of Chili with regard to
22 whether or not placement of Substation Two
23 fifty-five was consistent with or not consistent
24 with the Town of Chili comprehensive plan?

25 A. My testimony speaks for itself.

1 Case 11-T-0534 6-19-14

2 Q. Thank you, sir. Also for the
3 record, I wanted to note that if you would take a
4 look at the matrix offered, I believe, as Exhibit
5 Forty-two by Rochester Gas and Electric, and if you
6 would kindly direct your attention to the area
7 entitled land use, more particularly item number
8 eight -- I'm sorry, I can't read it -- B dash two
9 dash subcase C, do you see that?

10 A. Yes.

11 Q. And the criteria is entitled,
12 quote, alternative consistent with town
13 comprehensive plan, question mark. Is that what it
14 says?

15 A. Yes.

16 A. (DeWaal Malefyt)

17 Q. Under the column of seven being
18 the certified route, this document having been
19 prepared and filled out by the Rochester Gas and
20 Electric, the letter N is shown. What does the
21 letter N mean to you?

22 A. (DeWaal Malefyt) It means that
23 the site is not consistent with the town plan.

24 Q. Thank you. I have no further
25 questions.

1 Case 11-T-0534 6-19-14

2 A.L.J. PHILLIPS: Okay. Mr.
3 Kanyuck, did you have questions?

4 MR. KANYUCK: I do -- with the
5 removal of Alternative Nine and the northern route
6 I have no questions.

7 A.L.J. PHILLIPS: Okay. I think
8 I just have a clarifying question. And I apologize
9 because I didn't printout the newest version or the
10 correct version that's going into the -- the
11 transcript. But originally you had a discussion
12 about Site 20 on -- it was on pages thirty-eight to
13 forty -- the top of forty-two.

14 May not be the same page numbers
15 but there's a heading entitled Site 20.

16 I just wanted to clarify, that
17 was Site 20 with the northern routing that you were
18 talking about there? Or was it -- I guess is my
19 question.

20 THE WITNESS: (DeWaal Malefyt)
21 Well, any discussion about Site 20 is -- if it's
22 just the site it -- it's only the site --
23 substation site. It's not the route.

24 A.L.J. PHILLIPS: Okay.

25 THE WITNESS: We do talk about

1 Case 11-T-0534 6-19-14
2 the routes, the northwest, the different places or
3 to the -- to the conservation easement going west
4 in another section.

5 A.L.J. PHILLIPS: Okay.

6 MR. DRAGHI: Your -- your Honors,
7 I didn't reserve any time considering it's gone
8 quickly. Could I have about three minutes,
9 questions to ask?

10 A.L.J. PHILLIPS: Sure.

11 MR. DRAGHI: Okay.

12 CROSS EXAMINATION

13 BY MR. DRAGHI:

14 Q. At page forty, line five of your
15 revised testimony you mention there was a Class C
16 stream in the southeasterly section of Site 20 that
17 should be avoided, if possible. Have you made any
18 determination of whether it would be possible to
19 Site Station 255 and Site 20 without, you know --
20 without having to move the Class C stream?

21 A. (DeWaal Malefyt) Well, we've
22 talked about moving the station slightly to the --
23 to the west, the southwest, to take advantage of
24 the upland forested area to, you know, if that's
25 possible, to utilize that area instead of utilizing

1 Case 11-T-0534 6-19-14

2 the southeastern sections of the site that's
3 presently configured to avoid the stream and that
4 wetland area.

5 Q. Okay. But staff hasn't made any
6 determination of whether such a move would be
7 possible from an engineering perspective?

8 A. You'd have to talk to our
9 engineering panel.

10 Q. Okay. The environmental panel is
11 not aware of whether any determination has been
12 made.

13 A. No. We've just talked about it.
14 We don't have the final determination.

15 Q. If the Class C stream had to be
16 moved in order to site Two fifty-five at Site 20,
17 wouldn't approval of the Army Corp of Engineers be
18 required?

19 A. That's my understanding.

20 Q. Okay. Does the panel know how
21 long the process would take for gaining approval of
22 the Army Corp of Engineers for moving the stream?

23 A. We've heard, you know, the
24 testimony of different witnesses yesterday, and we
25 don't disagree with them. You know, we don't have

1 Case 11-T-0534 6-19-14

2 a -- an inside track with the Corp. It always
3 depends on the region and the people available at
4 the time, and it can vary considerably.

5 Q. And if the Corp were to deny that
6 permit, then the stream could not be moved?

7 MR. EVANS: Objection. No
8 foundation for that witness to testify to that.

9 He's -- it's not been established
10 that anybody in the panel ever testified directly
11 or otherwise that a permit was needed. This is
12 outside the scope of direct.

13 MR. DRAGHI: There is a mention
14 of the Class C stream, think the witnesses have
15 just indicated they're familiar with the testimony
16 in this case. I don't think that goes very far
17 afield of their direct testimony.

18 MR. EVANS: It does go very far
19 afield, since there's no reference to any
20 requirement by this panel of obtaining Army Corp of
21 Engineer approval.

22 So it's outside the scope to ask
23 this panel a question which is well beyond their
24 admitted knowledge. He said he didn't know. He
25 only heard other people testify. So now we got

1 Case 11-T-0534 6-19-14
2 double or triple hearsay.
3 MR. DRAGHI: No. He said.
4 MR. EVANS: Objection.
5 A.L.J. PHILLIPS: Can -- can you
6 point me to where on the testimony they discuss the
7 Army Corp of Engineer?
8 MR. DRAGHI: They don't discuss
9 it, but they speak of a Class C stream being in --
10 on Site 20 and saying, you know, it should be
11 avoided if possible.
12 A.L.J. PHILLIPS: I'm going to
13 sustain the objection.
14 MR. DRAGHI: I have no further
15 questions.
16 MR. EVANS: Your Honors, please.
17 In light of Mr. Draghi having the opportunity to
18 come back, I just have two questions to ask the
19 panel in light of what he raised now.
20 A.L.J. PHILLIPS: I -- I don't
21 think he came back. He didn't ask any cross is my
22 recollection.
23 MR. EVANS: If not I would --
24 what I'm asking for -- I'd like the opportunity to
25 pose two additional questions which other attorneys

1 Case 11-T-0534 6-19-14

2 have been given the chance to, just for
3 clarification purposes.

4 A.L.J. PHILLIPS: I'll allow you
5 to ask them.

6 MR. EVANS: Thank you, your
7 Honor.

8 CROSS EXAMINATION

9 BY MR. EVANS: (Cont'g.)

10 Q. Panel, you spoke about the
11 possibilities of moving the footpad of Site 20 and
12 what would be the purpose if that could be
13 accomplished, sirs?

14 A. (DeWaal Malefyt) Well, the
15 purpose I -- as I just said, you know, one of the
16 purposes would be to avoid the wetland area and the
17 C Stream in the southeast corner. Also to try and
18 maximize the use of the -- the trees between the
19 northern part of Site 20 and the, you know, the
20 property to the north to keep, you know -- to
21 screen the -- the visual impact of the substation.

22 Q. You assume all of you -- strike
23 that.

24 I believe you're all aware that
25 the footprint for the substation is to be placed at

1 Case 11-T-0534 6-19-14

2 Site 7 would be a total of eleven acres even after
3 the shift to the east, is that correct?

4 A. Approximately eleven acres, yes.

5 Q. The footprint serves as has been
6 spoken about for Site 20 is a twelve-acre footprint
7 to erect the same station, Station 255.

8 My question to you is: If
9 Station 20 could be placed on a footprint of eleven
10 acres versus the current proposal of twelve acres,
11 would that assist in the avoidance of wetlands for
12 areas of your concern?

13 A. Yeah. I -- since this is
14 conceptual I -- I can't say, you know, what it
15 would do. I think we'd have to see the real plan
16 in order to determine that. I mean, an acre, you
17 know, is not much.

18 Q. But if, in fact, it could be
19 conceptually or on drawing changed to move the
20 footprint into an eleven acre footprint and so
21 adjust that eleven acres to be placed further away
22 from the southeast corner, would that assist your
23 concerns if any regarding the southeast corner
24 wetlands?

25 A. I don't -- I don't think so. I

1 Case 11-T-0534 6-19-14
2 mean, I think, you know, we'd have to look at a --
3 a reconfiguration -- you know, an engineering
4 reconfiguration of the substation and see what that
5 looks like.

6 Q. So --.

7 A. Just making it smaller, you know,
8 hypothetically doesn't do much until you see the
9 outline.

10 Q. But certainly the door would be
11 open at that point if the Commission orders Site 20
12 to go forth to inquire and proceed with the RG&E
13 and as for configuration of eleven acres versus
14 twelve and whether or not that would assist in
15 avoidance of issues you've raised? Yes?

16 A. I -- again --

17 Q. If the commission orders.

18 A. -- I think smaller would be an
19 assistance, yes.

20 MR. EVANS: Thank you, sir. I
21 have no further questions.

22 A.L.J. PHILLIPS: Thank you.
23 Does -- just doublechecking. No other party has
24 questions, correct? Does staff have redirect?

25 MS. MORENO: No, we don't.

1 Case 11-T-0534 6-19-14

2 A.L.J. PHILLIPS: Okay. I

3 believe the panel then is excused, and I want to

4 thank you for your time. We're going to go off the

5 record at this point.

6 (Off the record)

7 A.L.J. PHILLIPS: On the record.

8 Let's go back on the record. We're going to

9 proceed with staff engineering panel. If the staff

10 engineering panel could please come to the front

11 table and remain standing please and raise your

12 right hand. Do you swear or affirm that the

13 testimony you give will be the truth, the whole

14 truth and nothing but the truth?

15 MR. QUIMBY: I do.

16 MR. SCHROM: I do.

17 RICHARD QUIMBY: Sworn

18 EDWARD SCHROM: Sworn.

19 A.L.J. PHILLIPS: And can you

20 please state your names for the record?

21 THE WITNESS: (Quimby) Richard

22 Quimby.

23 THE WITNESS: (Schrom) Edward C.

24 Schrom, Jr.

25 A.L.J. PHILLIPS: Thank you. You

1 Case 11-T-0534 6-19-14

2 may be seated. Counsel.

3 DIRECT EXAMINATION

4 BY MS. MORENO:

5 Q. Good morning, gentlemen.

6 Mr. Schrom and Quimby, do you
7 have in front of you a document entitled prepared
8 testimony of engineering panel consisting of
9 twenty-six pages?

10 A. (Quimby) Yes.

11 Q. Were the questions and answers
12 contained therein prepared by you or under your
13 supervision?

14 A. Yes.

15 Q. Do you have any corrections to
16 make to that document?

17 A. No, we do not.

18 Q. If I were to ask you today the
19 questions contained in the document, would your
20 answers be the same?

21 A. Yes.

22 MS. MORENO: Your Honors, I
23 request that the document entitled prepared
24 testimony of engineering panel be copied into the
25 record as if given orally.

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

Application of Rochester Gas and Electric Corporation
For a Certificate of Environmental Compatibility
and Public Need under Article VII of the Public Service Law
for the Rochester Area Reliability Project

Case 11-T-0534

March 21, 2014

Prepared Testimony of:

ENGINEERING PANEL

Edward C. Schrom, Jr.
Power Systems Operations
Specialist

Richard W. Quimby
Transmission Planner

Office of Electric, Gas and
Water
State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Case 11-T-0534

ENGINEERING PANEL

1 Q. Please state your full name and business
2 address.

3 A. Edward C. Schrom, Jr., Three Empire State Plaza,
4 Albany, New York 12223.

5 Q. By whom are you employed and in what capacity?

6 A. I have been employed by the New York State
7 Department of Public Service since 1977 in the
8 Office of Electric, Gas and Water. From 1977 to
9 1997 I was a Power System Planner in the System
10 Planning Section. Since 1998 I have worked as a
11 Power Systems Operations Specialist in the Bulk
12 Electric Systems Section.

13 Q. Please state your educational background and
14 professional experience.

15 A. I graduated from Rochester Institute of
16 Technology with a Bachelor of Science degree in
17 Electrical Engineering in 1974.

18 Q. Are you a licensed professional engineer?

19 A. Yes, I am registered as a professional engineer
20 in the State of New York.

21 Q. Do you belong to any professional associations?

Case 11-T-0534

ENGINEERING PANEL

1 A. Yes, I am a member of the Institute of
2 Electrical and Electronics Engineers (IEEE),
3 IEEE Industrial Applications Society, IEEE
4 Dielectric and Electrical Insulation Society and
5 IEEE Power Engineering Society.

6 Q. Have you testified before the Commission
7 previously?

8 A. Yes, I have testified numerous times and in
9 numerous proceedings both before the Commission
10 in Article VII electric transmission siting
11 cases and before the New York State Board on
12 Electric Generation Siting and the Environment
13 in Article X power plant siting cases. In
14 addition, I testified before the Federal Energy
15 Regulatory Commission (FERC) on the qualifying
16 status of the Independent Power Producers plant.

17 Q. Please state your name, employer, and business
18 address.

19 A. Richard W. Quimby, New York State Department of
20 Public Service, Three Empire State Plaza,
21 Albany, New York 12223.

Case 11-T-0534

ENGINEERING PANEL

1 Q. In what capacity are you employed by the
2 Department?

3 A. I am a Transmission Planner in the Bulk Electric
4 Systems Section of the Office of Electric Gas
5 and Water.

6 Q. Please summarize your educational background and
7 professional experience.

8 A. I graduated Clarkson University with a Bachelor
9 of Science Degree in Electrical Engineering in
10 2005. In 2006, I began working at Lightning
11 Technologies, Inc. where I performed high
12 voltage testing, testing protocols and final
13 reports that documented testing and results. I
14 began working for the Department of Public
15 Service in 2008 in the Bulk Electric Section. I
16 have been participated in New York Independent
17 System Operator (NYISO) committee meetings and
18 have been involved with Article VII cases and
19 have reviewed petitions filed pursuant to Part
20 102 of the Commission's Rules to analyze and
21 advise the Commission on whether proposed

Case 11-T-0534

ENGINEERING PANEL

1 facilities may be constructed overhead or should
2 be placed underground.

3 Q. Are you in training to become a licensed
4 professional engineer?

5 A. Yes. I have passed the fundamentals of the New
6 York State engineering exam.

7 Q. Have you previously testified before the
8 Commission?

9 A. Yes. I have previously testified in Article VII
10 proceedings, including Case 06-T-0650 (New York
11 Regional Interconnect), Case 03-T-1341
12 (Conjunction) and Case 13-T-0077 (National
13 Grid).

14 Q. In the preparation of your testimony have you
15 worked with anyone else from staff?

16 A. Yes. We have conferred with the Environmental
17 Panel, particularly Richard Powell. That
18 panel's testimony discusses the routing and
19 environmental matters concerning both the
20 substation locations and the routes of the
21 transmission lines exiting the stations.

Case 11-T-0534

ENGINEERING PANEL

1 We have reviewed the wetland and flood
2 plain delineations with the Environmental Panel,
3 including their impact on reliability on the
4 substation and their associated transmission
5 lines.

6 Q. Are you sponsoring any exhibits?

7 A. Yes. The following exhibits support our
8 testimony:

- 9 • Exhibit 46, ERP-2 Summary of Interrogatories and
10 Responses
- 11 • Exhibit 47, ERP-3 NYISO 2012 RNA
- 12 • Exhibit 48, ERP-4 NYISO Gold Book Pages
- 13 • Exhibit 49, ERP-5 NYISO 2013 Load and Capacity
14 Tables
- 15 • Exhibit 50, ERP-6 News Articles Relating to R.E.
16 Ginna Nuclear Power Plant

17 Q. What is the purpose of your testimony?

18 A. The purpose of our testimony is to describe the
19 timing of the need for the Rochester Area
20 Reliability Project, discuss the merits of the
21 alternate locations of Station 255 and the

Case 11-T-0534

ENGINEERING PANEL

1 routes of circuits 40, 940 and 941 identified
2 for consideration by Judge Stein in her March
3 12, 2014 ruling, and to discuss the potential
4 impact to reliability if an alternate substation
5 location is selected.

6 **Project Need and Timing**

7 Q. What is the need for the Rochester Area
8 Reliability Project?

9 A. As the Commission found in its April 23, 2013
10 Order, the Project is needed to reinforce RG&E's
11 overall electric transmission system and its
12 interface with the New York State bulk electric
13 transmission system.

14 Q. What was the need date projected by RG&E for
15 this project?

16 A. In its 2011 Article VII application RG&E
17 projected a need for the facility in 2014. The
18 Commission directed RG&E to prepare an updated
19 projection of the project's need date and a
20 major milestone schedule in its November 15,
21 2013 Order reopening the record. RG&E submitted
22 an updated projection showing need for the

Case 11-T-0534

ENGINEERING PANEL

1 facility as of the date it filed its report,
2 December 16, 2013 (Exhibit 36).

3 Q. Has staff subsequently re-evaluated the supply
4 portfolio and the load forecast for the RG&E
5 system?

6 A. Yes. Staff requested that RG&E provide updated
7 information. Its response to DPS-21 identifies
8 the sources of capacity for the RG&E service
9 area and the projected load (Exhibit 46, ERP-2).
10 The response projects an increase in load in
11 RG&E's service territory and shows that RG&E
12 will not be able to supply its service territory
13 under N-1-1 reliability criteria without
14 shedding load.

15 Q. How did staff confirm RG&E's updated projected
16 load forecast and capacity to serve load?

17 A. Staff requested RG&E's actual and adjusted loads
18 on the RG&E system for the past ten years and
19 its capacity supply portfolio for the next ten
20 years. RG&E provided that data in response to
21 DPS-13 (Exhibit 21) and DPS-21 (Exhibit 46, ERP-
22 2). Staff has reviewed the data and, based on

Case 11-T-0534

ENGINEERING PANEL

1 the historical data used to project future
2 loads, the projected load forecast is reasonable
3 based upon our regression analysis. Based on
4 its current supply portfolio, RG&E will not be
5 able to meet the projected load in a N-1-1
6 contingency pursuant to NPCC and NYSRC criteria
7 and rules.

8 Q. How else have you confirmed RG&E's need for the
9 project?

10 A. We have reviewed the NYISO 2012 Reliability
11 Needs Assessment (RNA) study.

12 Q. What did the NYISO RNA find?

13 A. The NYISO applied the N-1-1 criteria as required
14 by the New York State Reliability Council and
15 Northeast Power Coordinating Council rules and
16 criteria. The first part of its study, N-1, was
17 applied. N-1 means taking a normal system and
18 applying one contingency -- the loss of a
19 transformer, transmission line, or double
20 circuit tower. In its study of the transmission
21 system, the NYISO assumed the loss of one
22 transformer. In their study they found that

Case 11-T-0534

ENGINEERING PANEL

1 given this contingency, the remaining
2 transformers would be over their Long Term
3 Emergency Ratings (LTE). RG&E would have to
4 shed load to reduce loading on its transformers
5 if this contingency occurred. The only way to
6 avoid the overloading is to have Station 255 in
7 place.

8 Q. What does it mean to shed load?

9 A. Load shedding involves dropping residential,
10 commercial, and industrial customers for an
11 undetermined period of time when a contingency
12 occurs to reduce the loading on the remaining
13 transformers. Shedding load could impact
14 service to hospitals and other critical medical
15 facilities, stores and factories, etc.

16 Q. You described a N-1 contingency above, the NYISO
17 study conducted an N-1-1 study, is that correct?

18 A. Yes, after the contingency applied described
19 above, the study then applies another
20 contingency on the system, which is N-1-1. In
21 its study, the NYISO assumes the worst
22 contingency, in RG&E's case a stuck breaker. No

Case 11-T-0534

ENGINEERING PANEL

1 system element should be over its Long Term
2 Emergency Rating (LTE) following a contingency.
3 Unfortunately, the NYISO found RG&E could not
4 pass this test. If this did happen, RG&E would
5 have to shed even more load to bring the
6 loadings on the remaining transformers to normal
7 loadings.

8 Q. In preparing the RNA, did the NYISO use the same
9 load forecast that RG&E projects?

10 A. No, NYISO has projected a lower load (Exhibits
11 47 and 48, ERP-3 and 4). In preparing the RNA
12 the NYISO utilizes a peak system load for all of
13 New York State, however state peak load is not
14 representative of individual utility peak loads
15 because of the diversity of utility system
16 loads. Therefore, in order to accurately
17 represent the Rochester area which is served
18 through only two substations and one generator,
19 the forecast has to be based upon the Rochester
20 service area rather than state-wide peak loads.

21 Q. What is the significance of this?

Case 11-T-0534

ENGINEERING PANEL

1 A. Staff believes that based on the historical
2 data, the RG&E's higher projected load is a
3 reasonable assumption. If load actual load is
4 indeed greater than that used in the NYISO's
5 study, the effect of contingencies on RG&E's
6 system will be worse.

7 Q. Is RG&E in violation of any reliability
8 standards?

9 A. Staff requested RG&E to do an assessment of
10 North American Electric Reliability Corporation
11 (NERC), Northeast Power Coordinating Council,
12 Inc. (NPCC) and New York State Reliability
13 Council (NYSRC) reliability criteria in DPS-22
14 (Exhibit 46, ERP-2). RG&E has indicated it does
15 not believe it violates any NERC criteria but it
16 does violate NPCC and NYSRC design criteria and
17 has developed the Rochester Area Reliability
18 Project to mitigate the design criteria
19 violations.

20 Q. What is the purpose of NERC, NPCC and NYSRC and
21 how did they come about?

Case 11-T-0534

ENGINEERING PANEL

1 A. NERC was formed in the late 1960's by the
2 electric utilities and councils. Following the
3 blackout of August 13, 2003, NERC was directed
4 by FERC to develop standards for utilities to
5 design and operate their electric systems.
6 Those standards are developed through an open
7 process and are approved by the FERC.

8 NPCC was formed following the 1965 blackout
9 which resulted in all of New York State,
10 Connecticut, Massachusetts, New Hampshire,
11 Vermont, Maine and parts of Canada to blackout.
12 The utilities formed NPCC to develop criteria
13 for design and operation of the Bulk
14 Transmission system. These criteria were
15 developed to prevent blackouts and provide for a
16 reliable transmission and generation system.
17 Over time, the standards evolved.

18 The NYSRC is a body in New York State that
19 develops reliability standards that incorporates
20 NPCC standards and develops more stringent
21 reliability rules for Planning and Operating the
22 New York State Power System ("Reliability

Case 11-T-0534

ENGINEERING PANEL

1 Rules"); these standards are applicable only to
2 New York utilities. Those rules are published
3 and are publically available, just as the NERC
4 and NPCC Standards are.

5 Q. What organization(s) perform audits of system
6 operator and utility conformance to reliability
7 standards?

8 A. NPCC, NYSRC and NERC perform audits to assure
9 compliance with published standards and assure
10 conformance. If a utility should fail to meet
11 the reliability standards of any organization,
12 NERC brings the violation to FERC and FERC can
13 assign a monetary fine or some other action it
14 desires through its enforcement process.

15 Q. Does R.E. Ginna Nuclear Power Plant (Ginna)
16 provide capacity and energy to RG&E's service
17 territory?

18 A. Yes, in response to DPS-21, RG&E stated that
19 Ginna provides a nominal 580 MWs of capacity and
20 energy (Exhibit 46, ERP-2) to its system. We
21 confirmed this by reviewing the NYISO 2013 Load
22 and Capacity Tables (Exhibit 49, ERP-5).

Case 11-T-0534

ENGINEERING PANEL

1 Q. Have there been reports that Ginna may retire
2 its facility?

3 A. Yes. Several articles have published discussing
4 the challenging finances of Ginna and
5 Fitzpatrick power plants and the possibility of
6 their retirements (Exhibit 50, ERP-6).

7 Q. What would be the impact to RG&E be if Ginna
8 retires?

9 A. If Ginna retires, RG&E will have a capacity
10 deficit of a nominal 580 MW. In order to bring
11 that capacity into its system, RG&E would have
12 to import the capacity through the 345 kV
13 system. Without Station 255, there are only two
14 substations serving RG&E's territory. There are
15 limits to the amount of capacity they can
16 accept.

17 If Ginna retires, RG&E would be hard
18 pressed to survive the loss of any transformer
19 at peak load during the summer period. In an N-
20 1-1 contingency, transformers at one or both of
21 the substations would be overloaded, and would
22 force RG&E to shed load to reduce the loading on

Case 11-T-0534

ENGINEERING PANEL

1 the remaining transformers. If Ginna retires,
2 RG&E needs Station 255 operational to maintain
3 the reliability of the system.

4 Q. Can the project be in-service in 2014?

5 A. No. Construction of Station 255 is not
6 authorized while the parties examine alternative
7 locations for Station 255. Station 255 will
8 take approximately two years to bring online
9 from the time construction starts on the
10 subsurface to the time it is energized (Exhibit
11 46, ERP-2).

12 Q. If Ginna retires before the Rochester Area
13 Reliability Project is constructed, what would
14 the impact to reliability be?

15 A. As discussed above, under existing conditions
16 RG&E could not meet the N-1-1 reliability
17 contingency. If RG&E had less reliable
18 capacity, RG&E would not be able to serve load
19 under the loss of any transformer, and would be
20 worse in the case of a stuck breaker at Station
21 80. RG&E's only option would be to shed load in
22 order to lower the loading on the remaining

Case 11-T-0534

ENGINEERING PANEL

1 transformers. As discussed above, this could
2 impact residential, commercial, and industrial
3 customers.

4 **Alternate Locations and Routes**

5 Q. Have you reviewed Sites 9 and 20 as alternative
6 locations to Site 7 for Station 255?

7 A. Yes, Staff reviewed RG&E's January 16, 2014
8 Report On Alternatives Analysis For Substation
9 255 And Associated Transmission Lines (the
10 Report) (Exhibit 37). We visited and field
11 reviewed each site, and consulted with DPS
12 environmental staff, to review environmental
13 conditions, which included flood plains,
14 wetlands, and other environmental factors that
15 may affect the reliability of the site.

16 Q. What did you conclude with regards to
17 environmental factors that may impact
18 reliability?

19 A. Based on input from our colleagues on the
20 Environmental Panel, we concluded that wetlands
21 and 100-year and 500-year flood plains would not
22 impact the operation and protection of the

Case 11-T-0534

ENGINEERING PANEL

1 Station 255 if it were located at Site 7, 9 or
2 20.

3 Q. Which of the substation locations makes the best
4 sense from an engineering perspective?

5 A. From an engineering perspective any of the
6 locations can serve the need for interconnecting
7 RG&E's system to the 345 kV cross state system.
8 The only difference between Site 7 and Sites 9
9 and 20 is the amount of time it would take to
10 bring the facility into service.

11 Q. Is Site 9 or 20 superior to Site 7?

12 A. No, from an electrical perspective, the sites
13 work equally well. All of the alternate
14 substation locations would still require the
15 construction of a 345 kV transmission line to
16 connect with Station 80 and the 115 kV
17 transmission lines associated with Station 255
18 that extend to the Rochester and Southern
19 Railroad, as authorized by the Commission.
20 Depending on the location of the substation,
21 different routes for the transmission facilities

Case 11-T-0534

ENGINEERING PANEL

1 could be examined, but the transmission
2 facilities would still have to be built.

3 Q. Why do all the substation sites require a 345 kV
4 connection to Station 80?

5 A. The System Impact Study done by the NYISO
6 identified the need based on the limiting
7 contingency for emergency transfers should the
8 loss of one of the two 345 kV lines occur. To
9 eliminate this contingency, the NYISO required
10 the installation of an additional 345 kV circuit
11 to connect from the new substation back to
12 Station 80. Each alternative site would require
13 construction of this line.

14 Q. Do each of the sites require some routing for
15 the 115 kV transmission lines?

16 A. Yes, all of the locations would require routing
17 of two 115 kV transmission lines to get to the
18 Rochester and Southern Rail Road to interconnect
19 with the transmission facilities authorized by
20 the Commission in RG&E's Certificate of
21 Environmental Compatibility and Public Need.

Case 11-T-0534

ENGINEERING PANEL

1 Q. Several routes have been proposed to
2 interconnect Station 255 and Station 80, do you
3 have a preferred route?

4 A. The 345 kV line (Line 40) must be constructed
5 south of the Empire Pipeline, with sufficient
6 distance from the pipeline to avoid unsafe
7 conditions and to prevent damage to the
8 pipeline.

9 Q. With respect to the authorized 115 kV route, has
10 RG&E suggested that it can accommodate the
11 Krenzer farming operations?

12 A. If the 115 kV lines are authorized to parallel
13 the cross state 345 kV line, through the
14 conservation easement, coming from Site 7, RG&E
15 has agreed to match the spans of the 345 kV
16 lines that cross the property to the extent
17 possible. RG&E has also agreed to use the
18 maximum number of double circuit towers allowed
19 by the reliability criteria according to the
20 North East Power Coordinating Council, which is
21 five double circuit towers, emanating from the

Case 11-T-0534

ENGINEERING PANEL

1 substation to reduce the number of structures on
2 the Krenzer property.

3 Q. If Station 255 were located at a different site,
4 could the same engineering practices be used?

5 A. Yes. If the substation is on the east side of
6 the Genesee River, the number of structures
7 could still be limited to five double circuit
8 structures as specified by the reliability
9 criteria. However, if the number of structures
10 coming out of the substation is more than five
11 structures, those remaining structures must be
12 single circuit structures, regardless of where
13 Station 255 is located.

14 Q. If RG&E were to construct the line utilizing the
15 agriculture mitigation route, are there any
16 differences in the characteristics of the
17 facility from what was already authorized by the
18 Commission?

19 A. RG&E would use taller structures and longer
20 spans.

21

1 **Electric and Magnetic Fields**

2 Q. If the Commission authorized either Site 9 or
3 20, could RG&E still meet the Commission's
4 electrostatic field standards and
5 electromagnetic field limits for the associated
6 transmission line routes?

7 A. Yes. The standards and limits are measured at
8 the edge of the right-of-way. If the Commission
9 certified a different location, RG&E has
10 indicated the appropriate right-of-way width to
11 meet the standards.

12 **Cost**

13 Q. What are the cost impacts to the project if the
14 Commission were to choose alternate 9 or 20 over
15 alternate 7?

16 A. The Report RG&E provided includes a table in
17 response to analysis of the various alternatives
18 on January 16 to the parties, and Staff has
19 utilized those in performing its analysis.
20 Alternative 9 would add approximately 11 million
21 to the cost of the project and alternate 20

Case 11-T-0534

ENGINEERING PANEL

1 would add approximately 20 million to the cost
2 for new station.

3 Q. How did RG&E put together its cost estimates?

4 A. It took the cost per mile of 115 kV and 345 kV
5 line costs and calculated them for the distances
6 needed depending on the station site. They also
7 accounted for the cost of changes to the
8 substation design and the cost of demolition.

9 Q. In your opinion, were the cost estimates
10 reasonable?

11 A. Yes, in our experience the costs quoted were
12 reasonable.

13 **Impact of Alternate Location on Reliability**

14 Q. What site for Station 255 do you favor?

15 A. We favor Site 7 as authorized by the Commission.

16 Q. If Sites 7, 9 and 20 are equivalent from an
17 engineering perspective, why does Staff prefer
18 Site 7?

19 A. As discussed above, there is a reliability need
20 for this project now. RG&E has already designed
21 the substation and submitted the proposed
22 environmental management and construction plan

Case 11-T-0534

ENGINEERING PANEL

1 (EM&CP) for Station 255 at that site. The
2 Commission's December 20, 2013 Order provided
3 that, if the Commission affirms the location of
4 Station 255 as currently authorized, any further
5 comments on Segment I of the EM&CP as they
6 relate to Station 255 will be due 15 days after
7 issuance of the Order affirming that location.
8 Shortly after that deadline the Commission could
9 approve the construction of Station 255 on Site
10 7.

11 Q. If the Commission were to authorize one of the
12 alternative substation locations, what
13 additional design work would RG&E have to do?

14 A. RG&E would have to perform more site analysis
15 and design a substation that could be
16 constructed on the new site.

17 Q. What impact would that have on the project
18 schedule?

19 A. Staff requested that RG&E provide a time line
20 describing the process and timing it would
21 require to design Station 255 at another site
22 and to submit a proposed EM&CP for that site.

Case 11-T-0534

ENGINEERING PANEL

1 In response, RG&E indicated that it would take
2 eight months from the time it receives direction
3 from the Commission to construct at an alternate
4 site to design Station 255 and to submit the
5 proposed EM&CP to the Commission (Exhibit 46,
6 ERP-2). The comment period applicable to the
7 proposed EM&CP is 45 days.

8 We also expect that, given the comment
9 period and the need for advisory staff to
10 evaluate the proposed EM&CP and comments
11 thereon, it would take approximately four months
12 from the filing of the proposed EM&CP to
13 issuance of a Commission order approving or
14 modifying the design.

15 Therefore, if the Commission authorizes
16 another site for Station 255, the probable
17 impact is to add another year to the project in-
18 service date.

19 Q. If an alternate site for Station 255 is
20 selected, when would the substation be able to
21 go online?

Case 11-T-0534

ENGINEERING PANEL

1 A. Considering the two year construction time
2 period described by RG&E, the project would not
3 be in service until approximately three years
4 from the issuance of an order authorizing
5 Station 255 to be located on another site
6 sometime in 2017.

7 Q. Can RG&E wait an additional year to have the
8 project in-service?

9 A. No. As RG&E has indicated in response to
10 interrogatories DPS-8 thru DPS-10 (Exhibit 21)
11 and DPS-21 (Exhibit 46, ERP-2), RG&E remains out
12 of compliance with its own planning criteria and
13 the requirements of the Northeast Power
14 Coordinating Council, Inc. and New York State
15 Reliability Council; it must come into
16 compliance with the reliability criteria as soon
17 as possible. If it does not, RG&E will be
18 forced to shed load every time a transformer
19 goes out of service during peak conditions.
20 Residential, commercial, and industrial
21 customers could be without service to an
22 undetermined amount of time.

Case 11-T-0534

ENGINEERING PANEL

1 Q. Please summarize the recommendations reached in
2 the panel's testimony.

3 A. For the reliability concerns discussed above, as
4 well as cost considerations, we recommend the
5 Commission permit construction of the currently
6 authorized Station 255 at Site 7 as soon as
7 possible.

8 Q. Does this conclude the pre-filed direct panel
9 testimony?

10 A. Yes, it does.

1 Case 11-T-0534 6-19-14

2 A.L.J. PHILLIPS: Request

3 granted.

4 BY MS. MORENO: (Cont'g.)

5 Q. Panel, your testimony refers to

6 five exhibits. Were the exhibits sponsored by you?

7 A. Yes.

8 Q. Do you have any corrections to

9 make to those exhibits?

10 A. No, we do not.

11 MS. MORENO: The first exhibit is

12 a summary of interrogatories and responses and has

13 been marked as Exhibit Forty-six for

14 identification.

15 The second is the 2012

16 Comprehensive Reliability Plan, Final Report

17 prepared by the New York Independent System

18 Operator or NYISO. It has been marked Exhibit

19 Forty-seven for identification.

20 And the next is a page from the

21 NYISO gold book and has been marked as Exhibit

22 Forty-eight.

23 The next is Exhibit -- the next

24 exhibit is 2013 Load -- Load Incapacity Tables from

25 the NYISO and has been marked as Exhibit

1 Case 11-T-0534 6-19-14

2 Forty-nine.

3 And finally the last exhibit is a
4 series of news articles relating to the R.E. Ginna
5 Nuclear Power Plant and has been marked as Exhibit
6 Fifty.

7 Your Honors, the -- the panel is
8 now available for examination.

9 A.L.J. PHILLIPS: Thank you.
10 Yes. I believe the first questioner is Mr. Evans.

11 MR. EVANS: Thank you, your
12 Honor. May I have just a moment please?

13 A.L.J. PHILLIPS: Yes.

14 CROSS EXAMINATION

15 BY MR. EVANS:

16 Q. Good morning, gentlemen.

17 A. (Schrom) Morning.

18 (Quimby) Morning.

19 Q. Let me direct your attention
20 please -- let me direct your attention please to
21 page seven beginning on line two of your
22 testimony -- line twenty. On line -- I'm sorry,
23 line twenty -- line twenty on page seven.

24 It indicates that the RG&E
25 provided data in response to an I.R. from D.P.S,

1 Case 11-T-0534 6-19-14

2 which is D.P.S. Thirteen.

3 Do you have that in front of you,
4 the I.R. you requested please. And, also -- you
5 can also pull up the responses that you obtained
6 from the RG&E to that I.R. please.

7 MR. BLOW: Your Honor, just for
8 clarification, that -- that response is part of
9 Exhibit Twenty-one, which was already received in
10 evidence in the first phase of the proceeding.

11 A.L.J. PHILLIPS: It's been
12 resubmitted I believe as part of Exhibit Forty-six,
13 am I mistaken on that?

14 MR. BLOW: I don't -- I don't
15 believe so, your Honor. I believe --.

16 A.L.J. LIEBSCHUTZ: D.P.S.
17 Twenty-one?

18 MR. BLOW: No, no. Your --
19 D.P.S. --

20 A.L.J. LIEBSCHUTZ: Oh, I'm
21 sorry.

22 MR. BLOW: -- starting --
23 starting with D.P.S. --.

24 A.L.J. LIEBSCHUTZ: Excuse me, my
25 mistake.

1 Case 11-T-0534 6-19-14

2 MR. BLOW: Yes.

3 MR. EVANS: So shall I -- then
4 shall I refer to it, your Honors, as Exhibit
5 Twenty-one for the record to be clear?

6 A.L.J. LIEBSCHUTZ: Take me a
7 minute to confirm that, but --.

8 MR. EVANS: Thank you.

9 MS. MORENO: Mr. Evans do you
10 have a -- a copy that the panel could look at?

11 MR. EVANS: Yes.

12 A.L.J. LIEBSCHUTZ: Yes, we have
13 copies of it now in front of us on our computer
14 monitors and witnesses have it in front of them, is
15 that right?

16 THE WITNESS: (Quimby) That's
17 correct.

18 BY MR. EVANS: (Cont'g.)

19 Q. Do you have -- were you able to
20 locate, gentlemen, Exhibit Twenty-one?

21 A. (Quimby) Yes, we have it in
22 front of us.

23 Q. And, Mr. Quimby or Mr. Schrom,
24 whomever, would you kindly in your own words
25 identify Exhibit Twenty-one and whether you've seen

1 Case 11-T-0534 6-19-14

2 it before.

3 A. (Schrom) This is an
4 interrogatory response, Exhibit Twenty-one, from
5 the company that we -- in which we requested data
6 from them.

7 Q. The reply date is March 12th
8 of -- I'm sorry. The reply date by the RG&E is
9 March 14 of 2012, correct?

10 A. (Quimby) Yes.

11 Q. Could either of you tell me the
12 purpose -- is there a change in your testimony?

13 A. No. It just -- the reply date
14 we --.

15 Q. Your reply date is March 14,
16 2012, correct?

17 A. That's correct.

18 Q. What was the purpose of your
19 department -- Department of Public Service,
20 requesting the information under this I.R.?

21 A. (Schrom) The purpose of that
22 interrogatory is to find out the history of peak
23 loads for the company and to verify the load-growth
24 rate that the company was projecting in the future,
25 in which we asked them what their projected load

1 Case 11-T-0534 6-19-14

2 growth was.

3 Q. Mr. Schrom, what would be the
4 purpose of asking them for projected load needs, if
5 you will, in the future?

6 A. We always do that.

7 Q. Again, what's the purpose of it?

8 A. The purpose is to find out how
9 load is growing in the company.

10 Q. And how does that lead into, if
11 at all, to the issue of reliability and the future
12 prospect of reliability?

13 A. The purpose is to make sure that
14 the company has sufficient installed equipment on
15 the system to serve today's load and future load.
16 And, that the equipment that they install can
17 handle that future load growth without having to
18 reinvest every year to meet that future load
19 growth.

20 Q. Thank you. May I direct the
21 panel please to the graph which is contained within
22 Exhibit Twenty-one?

23 And I ask the panel whether
24 they've had the opportunity to have reviewed this
25 graph made by and provided to the P.S.C. by RG&E

1 Case 11-T-0534 6-19-14

2 before today?

3 MS. MORENO: And for clarity,
4 this is attachment A of that interrogatory?

5 MR. EVANS: Yes, it is.

6 A. Yes, we've reviewed this before
7 today.

8 BY MR. EVANS: (Cont'g.)

9 Q. Mr. Schrom and Mr. Quimby, sirs,
10 did you review this in the preparation of your
11 actual testimony and your direct testimony if you
12 will? Did you look at this in the preparation of
13 your direct testimony?

14 A. We utilized the interrogatory
15 which we issued to the company on February 27th,
16 2014 and they respond -- replied on March 14th,
17 2014 to Mr. Lynch and Mr. Conroy.

18 Q. But, again, I'm asking you since
19 you've referenced attachment A in your -- in your
20 direct, whether you considered it and looked at it
21 in preparing your prep -- in preparing your direct?

22 A. We considered it.

23 Q. Thank you. Would it be fair to
24 say that looking at attachment A being the RG&E's
25 graph in response to your request for the future

1 Case 11-T-0534 6-19-14
2 load and forecast, would you set forth on the
3 record please the line which consists of -- I'm
4 going to call it a purple or a light purple line
5 from left to right at approximately a forty-five
6 degree angle which is labeled to the right as the
7 forecasted RG&E load. Do you see that?

8 A. Yes. I see that line.

9 Q. So for the record, so we all
10 understand this, what was the purpose of the RG&E
11 providing you at your request the forecasted RG&E
12 load as part of this inquiry?

13 MS. MORENO: I think that's been
14 asked and answered.

15 MR. EVANS: What's the purpose,
16 sir?

17 MR. BLOW: There was an
18 objection, your Honor.

19 A.L.J. PHILLIPS: Yeah, I -- I
20 thought you did already ask this question.

21 MR. EVANS: But I'm referring
22 directly now to the chart, so --.

23 A.L.J. PHILLIPS: No, you --.

24 MS. MORENO: The next part of the
25 interrogatory?

1 Case 11-T-0534 6-19-14

2 MR. EVANS: Let me restate it.

3 Let me -- I'll withdraw and restate.

4 A.L.J. PHILLIPS: Okay. Thank
5 you.

6 MR. EVANS: I'll withdraw and
7 restate.

8 A.L.J. PHILLIPS: Thank you.

9 MR. EVANS: No problem. Okay.

10 BY MR. EVANS: (Cont'g.)

11 Q. The first entry on the forecasted
12 RG&E load shows a date of approximately 2012, is
13 that correct? That's where it starts.

14 A. That's correct.

15 Q. And, in fact, that references
16 back -- that references back to the second page of
17 the I.R. which is a chart, if you will, and under
18 number two, outset forecast and more particularly
19 year 2012, which is to ask you whether what's
20 graphed is one thousand seven hundred and
21 ninety-three megawatts? Answer please.

22 A. I was waiting for the court
23 reporter.

24 Q. I'm sorry. I apologize. I
25 didn't see it.

1 Case 11-T-0534 6-19-14

2 A. We heard her, so we -- we
3 stopped.

4 Q. Good. Good move.

5 A. It would appear so.

6 Q. Okay. Do you have the actual
7 consumption or the actual demand, if you will, for
8 2012? Have you got that figure?

9 MS. MORENO: Could you reference
10 where in their testimony it is stated?

11 MR. EVANS: I don't have to refer
12 to the testimony. I'm asking him whether or not he
13 has the actual.

14 MS. MORENO: Okay. So it's not
15 based on his testimony?

16 MR. EVANS: Yes, it is. Based
17 upon the chart and the examination of the chart and
18 what the chart means and how it's applied.

19 MS. MORENO: Sorry, that's the
20 projected, the forecasted?

21 MR. EVANS: I'm back to Exhibit
22 Twenty-one as referenced on page seven. This is
23 cross examination. I'm asking him --.

24 MS. MORENO: I understand. But I
25 object to the question and the -- the interrogatory

1 Case 11-T-0534 6-19-14
2 provides actual load through 2011 and forecasted
3 load through 20 -- from 2012 to 2020.

4 A.L.J. PHILLIPS: Yeah, I'm --
5 I'm going to allow the question only because the
6 passage of time and the requirement that responses
7 be updated.

8 I think he's just asking if they
9 have the updated actual information now that it's
10 2014 for 2012. And I think that's a fair question.

11 MR. EVANS: Thank you, your
12 Honor.

13 A.L.J. PHILLIPS: If they don't
14 have it they will say that.

15 BY MR. EVANS: (Cont'g.)

16 Q. What's the actual, Mr. Schrom?

17 A. (Quimby) For clarification --
18 for clarification are you talking about D.P.S.
19 Twenty-one or Exhibit Twenty-one when you say
20 Twenty-one.

21 Q. Exhibit Twenty-one. In response
22 to D.P.S. Thirteen --

23 A.L.J. PHILLIPS: No.

24 MR. EVANS: -- exhibit
25 Twenty-one.

1 Case 11-T-0534 6-19-14

2 A.L.J. PHILLIPS: Let's clarify,
3 because you do keep saying Exhibit Twenty-one.
4 Exhibit Twenty-one has multiple parts. Your
5 questioning them on D.P.S. Thirteen, which is part
6 of Exhibit Twenty-one.

7 MR. EVANS: That's correct.

8 A.L.J. LIEBSCHUTZ: But just to
9 somewhat confuse the matter, the updated version
10 that they've also referenced happens to be D.P.S.
11 Twenty-one which is part of Exhibit Forty-six.

12 So we'll try to speak very
13 carefully about which Twenty-one we're talking
14 about. But if we use the I.R. numbers, D.P.S.
15 Thirteen and D.P.S. Twenty-one, that will probably
16 make the whole discussion much clearer.

17 MR. EVANS: Well, I'll attempt --
18 I'll attempt to use D.P.S. Thirteen as what. What
19 would you like me to refer to the D.P.S. Thirteen?

20 A.L.J. PHILLIPS: Okay. I'll try
21 again. In their testimony there's Exhibit
22 Twenty-one. The questions you have been asking
23 have been based on D.P.S. Thirteen which is a part
24 of Exhibit Twenty-one, which was entered into the
25 record previously. My understanding is that you're

1 Case 11-T-0534 6-19-14
2 continuing to ask questions based on D.P.S.
3 Thirteen, which is part of Exhibit Twenty-one. If
4 that's not correct, please correct me.

5 MR. EVANS: That is correct.

6 A.L.J. PHILLIPS: Thank you.

7 BY MR. EVANS: (Cont'g.)

8 Q. So, the question on -- the
9 question on the table is what was the actual demand
10 in year 2012?

11 A. (Schrom) We don't have that
12 number with us at this time. We could provide it
13 to you at a later time.

14 MR. EVANS: We have an exhibit
15 then to offer.

16 A.L.J. PHILLIPS: When you've
17 finished handing the copy out, can you just
18 describe to us what this is and where it came from?

19 MR. EVANS: Yes. Ready to
20 proceed?

21 A.L.J. PHILLIPS: Yes.

22 MR. EVANS: Your Honors, this
23 document came directly from the RG&E website in
24 compliance with FERC Order Number 890, and as you
25 can see, it contains on page four the actual peak

1 Case 11-T-0534 6-19-14
2 load for 2012. So it came directly from the
3 utility company.

4 A.L.J. PHILLIPS: It doesn't
5 appear to have a total though and is that your
6 question?

7 MR. EVANS: Well, I'm going to
8 explain if it can -- question now on it, I'll get
9 to the numbers. I need a foundation from the
10 witness.

11 A.L.J. PHILLIPS: Okay. We'll --
12 we'll mark it as Exhibit Eighty-two.

13 MR. EVANS: Thank you.

14 BY MR. EVANS: (Cont'g.)

15 Q. Mr. Schrom, referring your
16 attention to page four of Exhibit Eighty-two,
17 there's a column and a chart, if you will, and at
18 the bottom it shows Rochester RG&E and for 2012
19 peak load one thousand four hundred and two point
20 six megawatts. Do you see that?

21 A. What I see -- what I see is the
22 Canandaigua district of RG&E, the Genesee Valley
23 Region of RG&E, the Lakeshore area of RG&E, and the
24 Rochester Gas and Electric area. Those may combine
25 to make the Rochester control area.

1 Case 11-T-0534 6-19-14

2 Q. And taking those areas that you
3 referred to, and you can do the math, we calculate,
4 based upon the areas you just described, a total
5 megawatt actual consumption for year 2012 as one
6 thousand six hundred and seventy-two megawatts.

7 A. By our quick calculations that
8 appears to be correct subject to check.

9 Q. When you say subject to check,
10 what else do you need to refer to to check?

11 A. I just want to make sure that in
12 the time we just took, that we didn't make a math
13 error.

14 Q. Okay. Will you kindly take the
15 time now for the record so we don't have any
16 changes as we go forth? It's important.

17 MS. MORENO: I'm sorry, could you
18 repeat, Mr. Evans, what your calculation was?

19 MR. EVANS: My calculation is one
20 thousand six hundred seventy-two megawatts.

21 THE WITNESS: (Schrom) Based
22 upon my attorney's advice, that number is correct.

23 MR. EVANS: I didn't ask your
24 attorney. Touche, Mr. Schrom. Touche.

25 BY MR. EVANS: (Cont'g.)

1 Case 11-T-0534 6-19-14

2 Q. On a more serious note, is it not
3 correct that the actual 2012 load was less than the
4 graph chart and also the number provided in the
5 response to the I.R. which we've established is one
6 thousand seven hundred and ninety-three megawatts?

7 A. Based upon Exhibit Twenty-one and
8 that page of the forecasted peak loads, it is true
9 that the actual was less than the forecasted peak.

10 Q. Is it a fair statement that for a
11 utility company, such as the RG&E, to do a forecast
12 it's done to the best of their ability based upon
13 past consumption and historical data? They do it
14 to the best of their ability.

15 A. The utility generally does it
16 based upon previous forecasts, the economic
17 climate, what known industrial facilities could be
18 moving in, what known industrial growth there is,
19 what known housing development there is. So, it
20 all adds together, and I cannot -- I am not a load
21 forecaster.

22 Q. I understand but I appreciate
23 your response, what constitutes the forecast. And
24 accordingly would it be fair to say that the
25 forecast can go up or down based upon reality at

1 Case 11-T-0534 6-19-14

2 the time that it refers to? That's a yes or a no.

3 A. I will not answer that way. I
4 will tell you that it all depends on consumer
5 response and what the air temperatures are and the
6 humidity will drive the demand of the system.

7 Q. And, again, just looking at the
8 forecast line, given your explanation with which I
9 have no disagreement, sir. I have no disagreement
10 with. I'm focusing on forecast and what we have
11 before us is, in fact, the establishment that in
12 this particular year, 2012, the forecast for that
13 year does not coincide with the actual load but, in
14 fact, it's less. That's all I'm trying to
15 establish.

16 A. And I agree that the actual was
17 less than the forecast. But as time progresses and
18 we cannot control the economy of the United States,
19 things can change. People will have higher
20 consumption. If you get high humidity and very hot
21 days for prolonged periods, the peak will get
22 higher.

23 Q. And will the peak also get lower
24 during the forecast years projecting out if, in
25 fact, the consumers, industry, and general society

1 Case 11-T-0534 6-19-14
2 requires less load to acquire from the RG&E? It
3 will go down. If it goes up it's got to go down if
4 things happen. Yes or no?

5 A. I don't agree with you. Because
6 as society buys more and more appliances and
7 things, the load goes up.

8 You can't stop society from
9 buying more T.V.s, more air conditioners and going
10 to Lowe's and they have thousands of air
11 conditioners sitting there. People are picking
12 them up. It adds to the load growth.

13 Q. Thanks. Mr. Schrom or Mr.
14 Quimby, apparently Mr. Schrom, are you familiar
15 with Governor Cuomo having announced on April 24 of
16 2014 that he wishes to have a fundamental shift to
17 utility regulation? You aware of that?

18 MS. MORENO: Your Honors, I --
19 I'll object to that question, beyond the scope of
20 the testimony.

21 MR. EVANS: We're referencing,
22 Judges, the chart provided by the RG&E, its
23 forecast, the response by the witness to the
24 exhibit which is in evidence and his statements
25 just made. This is cross exam with regard to his

1 Case 11-T-0534 6-19-14
2 contention that obviously there are changes in
3 forecast.

4 He indicated what the changes
5 upward to be and what would cause that, and I'm
6 exploring now whether he has familiarity ith the
7 State's position regarding consumption in the
8 future and the State's goal and expectations.

9 Which, in fact, goes to the core
10 issue of reliability in -- in the coming years.

11 My associate also advised me that
12 this document is found on the P.S.C. website.
13 Okay. I'm sorry. Not this specific document, but
14 reference to this document are on the P.S.C.
15 website itself.

16 A.L.J. PHILLIPS: Okay. Because
17 it's on the P.S.C. website, I don't think
18 establishes a sufficient basis for asking these
19 witnesses about this document, which they did not
20 reference in their testimony.

21 I think they already indicated
22 they're not load forecasters. There's no chart in
23 here that seems to be related to the questions that
24 you were asking.

25 MR. EVANS: I'll try to -- I'll

1 Case 11-T-0534 6-19-14
2 try to focus in on what the point is. And it is
3 not using this document to show or establish
4 reduction. It's used to show what forecasting is
5 based upon. The witness testified that increased
6 purchases of T.V., appliances, et cetera, will
7 cause an increase in load.

8 All we're attempting to establish
9 is that decrease in load also could occur based
10 upon the goals and expectations of the State and
11 the document found on the P.S.C. website as to how
12 to reduce load.

13 And this is critical with regard
14 to the timing issue of this particular project.

15 So, if I could move ahead and lay
16 the foundation, I'm sure you'll see that I'm going
17 to end up tying it in.

18 MS. MORENO: Your Honors, this
19 may have been an appropriate line of questioning to
20 direct at RG&E who actually prepared the responses
21 and our load forecasters. These witnesses have
22 explained they're not load forecasters and they did
23 not prepare the response to D.P.S. Thirteen for
24 which this is evidently related.

25 MR. EVANS: But they asked for

1 Case 11-T-0534 6-19-14

2 the information. Why would you ask for the
3 information if, in fact, you didn't intend on
4 looking at it and utilizing it in your position?

5 MS. MORENO: I didn't say they
6 weren't going to look at the information.

7 MR. EVANS: So I can just move it
8 in here and -- and I don't know what you're afraid
9 of, frankly. Why -- why counsel's afraid to go into
10 this area.

11 MS. MORENO: I'm not sure why you
12 need to characterize this.

13 MR. EVANS: I'm characterizing it
14 because I'm listening to these objections. And
15 here we are trying to get to the merits of timing,
16 which is one of the key issues in this case. And I
17 sense that the P.S.C.'s position is --.

18 MR. BLOW: We asked for a ruling,
19 your Honor.

20 MR. EVANS: I sense a blockage,
21 an attempt to find out through these documents.

22 A.L.J. PHILLIPS: Okay. Stop
23 arguing and give us a minute.

24 A.L.J. LIEBSCHUTZ: Mr. Evans,
25 we're going to sustain the objection on the grounds

1 Case 11-T-0534 6-19-14
2 that these witnesses have testified that they are
3 not load forecasters and are relying on the numbers
4 from RG&E.

5 At the same time, if you are
6 trying to make a point that not only can peak load
7 turn out to be below forecast, but that, in fact,
8 peak load can go down in a given year, I think we
9 have established through Exhibit Eighty-two, the
10 witnesses have agreed that peak load for 2012 was
11 sixteen seventy-two megawatts.

12 And we've previously been looking
13 at the answer to D.P.S. Thirteen which shows that
14 the peak load in 2011 was seventeen fifty-two
15 megawatts.

16 So, that according to the
17 information that is already in exhibits on -- on
18 the record, the peak load went down from 2011 to
19 2012 in terms of the actual numbers. So I'm not
20 sure you need to belabor this line of inquiry
21 further.

22 MR. EVANS: Fine. That's --
23 that's perfect, your Honor.

24 BY MR. EVANS: (Cont'g.)

25 Q. Now realizing, as I believe we've

1 Case 11-T-0534 6-19-14
2 established, that indeed there can be less demand
3 than actually forecasted. And I'm not asking you
4 to do any predictions of future forecasts. We're
5 just accepting this graph that you've asked to be
6 produced, what occurred in the year 2013 based upon
7 your knowledge and based upon the graph which led
8 to an increase of transmission capacity, sirs?

9 What occurred on the -- based
10 upon this chart, what occurred in 2013? Did
11 something occur at Station 80?

12 A. Could you point me to the exhibit
13 that you're discussing?

14 Q. The one right in front of you.

15 A. Which one?

16 Q. D.P.S. Thirteen.

17 A. Which page?

18 Q. Page three, which is attachment

19 B, as in boy, constitutes a draft, attachment A.

20 All right. So it's attachment A,
21 my apologies. You see -- can you see the graph?

22 A. Okay. We see the graph but I
23 would like you to --.

24 Q. I will rephrase the question for
25 you, okay?

1 Case 11-T-0534 6-19-14

2 Do you have the graph in front of

3 you?

4 A. Yes, I do.

5 Q. And you had seen that before

6 today?

7 A. Yes.

8 Q. Okay. My question is what

9 occurred, to your knowledge, in or about 2013 which

10 led to an increase of transmission capacity?

11 A. As far as transmission capacity,

12 I think you need to explain to me what you mean.

13 Q. What I mean, again, looking at

14 the word -- these words used by the RG&E, and

15 follow the color code, that they've charted, that

16 you've looked at, and I'm assuming you studied it

17 or at least went through it when you got it. What

18 occurred in or about 2013 that led to, based upon

19 the information on this graph, an increase in

20 actual transmission capacity?

21 A. Which line are you referring to?

22 Q. May I step up?

23 A.L.J. PHILLIPS: Can I -- can I

24 jump in? I think what you're asking, correct me if

25 I'm wrong, there's a purple line --

1 Case 11-T-0534 6-19-14

2 MR. EVANS: Correct.

3 A.L.J. PHILLIPS: -- it's the
4 last one in the legend, transmission capacity with
5 R.A.R.P. I believe what you're asking is do they
6 know why there is an X that is -- it's the one
7 that's attached to the yellow line, why did it go
8 from there to the next indicated spot on the purple
9 line.

10 MR. EVANS: Thank you.

11 A.L.J. PHILLIPS: So, it goes
12 from under two thousand to in between the two
13 thousand and twenty-five hundred.

14 MS. MORENO: Your Honor --

15 MR. EVANS: No. No, that's not
16 correct.

17 MS. MORENO: -- just as a point
18 of clarification --

19 A.L.J. PHILLIPS: I'm sorry.

20 MS. MORENO: -- that would be a
21 forecast, in that this answer was prepared prior to
22 2013.

23 A.L.J. PHILLIPS: Okay. But
24 is -- is that what you were asking or no?

25 MR. EVANS: What I'm establishing

1 Case 11-T-0534 6-19-14
2 is the following. What this shows is that with the
3 installation of the transformers at Station 80
4 which has been established to had -- have actually
5 occurred in late December 2013, early January 2014,
6 it was enabling the system to meet the need that
7 was then required -- that -- that --.

8 A.L.J. PHILLIPS: Are -- are you
9 stating that or asking a question?

10 MR. EVANS: I believe that's what
11 the chart shows, and I'm asking if they have
12 knowledge of the installation of the transformers
13 and how that affected, if anything, the
14 transmission of power, which are still in place.

15 A.L.J. PHILLIPS: Okay. That's
16 a -- it's a slightly different question, but if
17 that's your question.

18 MR. EVANS: Okay. Judge you
19 may --.

20 A.L.J. PHILLIPS: Do you
21 understand the question?

22 THE WITNESS: I understand the
23 question now.

24 A.L.J. PHILLIPS: Okay.

25 BY MR. EVANS: (Cont'g.)

1 Case 11-T-0534 6-19-14

2 Q. May I have an answer please, Mr.
3 Schrom?

4 A. Yes, RG&E did install two new
5 transformer banks, but that is not the purpose of
6 my testimony.

7 Q. But by reason of the installation
8 of the transformers, is it not true that it was
9 done, to your knowledge, your capacity with as an
10 engineer with the P.S.C., to provide additional
11 power needs?

12 A. They do provide additional power
13 needs, but they do not help the company to meet
14 the -- reliability criteria.

15 Q. I didn't ask you that question.
16 If you'd listen to the question
17 we'll get to your issues. But I'm asking whether
18 that was done in order to increase production of
19 transmission power.

20 A. I do not understand your word
21 production. They allow the transfer of more
22 capacity into the Rochester Gas and Electric
23 System.

24 Q. And that allows to meet any
25 greater need that then existed?

1 Case 11-T-0534 6-19-14

2 A. It may meet the need, but it does
3 not meet the reliability criteria.

4 Q. Mr. -- Mr. Schrom, I'm not asking
5 you about reliability at this point in time.
6 You're jumping off the topic and getting your
7 strike points in to me. I understand that, but
8 what you -- what I'd like you to do, and you'll
9 have your full opportunity on redirect. What I'd
10 like you to do is not keep on pushing R.A.R.P.
11 That's not the question right now.

12 I understand your position
13 clearly. I read your testimony. But stay with me
14 in a cross examination in terms of the installation
15 of the transformers at Station 80 which has
16 occurred and is in place. And, in fact, is there
17 and is working to, in fact, increase transmission
18 capacity. That's all.

19 And -- and don't talk about
20 R.A.R.P. right now. We're not -- I didn't ask
21 about --.

22 A.L.J. PHILLIPS: Mr. Evans, I
23 think he did answer your question with explanation.

24 If you have a follow-up question,
25 can we proceed?

1 Case 11-T-0534 6-19-14

2 MR. EVANS: Yes, I will. But in
3 a cross examination as -- as you know, giving a lot
4 of latitude as you have. But please it doesn't
5 help to have somebody keep on pushing their points
6 which have no bearing upon the question. That's
7 all I'm asking. Okay.

8 I know what the conclusion is
9 from -- from the witness. We all do. But just
10 follow the questions. We don't need a
11 politicalization of terms of R.A.R.P. That's all.

12 BY MR. EVANS: (Cont'g.)

13 Q. Mr. Schrom, given that factor, if
14 you were, in fact, to look at this graph which is
15 attachment A, and you've got it in front of you,
16 and you were to extend the three purple Xs which
17 were placed there with the addition of Station
18 80 -- Station 80 transformers, is it not true that
19 if you extended it to the RG&E's forecast, not
20 yours, that this addition would enable the meeting
21 of transmission capacity or need, if you will,
22 until approximately 2023? Based on the RG&E
23 document. Not your opinion. Would you ask them to
24 give you?

25 That's a direct question.

1 Case 11-T-0534 6-19-14

2 A. That may be true, based upon this
3 graph. However, it still does not help the company
4 meet the reliability criteria.

5 Q. Okay. Again -- once again, you
6 said that fourteen times. We understand that as
7 far as your position.

8 We asked you to confirm and I
9 think you have, that if you were to extend the
10 line -- the purple line that arose, due to the
11 installation of the transformers at Station 80 and
12 extend that to the RG&E forecast line, those
13 additional transformers now running and in place,
14 would meet demand until approximately year 2023.
15 Approximately.

16 (Off-the-record discussion)

17 A. That's -- that's assuming that
18 the load forecast does not change, that is that the
19 peak load does not grow at a faster rate.

20 BY MR. EVANS: (Cont'g.)

21 Q. It also assumes -- well, excuse
22 me. Strike that.

23 In fact, as we've established
24 before, if the forecast were to actually be less
25 for whatever cause or reason, then in fact the

1 Case 11-T-0534 6-19-14
2 extension date would be -- would even be beyond
3 2023, correct? If?

4 A. Anything's possible.

5 Q. Thank you.

6 A. But you could still have load
7 growth that could be significant.

8 Q. Okay. And --?

9 A.L.J. LIEBSCHUTZ: Mr. Evan, can
10 I just clarify something here?

11 MR. EVANS: Sure.

12 A.L.J. LIEBSCHUTZ: Because I'm
13 not sure we've actually got questions and answers
14 to establish this.

15 We're looking at this graph,
16 that's part of D.P.S. Thirteen. And I'm just --
17 let me doublecheck the date on this.

18 This document was provided in
19 2012. So that all the values after 2012 and
20 perhaps even after 2011, are forecast numbers,
21 but -- excuse me, the transmission capacity line on
22 the graph does show a dramatic -- it shows a
23 two-step jump.

24 One in about 2013 or 2014 and
25 another dramatic one in about 2017. Is it correct

1 Case 11-T-0534 6-19-14
2 that the first jump in about 2103 or 2014, that was
3 forecasted on this graph, was attributable to the
4 addition to transformers at Station 80, if you
5 know?

6 MR. EVANS: Yes, your Honor,
7 that's correct.

8 A.L.J. LIEBSCHUTZ: No. I'm
9 sorry. I'm asking the witnesses --

10 MR. EVANS: Oh, I'm sorry.

11 A.L.J. LIEBSCHUTZ: -- that
12 question.

13 MR. EVANS: Okay. Sorry.
14 That was my question. Thank you.

15 MR. SCHROM: I have not -- and
16 this is an old interrogatory. This is before the
17 reopening of the case.

18 A.L.J. LIEBSCHUTZ: Yes.

19 MR. SCHROM: I have not verified
20 that those transformers have increased that much
21 capacity, but I do know there is significant
22 increase in capacity at Station 80.

23 A.L.J. LIEBSCHUTZ: And is it
24 your belief, that when RG&E provided this forecast,
25 that the jump in the forecast in transmission

1 Case 11-T-0534 6-19-14
2 capacity was based on their forecast of increased
3 capacity, provided by the addition of transformers
4 at Station 80?

5 MR. SCHROM: To be honest with
6 you, trying to recollect back that far, I can't. I
7 know -- but I did know from that -- when the --
8 when it was first part of the case, that they were
9 adding significant amounts of transform --
10 transformer capacity, about a hundred M.B.A. per
11 bank I believe.

12 A.L.J. LIEBSCHUTZ: So, it's --
13 you think it's reasonable that that jump in the
14 forecast, was attributable to the improvements at
15 Station 80?

16 MR. SCHROM: It could be
17 attributable.

18 A.L.J. LIEBSCHUTZ: And then the
19 second jump in the forecast is presumably
20 attributable to the installation of the R.A.R.P.?

21 MR. SCHROM: That's correct.

22 A.L.J. LIEBSCHUTZ: Is that
23 right?

24 MR. SCHROM: That's Station 255.

25 A.L.J. LIEBSCHUTZ: Thank you.

1 Case 11-T-0534 6-19-14

2 I just wanted to make sure we had that clear.

3 MS. MORENO: Though, your Honor,
4 I would state that just the -- the line that we're
5 speaking of is identified as transmission capacity
6 with R.A.R.P. So, presumably, perhaps both of
7 those steps are -- are interconnected with the ROCK
8 Project.

9 A.L.J. LIEBSCHUTZ: Well --.

10 MR. EVANS: I -- I object to that
11 statement as interpretation of testimony. Counsel
12 should not be testifying. That's not the case at
13 all.

14 MS. MORENO: I'm sorry. Your --
15 your projection was that Station 80 was included,
16 was it not?

17 MR. EVANS: Excuse me. I'm not
18 going to answer questions of counsel.

19 My point is, she's intermixing in
20 an inappropriate way.

21 MS. MORENO: I'm not
22 intermixing --

23 A.L.J. PHILLIPS: We all know --
24 we have -- we have the document --

25 MS. MORENO: I'm not going --

1 Case 11-T-0534 6-19-14

2 A.L.J. PHILLIPS: -- in front of

3 us --

4 MS. MORENO: -- to get in to

5 a --.

6 A.L.J. PHILLIPS: -- and it -- we

7 have the witness testimony. It says what it says.

8 Do you have follow-up questions?

9 MR. EVANS: I do. It -- it --.

10 A.L.J. PHILLIPS: Okay.

11 MR. EVANS: Counsel's projecting.

12 A.L.J. PHILLIPS: Please --

13 please proceed.

14 MR. EVANS: Thank you.

15 BY MR. EVANS: (Cont'g.)

16 Q. So, moving ahead then, based upon

17 the chart in front of you, with Station 80

18 transformers having significantly increased, per

19 your testimony, the generation of power or

20 transmission capacity, if you will, would that not

21 continue through the construction of Station 255,

22 if such construction were to occur at Site 7, with

23 a start date of approximately January 1, of 2015?

24 A. I would -- I'm going to ask you

25 to break this question down because you've asked --

1 Case 11-T-0534 6-19-14

2 Q. I'll work with --

3 A. -- too many questions, I believe.

4 Q. -- I'll work with you.

5 We're here to decide whether to

6 place Station 255 on Site 7 or Site 20, is that

7 correct?

8 That's part of this proceeding,

9 that's what we're here for?

10 A. That is the purpose of that -- of

11 this proceeding.

12 Q. Okay. In that regard, what is

13 the proposed anticipated start date, if you know,

14 by the RG&E for the construction of Station 255, at

15 Site 7, once this proceeding is concluded.

16 A. RG&E will not be able to start at

17 Site 7, until the commission issues the order.

18 Q. That I know. I'm asking you the

19 date though?

20 A. I do not know what the date is

21 because I don't know when the commission is going

22 to act and that -- therefore, I cannot begin to

23 guess.

24 Q. Okay. I don't want you to

25 guess.

1 Case 11-T-0534 6-19-14
2 My question is the following:
3 Assume for your answer, that Station 255, shovel in
4 the ground on January 1, of 2015. And, also assume
5 that the RG&E has established that -- that it would
6 take twenty-four months from shovel in the ground
7 to activation for the substation at two -- at -- at
8 Site 7.

9 Based upon this chart,
10 considering the addition of transmission power at
11 Station 80, which admittedly is now occurring, is
12 there any indication that the forecast, as shown by
13 the RG&E would not be lacking for power during that
14 timeframe of construction? That's a twenty-four
15 month timespan.

16 MR. DRAGHI: Your Honor, I'm
17 going to object because the assumption the witness
18 is being asked to make is contrary to the testimony
19 that has been given in this case, which there's
20 been no contradiction that it would take four
21 months to engineer the project, if it is moved to
22 another site. And then an E.M.C.P. would have to
23 be prepared, that would take many months longer.
24 So, unless the question is limited to Site 7 --

25 MS. MORENO: I think it was.

1 Case 11-T-0534 6-19-14

2 MR. DRAGHI: -- I think the
3 assumptions are --

4 A.L.J. PHILLIPS: The question
5 was limited -- my understanding, when I heard it
6 was that it was limited to Site 7. He was asking
7 about Site 7.

8 MR. EVANS: Correct.

9 (Off-the-record discussion)

10 A. (Cont'g.) Here's how I'm going to
11 answer your question.

12 Basically, when the commission
13 issues its decision on site -- if it's Site 7,
14 they -- then we will -- the commission will have to
15 entertain the E.M and .C.P., which will take some
16 time for the commission to make an action on the
17 E.M. and C.P. for Site 7. And once the company
18 receives the action from the Commission, they may
19 begin construction, but not until then.

20 BY MR. EVANS: (Cont'g.)

21 Q. I couldn't agree more with that
22 statement.

23 I'm asking you for purposes of
24 the question though, to assume that all the
25 preliminaries that you've mentioned, which we do

1 Case 11-T-0534 6-19-14
2 not disagree with, occur. And assume that shovel
3 in the ground could occur, after all the
4 preliminaries are taken care of, per your
5 testimony.

6 Assume the start date, shovel in
7 the ground, is January 1, 2015. The question is:
8 During the period of construction for twenty-four
9 months, for Site 7, does this chart show that
10 transmission capacity would be met by reason of
11 Station 80 transformers? Based on the chart.
12 Based on the chart.

13 A. I have to again say, that the
14 company can meet its load, but it cannot meet with
15 the reliability criteria and so therefore, the
16 company would be -- it can't be N-1 and N-1-1.

17 Q. Okay.

18 A. They would be in violation of
19 that criteria.

20 Q. I understand your testimony, but
21 we have established, that notwithstanding
22 inability to meet the criteria you've mentioned, as
23 established by -- by NYSERC and NYISO, the fact is
24 that during the construction phase of twenty-four
25 months for Site 7, their need could be met, during

1 Case 11-T-0534 6-19-14
2 that phase, in transmission capacity, as based upon
3 this chart?

4 That's all I'm asking, with your
5 caveat about non-compliance with the standard.

6 MR. BLOW: I actually think it's
7 been asked and answered several times.

8 A.L.J. PHILLIPS: I -- I actually
9 was thinking the same thing.

10 MS. MORENO: Yeah.

11 MR. EVANS: But I'm trying to get
12 rid of this continuous editorialization --

13 MS. MORENO: Well --

14 MR. EVANS: -- all right?

15 A.L.J. PHILLIPS: I don't think
16 you're going to though. The witnesses have the --
17 they have the right to answer the question fully
18 and in their capacity and in the way that they
19 think appropriate.

20 You have asked this question.
21 You have gotten an answer. I understand you don't
22 like the answer, but I think you may need to move
23 on.

24 MR. EVANS: I like the answer --
25 to be clear, Judge, I like the answer with regard

1 Case 11-T-0534 6-19-14
2 to his stating -- this is my understanding, he has
3 conceded or stated, if you will, that the
4 transformer is now in place.

5 A.L.J. PHILLIPS: Right.

6 MR. EVANS: Based on --

7 A.L.J. PHILLIPS: And all --.

8 MR. EVANS: -- the chart, would
9 meet the transmission need for twenty-four months.
10 That's all --

11 A.L.J. PHILLIPS: Mr. Evans --

12 MR. EVANS: -- I'm asking.

13 A.L.J. PHILLIPS: -- everything
14 that was said, is going to be in the transcript, so
15 I honestly think we need to move forward.

16 MR. EVANS: I'd like to move
17 forward. I -- I would, Judge, honestly.

18 BY MR. EVANS: (Cont'g.)

19 Q. Okay. We've heard testimony,
20 Mr. Schrom or Mr. Quimby, that if Station 20 were
21 selected, there would be an additional ten months'
22 time needed, above the twenty-four months to get
23 the substation up and running, from shovel date in
24 the ground, to completion date.

25 Based upon that and again

1 Case 11-T-0534 6-19-14
2 assuming that the construction date is established
3 and worked out with all the contingencies you
4 mentioned, to be January 1 of 2015, does this chart
5 show that for the span of thirty-four months, from
6 January 1, of 2015, transmission capacity would be
7 met, based upon the chart?

8 A. First off, this is not Station
9 20, this is Site 20.

10 Q. I'm sorry.

11 A. Okay. So, we'll get this --
12 that clear.

13 Q. Can I rephrase it --

14 A. And --

15 Q. -- for you?

16 A. -- I'd like -- well, all right.
17 You want to rephrase it. I'll let you rephrase it.

18 Q. Okay. Thank you for allowing me
19 to rephrase. My forgiveness, please, for saying --
20 saying the word Station 20. I'm talking about Site
21 20.

22 My question again is: If the
23 decision by the commission, were to direct that
24 Site 20 be utilized for construction of Station 255
25 and assuming that Site 20 construction began on

1 Case 11-T-0534 6-19-14
2 January 1 of 2015 and extended out for a period of
3 thirty-four months from that date. Based upon the
4 graph and what it shows in the graph, would there
5 be sufficient transmission capacity through the
6 generation of power that's now occurring at Station
7 80?

8 A. First off, I have to disagree
9 with your question. The question really is, RG&E
10 would get a certificate from the commission as to
11 which site. If they choose Site 20, there is
12 significant engineering that the company must do.
13 They will have to prepare an E.M. and C.P. The E.M.
14 and C.P. has to be approved by the Commission.

15 Our best guesstimate was that it
16 would take a full year from the time the commission
17 issued the order.

18 Now, RG&E has stated that it will
19 take another twenty -- another four months beyond
20 the twenty-four months that they had projected from
21 the point where the spade goes in the ground to the
22 point of energization.

23 During that time, they will be in
24 violation of the reliability criteria. You can
25 have transformer capacity to deliver to your

1 Case 11-T-0534 6-19-14
2 system, not generation, but deliver capacity to
3 your system. But, you still will not meet the
4 criteria upon the loss of any one of the elements.
5 You will not be able to serve load and you will be
6 having to shed load.

7 Q. And that's true with regard to
8 whether the selected site is 7 or 20. Is that
9 true?

10 A. That would be true.

11 Q. Thank you.

12 MR. EVANS: Forgive me for a
13 moment.

14 (Off-the-record discussion)

15 MR. EVANS: I'm ready to proceed.
16 Thank you for the time to allow me to focus in on
17 the next area of questions.

18 A.L.J. LIEBSCHUTZ: Yes.

19 BY MR. EVANS: (Cont'g.)

20 Q. Mr. Schrom or Mr. Quimby -- I
21 haven't heard from Mr. Quimby yet, but Mr. Schrom
22 probably, on page twenty-two of your direct
23 testimony -- and actually, I'm sorry. You -- it
24 starts on page twenty-one of the revised testimony
25 pages that we were provided with, beginning on page

1 Case 11-T-0534 6-19-14

2 twenty-one of the revised testimony, please locate
3 that and let me know when you've found it.

4 A. We have it.

5 Q. Directing your attention to line
6 twenty of your testimony, it says relating now, to
7 Alternate 20, that approximately eleven million
8 dollars will be added to the cost of the project --
9 I'm sorry, strike that.

10 That approximately twenty million
11 dollars will be added to the cost of the project,
12 if Site 20 were to be utilized, is that correct?

13 A. That's correct.

14 Q. Okay. Where did you obtain that
15 number from, sir?

16 A. From the materials that we
17 obtained from Rochester Gas and Electric, through
18 interrogatories and other documents that were
19 supplied to us.

20 Q. Have you not received any updated
21 responses, or materials, or documents from the
22 RG&E, which would affect the number of twenty
23 million dollars, regarding Site 20?

24 A. I don't recall any new documents
25 that I was provided with.

1 Case 11-T-0534 6-19-14

2 (Off-the-record discussion)

3 BY MR. EVANS: (Cont'g.)

4 Q. I direct your attention, please,
5 to Exhibit Thirty-seven, which is the Quantitative
6 Matrix Report by the RG&E, provided I believe, on
7 or about January 16th, of 2014 to all parties in
8 this case.

9 Kindly locate the document.

10 A. I don't have that document.

11 MR. EVANS: Well, it's in the
12 record. Would counsel kindly provide him --

13 A.L.J. LIEBSCHUTZ: The
14 document --

15 MR. EVANS: -- with that
16 document.

17 A.L.J. LIEBSCHUTZ: -- is two
18 enormous binders. Whereabouts in Exhibit
19 Thirty-seven are you looking --

20 MR. EVANS: Just the --

21 A.L.J. LIEBSCHUTZ: -- Mr. Evans?

22 MR. EVANS: -- matrix chart.

23 A.L.J. LIEBSCHUTZ: The matrix?

24 MR. EVANS: Only. The matrix
25 chart only.

1 Case 11-T-0534 6-19-14

2 A.L.J. LIEBSCHUTZ: For the
3 record, the matrix chart is located immediate --
4 well, just before Appendix A of Exhibit
5 Thirty-seven, within the exhibit.

6 (Off-the-record discussion)

7 A.L.J. LIEBSCHUTZ: The witnesses
8 have been provided with a copy of the matrix chart
9 that was -- is part of Exhibit Thirty-seven.

10 MR. EVANS: Your Honors and my
11 fellow colleagues, I have brought along the largest
12 magnifying glass that I could find in Rochester,
13 New York, which I will make available to the
14 witness or anybody else who finds it difficult to
15 read any entry on Exhibit Thirty-seven.

16 And, if Mr. Schrom, would like
17 it -- I use it all the time because of my eyesight,
18 yours is probably much better than mine. You look
19 like you're twenty-twenty. But if you need this,
20 I'll give it to you.

21 MR. SCHROM: I've seen it.

22 (Off the record discussion)

23 A.L.J. LIEBSCHUTZ: Please
24 continue -- please continue, Mr. Evans.

25 BY MR. EVANS: (Cont'g.)

1 Case 11-T-0534 6-19-14

2 Q. Mr. Schrom, have you seen Exhibit

3 Thirty-seven before?

4 A. I believe so.

5 Q. Let me direct your attention

6 please, to the blue box, which is labeled on the

7 left side, impact to project budget, second from

8 the bottom. Tell me when you've found it.

9 A. I have found it.

10 Q. I direct your attention

11 specifically, to item F dot five, entitled Total

12 Cost Impact.

13 Do you see that?

14 A. I see that.

15 Q. Follow that line across to

16 Alternative Twenty. And, if you would set forth in

17 the record what you see and is set forth as being

18 the total cost at that time for Alternative Twenty,

19 at the time of the submission of this matrix?

20 A. Nine point seven three seven

21 million dollars.

22 Q. Okay. And that would be over

23 and above what is now the base of the projected

24 costs for Site 7?

25 (Off-the-record discussion)

1 Case 11-T-0534 6-19-14

2 A. (Cont'g.) I don't specifically
3 see those words on this chart.

4 BY MR. EVANS: (Cont'g.)

5 Q. The words aren't there, but
6 I'm -- I'm trying to help you, but if you want to
7 go with just stating that the total cost is nine
8 -- according to your reading is nine point seven
9 three seven million dollars, I'm not going to
10 disrupt your testimony.

11 But you -- what do you want to
12 do?

13 A. That's the number I read off the
14 chart.

15 Q. Okay. Is that less than what is
16 set forth in your direct testimony, with regard to
17 your statement that Alternate 20 would add
18 roughly -- approximately twenty million dollars to
19 the cost of the new station? Is it less than that,
20 based on the matrix card?

21 A. It's less than that. I agree.

22 Q. And would that be -- and forgive
23 me for my math. I never went to engineering or
24 math school.

25 Would that be approximately

1 Case 11-T-0534 6-19-14

2 ballpark, a ten point three million dollar
3 differential between your sworn testimony of cost
4 of Site 20, for development versus what the RG&E
5 provided us -- us all, in January of 2014?

6 A. (Quimby) Actually, it's ten point
7 two seven three nine.

8 Q. I knew Mr. Quimby -- I knew Mr.
9 Quimby would jump in and be there for us.

10 How much is the total, Mr.
11 Quimby?

12 A. The difference?

13 Q. Yes.

14 A. Ten point -- ten point two seven
15 three.

16 Q. Thank you, sir.

17 A. No problem.

18 Q. So -- so Mr. Quimby, is it not
19 that true that that's less than what is set forth
20 in your panel testimony regarding the approximate
21 twenty million dollars you stated to the cost of --
22 build out of Site 20.

23 A. It would appear to be.

24 Q. Now, let's go to Exhibit
25 Forty-two, an exhibit that was received at the

1 Case 11-T-0534 6-19-14

2 hearing, on June 17th, of 2014.

3 A. That -- oh.

4 MS. MORENO: This is with the --
5 the clarification as to what's additional to the
6 exhibit.

7 (Off-the-record discussion)

8 MR. EVANS: Let me know when
9 you're ready.

10 (Off-the-record discussion)

11 MS. MORENO: And for
12 clarification, this is a corrected version with the
13 handwritten notes. Is that correct? Okay.

14 MR. EVANS: I believe it was
15 identified as such, on June 17th, of 2004, by Mr.
16 Draghi. I don't know if Mr. Draghi wants to change
17 that statement.

18 A.L.J. LIEBSCHUTZ: Just to be
19 clear, we are looking at hard copies of revised
20 Exhibit Forty-two, that does have further
21 corrections, which on our versions are handwritten.

22 However, I believe we are going
23 to be supplied with a corrected copy,
24 electronically, that will go in to the record,
25 without handwritten versions in it. But it is the

1 Case 11-T-0534 6-19-14

2 official marked, revised Exhibit Forty-two.

3 MR. DRAGHI: Your Honor, since
4 Mr. Evans asked if I wanted to make clear or make a
5 change. I do wish to point out that those numbers
6 pertain to a project that is no longer under
7 consideration.

8 All of the -- the numbers on the
9 old chart and the new chart dealt with what was
10 under consideration at the time they were prepared
11 that is Nine or Twenty with the northern route.

12 The parties have stipulated, not
13 to examine further, the northern route. That's
14 taken off the table, therefore, we need new
15 numbers.

16 We had discussed briefly, whether
17 it would be possible to prepare a revised chart. I
18 think you had suggested that the three alternatives
19 and then the alternative twenty with the three
20 transmission routes.

21 But in any case, this gives
22 numbers that pertain to a project that will not be
23 built.

24 A.L.J. LIEBSCHUTZ: Yes. The
25 chart, I think speaks for itself and is clearly

1 Case 11-T-0534 6-19-14
2 labeled, Northern Transmission Line Route.
3 MR. EVANS: That is correct.
4 And I don't --
5 A.L.J. LIEBSCHUTZ: Go ahead, Mr.
6 Evans.
7 MR. EVANS: -- and I don't
8 disagree with Mr. Draghi's statement as to what it
9 pertains to. But what we're focusing in, is what
10 it says in Exhibit Forty-two, at the time that it
11 was supplied. And I understand presumably there'll
12 be new numbers at one point in time regarding
13 costs, now that the northern route is out.
14 BY MR. EVANS: (Cont'g.)
15 Q. But using Exhibit Forty-two, Mr.
16 Schrom or Mr. Quimby, same line, on F-five, what is
17 shown as the total cost for alternative Site 20, if
18 the northern transmission line or route, was to be
19 used?
20 A. We only see the change in cost.
21 We don't see a total cost on here.
22 Q. How much was the change that you
23 see?
24 A. That -- if my eyes aren't failing
25 me in my old age, five point nine two five million.

1 Case 11-T-0534 6-19-14

2 No. I believe it's five point
3 two nine -- five point nine two -- five million.

4 Q. And again, for clarification, Mr.
5 Quimby, what does that represent to you?

6 (Off-the-record discussion)

7 A. (Cont'g.) It represents the
8 difference in the cost from Site 7.

9 BY MR. EVANS: (Cont'g.)

10 Q. So, for clarification -- and
11 again, this only pertains to the Alternate Site 20,
12 if the northern transmission line route had been
13 used, the differential over and above the costs for
14 Site 7, were projected by the RG&E, to be five
15 million nine hundred and twenty-five thousand
16 dollars?

17 A. That would appear to be correct.

18 Q. And then referring back, Mr.
19 Quimby, to page twenty -- is it twenty. The
20 pagination is just driving us crazy here. But
21 referring back to --.

22 A.L.J. PHILLIPS: It's the top of
23 page twenty-two.

24 MR. EVANS: Thank you, Judge.

25 BY MR. EVANS: (Cont'g.)

1 Case 11-T-0534 6-19-14

2 Q. Pop -- top of page twenty-two,
3 the revised pagination of the direct testimony,
4 when your panel referenced the additional cost of
5 twenty million dollars for the development of Site
6 20, was that number of twenty million dollars, Mr.
7 Quimby or appropriate party, represent at that
8 time, your determination of the total cost impact
9 for site -- for Site 20, with or without the
10 northern route?

11 A. To my recollection, that was Site
12 20 with the northern route.

13 Q. Can you explain the differential
14 in costs, for the northern route as shown on the
15 exhibits we reviewed and your determination of
16 twenty million dollars, which we have stated and I
17 believe you stated was a swing of approximately ten
18 point three million dollars?

19 A. It was in our opinion that RG&E
20 had undervalued several of their estimates in
21 construction with site preparation.

22 Q. And in that regard, once you came
23 up with your twenty million dollar figure, were you
24 aware that the projections up to that point in
25 time, provided by the RG&E, were nine million seven

1 Case 11-T-0534 6-19-14

2 hundred and thirty-seven thousand dollars?

3 A. (Schrom) We were aware of what
4 was on RG&E's chart and we had several
5 conversations with them. But, we believed that
6 they had undervalued the demolition of the building
7 and undervalued the construction of the hundred and
8 fifteen kV line, to be constructed, going north.

9 We took into account what we
10 believed were significant factors on the northern
11 right-of-way and across the river.

12 Q. Mr. Schrom and Mr. Quimby, it's
13 been established in this case, that some -- Site
14 20, even with the northern route, had no buildings
15 on it.

16 A. To go north from Site 20, would
17 mean that you would have to go through the Kodak
18 property, which had a building sticking out from
19 it, which would have to be demolished, by our
20 terms.

21 Q. By your terms.

22 A. By --

23 Q. Why?

24 A. -- our terms, because we looked
25 at the right-of-way width.

1 Case 11-T-0534 6-19-14

2 Q. Okay. Again, simply to focus in
3 on the -- on the differentials. Once Mr. Schrom, I
4 assume you provided the P.S.C.'s opinion to Mr.
5 Draghi or the RG&E, about the cost differential.

6 Did they make a change?

7 A. We did not discuss any further
8 with them our conclusions. We came to our own
9 conclusions, based upon our examination of the
10 right-of-way. And, we estimated our costs, based
11 upon what we felt should be there.

12 Q. And once you provided your
13 opinion, which was substantially more than the
14 RG&E's known figure at that time, in January 2014,
15 did you receive any communication -- strike that.

16 Did you or your department seek
17 to bring that to the attention of the RG&E and
18 discuss the differentials between the utility
19 company and the P.S.C.?

20 A. No, we did not.

21 Q. So, if I hear you correctly, you
22 disagree with what the RG&E has represented on
23 several occasions, in its matrices to date, as to
24 the costs of the build-out of Site 20, with the
25 northern transmission route?

1 Case 11-T-0534 6-19-14

2 That's a yes or a no.

3 MS. MORENO: Your Honors, I'm
4 going to object to the question, in that my
5 understanding is that all of the parties had agreed
6 that the northern transmission route was off of the
7 table for discussion and that it's no longer being
8 considered by the party.

9 MR. EVANS: That -- that's not
10 the issue, Judge.

11 A.L.J. PHILLIPS: Yeah. I -- I
12 don't think eliminates this question or is a --

13 MR. EVANS: Thank you.

14 A.L.J. PHILLIPS: -- basis for
15 objecting to the question.

16 I think he's just trying to ask
17 about the differential when they -- when parties
18 were still considering that northern route.

19 MR. EVANS: Mr. Schrom or Mr.
20 Quimby, please?

21 A. Could you please repeat the
22 question?

23 MR. EVANS: Ms. Court Reporter, I
24 apologize. Is it possible for to reread or to
25 replay my last question --

1 Case 11-T-0534 6-19-14

2 THE REPORTER: Yes.

3 MR. EVANS: -- to the witness?

4 A.L.J. LIEBSCHUTZ: Unfortunately
5 we're -- she's not able to go back to your
6 question, so you will have to repeat it.

7 MR. EVANS: Bear with me
8 everybody if it's not precisely what I've asked. I
9 believe the question standing before the panel in
10 sum and substance.

11 BY MR. EVANS: (Cont'g.).

12 Q. The question is, again based upon
13 the matrices that we've referred to panel and the
14 most recent matrix set before us, which is Exhibit
15 Forty-Two, is it fair to say that based upon the
16 numbers provided by the RG&E in Exhibit Forty-Two,
17 there now is approximately fourteen million dollars
18 spread on construction of Site 20 with the northern
19 transmission route between what you testified to in
20 your testimony on direct and what's shown by the
21 RG&E in its most recent Exhibit Forty-Two?

22 A. (Schrom) That's what the numbers
23 work out to be, yes.

24 MR. EVANS: I have no further
25 questions.

1 Case 11-T-0534 6-19-14

2 A.L.J. LIEBSCHUTZ: Mr. Kanyuck
3 did you have questions?

4 MR. KANYUCK: With removal of
5 Alternate Route 9 and the northern route I do not
6 have any questions for this panel.

7 A.L.J. LIEBSCHUTZ: Okay. I'm
8 sorry, D.E.C. did you have questions? You said no,
9 correct?

10 A.L.J. PHILLIPS: I have a few
11 questions for the panel, just following up on Mr.
12 Evan's most recent dialogue with you.

13 EXAMINATION

14 BY A.L.J. LIEBSCHUTZ:

15 Q. If you look at pages twenty-one
16 TO twenty-two of your testimony where I think we've
17 just been focused, beginning at line thirteen on
18 page twenty-one, continuing over through line
19 twelve of page twenty-two, that's a section labeled
20 costs. Do you see that, panel?

21 A. (Panel) Yes.

22 Q. The first question asks, what are
23 the cost impacts to the project and the answer
24 says -- refers to the January 16th report that RG&E
25 provided, which we've marked as Exhibit

1 Case 11-T-0534 6-19-14

2 Thirty-Seven.

3 And, it says that staff utilized
4 that in performing its analysis. The next question
5 says, how did RG&E put together its cost estimate,
6 and the answer explains.

7 And the third question says, in
8 your opinion were the cost estimates reasonable?

9 Now in that third question I
10 would read that to refer back to RG&E's cost
11 estimates, and your answer says yes in our
12 experience the cost quoted were reasonable and
13 again I understood that to mean the cost quoted by
14 RG&E were reasonable.

15 Am I correct in understanding
16 that your testimony today is different from what
17 you have in your pre-file testimony?

18 A. (Quimby) We felt that their
19 cost estimates were reasonable, and the same time
20 we felt they neglected certain other costs.

21 Q. So then -- and so what you've
22 just said is that your projected numbers for the
23 cost of the project, and again understanding that
24 this is Site 9 and Site 20 with the northern
25 transmission route, as compared with Site 7 and the

1 Case 11-T-0534 6-19-14

2 certificated route.

3 But the numbers in your pre-filed
4 testimony represent your own independent analysis
5 of costs?

6 A. Yes.

7 Q. And your analysis of Site 20 as
8 costing twenty million additional, do you have any
9 way of breaking that down as to how much of the
10 additional cost was attributable to the Northern
11 Transmission Route versus how much of the
12 differential was attributable to the actual
13 substation location?

14 A. We can't provide that breakout
15 right now.

16 A.L.J. LIEBSCHUTZ: Thank you.

17 And notwithstanding that you --
18 sorry strike that second. I don't have any other
19 further questions.

20 Did I see your hand?

21 MR. DRAGHI: Yes.

22 Can I have two minutes just
23 clarification of an exhibit that has been put in
24 now pre-filed.

25 A.L.J. PHILLIPS: Which exhibit

1 Case 11-T-0534 6-19-14

2 are you referring to?

3 MR. DRAGHI: Exhibit Twenty-One,
4 and more particularly the graph that is the third
5 page, fourth page of that exhibit.

6 A.L.J. PHILLIPS: We'll allow
7 it.

8 MR. DRAGHI: Okay.

9 REDIRECT EXAMINATION

10 BY MR. DRAGHI: (Cont'g.)

11 Q. Panel there is marked on the
12 graph a line for transmission capacity. Is that --
13 if you know -- is that capacity with all
14 facility -- all transmission facilities available
15 in the service?

16 A. (Quimby) Are you referring to
17 current transmission capacity, the yellow line?

18 Q. I -- I actually was looking at
19 transmission capacity with R.E.R. but you can
20 answer for either.

21 Let's start with the yellow line
22 that you referred to, which runs across the page,
23 is that transmission capacity with all transmission
24 facilities available and in service?

25 MR. EVANS: Objection. There is

1 Case 11-T-0534 6-19-14
2 no basis for that question for this witness. He
3 didn't create the chart. There are questions asked
4 about his interpretation of it, but he has no
5 knowledge of what any line represents, he made it
6 very clear he didn't know.

7 MR. DRAGHI: I don't think he
8 made it very clear that he didn't know. The
9 question was, if you know, if it would be helpful
10 to know whether that assumes all facilities are in
11 serve. If the witness doesn't know I think he can
12 answer that.

13 MR. EVANS: It's making an
14 assumption based upon a chart that he didn't
15 create.

16 A.L.J. PHILLIPS: It's a chart
17 that they're sponsoring it, it's a chart that you
18 asked numerous questions about, so I'm going to
19 allow it. If they know the answer they can answer.

20 A. (Schrom) That yellow line
21 represents what the -- all facilities in service,
22 that means all transformers in service in the
23 Rochester area back on February 28th, 2012.

24 BY MR. DRAGHI: (Cont'g.)

25 Q. And if a contingency occurred,

1 Case 11-T-0534 6-19-14

2 would the capacity then be lower?

3 A. The capacity would be lower. It
4 would be lowered by the amount of either
5 transformer or transformers that were taken out of
6 service be it breaker operation or manual
7 operation.

8 MR. DRAGHI: I have no further
9 questions, You're Honor.

10 A.L.J. PHILLIPS: Okay. We -- I
11 think that was everyone in the room was given an
12 opportunity to ask questions.

13 What we did yesterday when we got
14 to this point, we still have questions potentially
15 from Ag and Markets, but we were going to take a
16 break until she could get here, however yesterday
17 we allowed the party who had their witnesses up on
18 the panel to do their redirect, even though we
19 still had outstanding potential cross. Do you wish
20 to do your redirect now or do you want to wait?

21 MS. MORENO: Either -- either is
22 fine, whatever your preference.

23 A.L.J. PHILLIPS: I -- I think
24 then we'll go ahead and wait. We'll take our lunch
25 break.

1 Case 11-T-0534 6-19-14

2 I'd ask that everyone be back at
3 one twenty by the clock in theback.

4 The panel is allowed to leave but
5 you're not actually excused. Thank you.

6 A.L.J. PHILLIPS: We are
7 continuing with cross examination of the D.P.S.
8 staff and environmental -- I'm sorry, engineering
9 panel, excuse me. Cross questions by Ms. Smith.

10 CROSS EXAMINATION

11 BY MS. SMITH:

12 Q. Good afternoon, panel. My name
13 is Diane Smith and I represent the Department of
14 Agriculture and Markets in this proceeding. If you
15 could turn to page eleven of your testimony.

16 A.L.J. PHILLIPS: Ms. Smith, can
17 I just make sure when this morning we made sure
18 that everyone had the corrected version. Oh. I
19 just was going to check and see if you had the
20 corrected version of testimony that was circulated,
21 I believe last week.

22 MS. MORENO: Last Friday.

23 MS. SMITH: I may or may not.

24 MS. MORENO: If they have red
25 lines. You're probably in the clear then.

1 Case 11-T-0534 6-19-14

2 MS. SMITH: Okay.

3 A.L.J. PHILLIPS: You -- you

4 think you do have it?

5 MS. MORENO: Hey, Diane?

6 MS. SMITH: We'll see as we go

7 along otherwise --.

8 MS. MORENO: Diane, on page five

9 does it say Exhibit Forty-six? Sorry to be

10 informal.

11 MS. SMITH: No, none of these.

12 MR. BLOW: Well, they may have

13 been totally noncorrected.

14 BY MS. SMITH: (Cont'g.)

15 Q. In your testimony you discussed

16 that you believe that RG&E's higher projected load

17 is a reasonable assumption. I can't give you the

18 line on that.

19 A. (Schrom) On page eleven, lines

20 one through six.

21 Q. Yes. And RG&E had said as a

22 result of their filing on 12/16/13 that there was

23 immediate need for this project?

24 A. That's true.

25 Q. Has there been any load shed in

1 Case 11-T-0534 6-19-14

2 the area, to your knowledge, within the past year?

3 A. Within the past year, I have
4 no -- know of no instances where RG&E has shed load
5 due to a system contingency.

6 Q. Do you know when the last time
7 there was a system contingency that required load
8 shed?

9 A. I can't recall, but we have had
10 instances of total blackouts from 2003 blackout and
11 the 1965 blackout where everybody was shed.

12 Q. I remember that one.

13 A. '65.

14 Q. Yes, I was getting my tonsils
15 out. That's memorable.

16 A. You now are now showing your age.

17 Q. And you also discussed in your
18 testimony, in my version on page fourteen,
19 regarding the Ginna nuclear power plant and the
20 fact that it supplies approximately five hundred
21 and eighty megawatts of capacity to the RG&E
22 system.

23 A.L.J. PHILLIPS: That's on page
24 fourteen approximately line nine and ten.

25 BY MS. SMITH: (Cont'g.)

1 Case 11-T-0534 6-19-14

2 Q. Page fourteen, line nine. If
3 Ginna does not retire, does that still result in an
4 immediate need for the facility or were the
5 projections for immediate need based on the fact
6 that Ginna would still be supplying the five
7 hundred and eighty megawatts, if you know?

8 A. The reason for this facility as
9 state -- stated in my testimony that Rochester Gas
10 and Electric cannot meet the n-1-1 criteria --
11 reliability criteria.

12 Q. And when you say they can't meet,
13 does that mean when they are looking at whether
14 they can meet it, it includes the capacity of Ginna
15 in that calculation or not? Not being an
16 electrical engineer, this question may be
17 phrased --?

18 A. It is based upon the New York
19 I.S.O. study that is attached to one of our
20 exhibits.

21 Q. Okay. Do you know if Ginna is
22 able to produce additional megawatts?

23 A. I'm sorry. But I know nothing
24 about the nuclear industry or the capability of the
25 Ginna nuclear power plant.

1 Case 11-T-0534 6-19-14

2 Q. Okay. On page sixteen, line
3 nineteen of your testimony you state that based on
4 input from your colleagues on the environmental
5 panel, you concluded that the hundred and five
6 hundred year flood plain would not impact the
7 operation from protection of the site of the
8 substation if it were located at 7, 9 or 20.

9 Referring to Exhibit Seventy-one,
10 which is a map, do you know if your conclusion
11 regarding the impacts to operation and protection
12 of the station change at all if that substation
13 location is shifted to the south and west?

14 A. I don't exactly understand how
15 far you would meet and I would have to see some
16 sort of depiction and discuss that with my
17 environmental friends.

18 Q. When they -- based on your input
19 from the environmental panel, were they only
20 looking at this specific site when you discussed
21 the flood plain issue?

22 A. Yes. It was only for this
23 specific site.

24 Q. Thank you. On page twenty of
25 your testimony on line three, you state that if

1 Case 11-T-0534 6-19-14
2 Station 255 were located at a different site, could
3 the same engineering practices be used? There was
4 earlier testimony regarding the ability to use
5 certain studies that had been done for Site 7,
6 which could potentially reduce the time when you
7 move the substation.

8 Can you explain, if you know,
9 approximately what percentage of the design from
10 Site 7 could be used if the plans were shifted to
11 Site 20 or would it involve a completely different
12 plan? If you know.

13 A. The question you asked about is
14 already answered. And that was specifically
15 relating to the five double circuit towers coming
16 from the substation. That's what that question
17 responds to.

18 Q. Are there any other engineering
19 practices that would be involved that could be
20 shifted or are you only speaking to the double
21 circuits?

22 A. In order to shift from the Site 7
23 to another site, it would take a total relook at
24 the site and what the available property is that
25 could be utilized and then how to arrange the

1 Case 11-T-0534 6-19-14
2 equipment in -- within that substation and the
3 design of the foundations for the equipment as well
4 as the location of various parts that have to be
5 installed along with that equipment. It -- it
6 really takes a whole new look.

7 Q. Okay. And on -- in your
8 testimony on page twenty-two at line eleven, you're
9 speaking regarding the cost estimates that RG&E put
10 in place.

11 When Mr. Murphy testified, he
12 changed his cost estimate for Site 20 from nine
13 million seven hundred and thirty-seven dollars to
14 five million nine hundred and twenty-five thousand
15 dollars and projected additional savings based on
16 the change in the -- of the routing of transmission
17 lines 940 and 941. Do you now consider the nine
18 million seven hundred and thirty-seven thousand
19 dollar estimate reasonable, or has your opinion
20 changed based on the testimony?

21 A. (Quimby) Our cost estimate was
22 for the northern route, which is no longer on the
23 table.

24 Q. Correct. But they dropped it
25 from nine million seven hundred and thirty-seven

1 Case 11-T-0534 6-19-14
2 thousand dollars to five million nine hundred and
3 twenty-five thousand dollars without taking into
4 consideration the change in the route.

5 A. Your Honor, I think there's going
6 to be a whole new cost exhibit on this.

7 A.L.J. LIEBSCHUTZ: We've
8 reserved and will be addressing that topic later,
9 so for right now we have to go with what's on our
10 record and what's available for these witnesses to
11 be crossed on here.

12 BY MS. SMITH: (Cont'g.)

13 Q. If you can't answer the question,
14 it's fine. Let me rephrase it.

15 Do you think that there are
16 additional cost savings available to RG&E if you
17 know in order to change the location of the
18 substation from Site 7 to Site 20 beyond just the
19 routing?

20 A. (Schrom) I -- I don't think we
21 could really answer that question. We have not --

22 Q. Okay.

23 A. -- at this time fully reviewed
24 the new exhibit that Mr. Murphy provided.

25 MS. SMITH: I have no further

1 Case 11-T-0534 6-19-14

2 questions for this panel. Thank you.

3 A.L.J. LIEBSCHUTZ: Panel, just
4 to follow up on something Ms. Smith asked a moment
5 ago, do you know if -- when the last time was that
6 RG&E experienced a contingency -- however -- I may
7 not be using the right terminology either, but
8 we've talked about RG&E's reliability needs and to
9 be able to experience a contingency event without
10 shedding load. Do you know when RG&E last
11 experienced a contingency event?

12 MR. SCHROM: I can't recall any
13 time right now.

14 A.L.J. LIEBSCHUTZ: Are you
15 saying in let's say the last five years, for
16 example?

17 MR. SCHROM: The -- the last
18 contingency I can remember, but I can't tell you
19 when, was the loss of Ginna which was -- is the
20 largest contingency -- was the largest contingency
21 on the system at the time.

22 A.L.J. LIEBSCHUTZ: And when was
23 that?

24 THE WITNESS: I can't recall
25 when.

1 Case 11-T-0534 6-19-14

2 A.L.J. LIEBSCHUTZ: Thank you.

3 A.L.J. PHILLIPS: I believe at
4 this point, everyone's had an opportunity to ask
5 their cross. Does staff have any redirect?

6 MS. MORENO: No, we don't.

7 A.L.J. PHILLIPS: Then I believe
8 this panel is excused. And I thank you for your
9 time. With that we have gotten through all of the
10 panels that were identified for cross examination.

11 If there are no other preliminary
12 matters, I think what I want to deal with next is
13 whether to admit the exhibits that were identified,
14 and then we would turn to discussion of briefing
15 dates. Are there any other matters that people
16 wish to add to that list? Yes, Mr. Kanyuck.

17 MR. KANYUCK: Your Honor, East
18 River Road would like to request that the
19 Commission make a ruling removing Alternative Nine
20 and the northern route for Alternative Twenty from
21 consideration, and that the Site 20 configuration
22 remaining under consideration be that expressed in
23 Exhibit Seventy-one.

24 And that motion be based on the
25 position stated on the record of the parties, the

1 Case 11-T-0534 6-19-14
2 stipulation in Exhibit Seventy-five and the
3 concerns of the various landowners in the record
4 along the routing for Alternatives Nine and Twenty.

5 A.L.J. PHILLIPS: And, Mr.
6 Kanyuck, just to be clear, are you directing this
7 request to us as administrative law judges or to
8 the Commission, if you know?

9 MR. KANYUCK: I guess I -- I
10 don't know what procedurally which would be
11 necessary. If it -- if you have the authority to
12 do so, then -- then to you.

13 A.L.J. PHILLIPS: Okay. I think
14 we will duly note that for the record. I guess I
15 would suggest procedurally that would be something
16 to advocate in your post-hearing brief. I don't
17 anticipate that we would be -- that we judges would
18 be issuing a separate ruling or that the matter
19 would be brought to the Commission sooner or
20 separately.

21 MR. BLOW: Your Honor, a couple
22 of things.

23 A.L.J. PHILLIPS: Yes, Mr. Blow.

24 MR. BLOW: I can understand, I
25 believe, why Mr. Kanyuck is making the request, and

1 Case 11-T-0534 6-19-14
2 that is because that's the only way to for his
3 client and the developer to reach an agreement
4 and -- and proceed and possibly move the
5 development along from on Site 9.

6 I don't -- I -- I -- I will make
7 a suggestion for your consideration. It seems to
8 me that if you rule that -- if you issued a ruling
9 that along the lines that Mr. Kanyuck mentioned and
10 nobody took an interlocutory appeal within fifteen
11 day -- within the fifteen -- I think it's fifteen
12 day time period, that that would be a final matter
13 perhaps and that could -- that -- so that the
14 parties would have the finality or -- that they are
15 seeking.

16 The only other thing I'm
17 wondering is whether Exhibit Forty-five -- I think
18 it's Forty-five, of the February 12th map that was
19 provided at Judge Stein's request. I -- I don't
20 know if it's a better depiction of the route that
21 Mr. Kanyuck is talking about or -- or if it's
22 Exhibit Seventy-one that was in the record here.

23 But it seems to me that that
24 maybe -- it's the only way I can think of that --
25 that we could -- that's used some finality.

1 Case 11-T-0534 6-19-14

2 A.L.J. LIEBSCHUTZ: Do I take

3 that then as staff support for Mr. Kanyuck's motion

4 to get such a ruling from the judges?

5 MR. BLOW: Yes, with the caveat

6 that we need to check which exhibit is the best

7 exhibit. And we can move up -- pardon? Have one

8 more caveat from Ms. Moreno.

9 MS. MORENO: And that is

10 certainly that the footprint that's depicted, for

11 example, on Exhibit Seventy-one, as we've discussed

12 during the hearings, is a rough estimate. Final

13 engineering would certainly have to occur and so

14 whether or not the site would be located if -- if

15 ultimately selected at this site, we would

16 obviously be subject to change regardless of, you

17 know, the -- the wishes of the parties, final

18 engineering.

19 And, also, we had previously

20 discussed several possibilities in shifting the

21 site that I believe the Commission would consider.

22 A.L.J. LIEBSCHUTZ: Understood.

23 MR. KANYUCK: That would be

24 acceptable to us. I understand that there's design

25 consideration.

1 Case 11-T-0534 6-19-14

2 MR. ECKHAUS: Your Honor?

3 A.L.J. LIEBSCHUTZ: Yes, Mr.

4 Eckhaus?

5 MR. ECKHAUS: The -- the
6 stipulation was only between several parties not
7 all the parties.

8 And I think all the parties --
9 the only thing all of the parties agreed to was to
10 remove Site 9 N, and a northern route from either
11 from 9 N and Twenty and -- and as counsel for staff
12 indicated, there's been much testimony about the
13 location.

14 I'm not even sure if this
15 particular phase of the hearing is the appropriate
16 place to determine the location of Site 20. Seems
17 to be what I'm hearing, and I certainly wouldn't
18 agree that from environmental standpoint that that
19 is even an appropriate place or anyplace where it
20 ought to be.

21 I think the most we could agree
22 to would be the removal of Site 9 in the northern
23 route.

24 Site -- Site 20 is for another
25 day and not just an EM&CP. The -- it would have to

1 Case 11-T-0534 6-19-14
2 go through the same process, if it -- if -- if we
3 were directed to do so that Site 7 went through
4 which is to have more than simple -- simply a
5 conceptual location for -- for a substation. We
6 certainly could not have had our initial
7 certification with the simple conceptual design.

8 MR. BLOW: Your Honor, I think
9 D.P.S. staff understands and with the -- perhaps
10 the parties could confer, but it seems to me
11 that -- that we would support a motion or a ruling
12 along the lines that Mr. Eckhaus just mentioned and
13 because recognizing that the only routes that --
14 that are in contention if the northern route does
15 not exist or is off the table would be routes to
16 the west as depicted in various exhibits.

17 And so that could be left for --
18 for a final briefing. So I -- so with that
19 emendation, I would -- I would think that a ruling
20 from your Honor -- your Honors with the possibility
21 of an interlocutory appeal or lack thereof would
22 bring the finality.

23 MR. KANYUCK: I would -- I
24 would -- we would be willing to accept that as an
25 alternative.

1 Case 11-T-0534 6-19-14

2 A.L.J. LIEBSCHUTZ: Anybody else
3 want to be heard?

4 As I understand it, we would
5 consider the motion, excuse me as orally made on
6 this record, and we wouldn't particularly be
7 anticipating that parties would put anything
8 further in -- in writing. But we would just
9 consider it as -- as made here now, based on
10 everything that has occurred over the last two and
11 a half days of hearings.

12 MR. BLOW: That's my
13 understanding, your Honor. My thought.

14 A.L.J. LIEBSCHUTZ: So I think
15 that means that any party that wants to oppose that
16 motion needs to speak now.

17 MR. DRAGHI: Okay. Your Honor,
18 if I understood Mr. Eckhaus's motion, it would be
19 simply to consideration in the northern route from
20 Site 9 --

21 A.L.J. LIEBSCHUTZ: Yes.

22 MR. DRAGHI: -- and nothing
23 further.

24 A.L.J. LIEBSCHUTZ: Yes.

25 A.L.J. PHILLIPS: No. No, no,

1 Case 11-T-0534 6-19-14
2 no. I think it was the northern routes for Nine
3 and Twenty.

4 A.L.J. LIEBSCHUTZ: Yes.

5 A.L.J. PHILLIPS: And then Site
6 9. That's my understanding.

7 A.L.J. LIEBSCHUTZ: That's
8 correct. And are we right that no party objects to
9 that? I think that's what we heard earlier in the
10 hearing, but -- let the record reflect that we are
11 being met with affirmative nods and silence.

12 A.L.J. PHILLIPS: So we will
13 definitely take that under advisement. I don't
14 think we're prepared to issue a bench ruling at
15 this point.

16 So I'd like to turn to the
17 exhibits that were marked for identification in
18 this phase of the hearing. They consist of
19 exhibits marked Seventy-one through Eighty-two.

20 I -- we -- I'm sorry. I'm sorry,
21 several of the exhibits were premarked so, in fact,
22 it's Thirty-six through Eighty-two.

23 We have, as I think, Judge
24 Liebschutz alluded to, we have concerns with
25 respect to Exhibit Seventy-seven that was offered.

1 Case 11-T-0534 6-19-14

2 That was an RG&E R.A.P. matrix. I believe it
3 consisted of approximately three pages and it came
4 in when the RG&E environmental panel was being
5 cross examined.

6 I think as a result of that cross
7 examination, we have numerous concerns both about
8 the appropriateness of that panel supporting or
9 sponsoring certain of the categories that were
10 listed on that document. And I think I had alluded
11 to them earlier on the record but I will repeat
12 that they included the vehicle emissions, land
13 cost, engineering cost, schedule and sewer line.

14 There were also some concerns
15 raised as a result of the cross examination that
16 took place as to whether or not there was a -- a
17 comparable -- or the comparisons that were set
18 forth in the third and fourth columns which are
19 labeled Site 20 and Site 7 respectively, but they
20 weren't necessarily -- it wasn't made clear that
21 those were apple-to-apple comparisons specifically
22 with respect to the thirty-three acres that's
23 referenced in column three for Site 20.

24 There's no comparable comparison
25 for Site 7, for example. There was concern or at

1 Case 11-T-0534 6-19-14
2 least indication, based on the cross examination on
3 page one of that document, that the acreage that's
4 reflected in, again, columns three and four did not
5 appear to be accurate. There was concern raised
6 with respect to the estimates that are in the last
7 row and again the third and fourth columns.

8 And overall as a result, we are
9 not inclined to move that particular exhibit into
10 evidence. Other than that I think we were prepared
11 to move the others into evidence.

12 If parties wish to be heard on
13 Exhibit Seventy-seven we'll give you the
14 opportunity to do so now.

15 MR. DRAGHI: The testimony
16 relating to Seventy-seven I assume is still --
17 would still remain in the record.

18 A.L.J. PHILLIPS: Yes. Okay.

19 Are there any objections to any
20 other of the exhibits that we listed being moved
21 into evidence?

22 MR. BLOW: Your Honor, with
23 respect to Exhibit Eighty-three --.

24 A.L.J. LIEBSCHUTZ: There is no
25 Exhibit Eighty-three, Mr. Blow.

1 Case 11-T-0534 6-19-14

2 MR. BLOW: Okay. Thank you.

3 A.L.J. PHILLIPS: Okay. Hearing
4 no objection we will move into the record Exhibits
5 Thirty-six through Seventy-six and it's Seventy-
6 eight through Eighty-two are now moved into
7 evidence.

8 Oh, we also indicated that we
9 would go back to the issue of whether or not there
10 should be a revised matrix. I'm going to turn that
11 over to -- to Chief A.L.J. Liebschutz to discuss.

12 A.L.J. LIEBSCHUTZ: We had some
13 colloquy earlier. Frankly, I can't recall whether
14 it was the first or second day, but it was
15 primarily off the record, as to whether it would be
16 appropriate for RG&E and its consultants to prepare
17 a further revision of the matrix, the most recent
18 version of which is Exhibit Forty-two in which
19 there would be a comparison of basically Site 7
20 versus Site 20 with the assumption that the
21 transmission lines that would serve either of those
22 substation locations would proceed along the
23 existing NYPA right-of-way that goes east/west
24 through that area as we've been discussing
25 throughout the hearings.

1 Case 11-T-0534 6-19-14

2 And the colloquy that we had
3 indicated that it would take some period of time
4 for -- but perhaps within a week or so RG&E and its
5 consultants would be prepared to produce such a --
6 a matrix to add to the record. Judge Phillips and
7 I have concluded that we will not request that that
8 matrix be updated and added to the record.

9 Rather in light of the concerns
10 that were -- that surfaced during the discussion
11 of -- of the document that was marked as Exhibit
12 Seventy-seven, which we have excluded from the
13 record, in light of the testimony of several of the
14 staff panels which were crossed today, in which
15 they indicated disagreement with RG&E's estimates
16 of costs. It's estimates of how a comprehensive
17 plan might be interpreted. And, in general, in
18 light of disagreement on this record among the
19 parties as to estimates of wetlands and estimates
20 of costs and mitigation and what might be required
21 at one site or another. We do not feel that having
22 a detailed exhibit with specific numbers attempting
23 to depict all of those various issues in precise
24 quantified form, without the benefit of further
25 discovery and cross examination would add to the

1 Case 11-T-0534 6-19-14
2 value of this record for Commission consideration.

3 So, it's our determination that
4 we should instead close the record at this point
5 and proceed to briefing.

6 (Off the record)

7 A.L.J. LIEBSCHUTZ: We've taken a
8 short recess during which Judge Phillips and I
9 conferred and then we returned and conferred with
10 the parties resulting in the following procedures
11 to be followed.

12 Following the hearing we will
13 have initial post-hearing briefs due on July 31st.
14 I believe that's a Thursday and reply briefs will
15 be due Monday, August 11th.

16 The parties had previously agreed
17 on a consensus table of contents for the briefs,
18 for the initial briefs, actually to the extent that
19 same convention can be followed in the reply
20 briefs, it should. And as we've discussed, it does
21 not mean that every brief needs to discuss every
22 topic, but just that the same numbering, lettering
23 conventions should be used, and same order of
24 presentation should be used in the briefs to aid we
25 judges in going through the briefs.

1 Case 11-T-0534 6-19-14

2 We will set a page limit of
3 thirty-five pages for the initial brief. That's
4 for the substantive prose of the brief. It doesn't
5 include table of contents, which should be included
6 in the brief.

7 We will take this opportunity to
8 urge everyone extremely strongly that statements in
9 your briefs should cite to the record. They should
10 cite to the transcript, they should cite to the
11 exhibits.

12 Please understand that we are
13 fully aware of everyone's arguments and positions
14 in this case, at least we think so. So a brief
15 that merely reiterates lots of those arguments, is
16 not terribly useful to us.

17 A brief that directs us to the
18 place in the record that supports your arguments
19 and positions, is what is of use to us. And,
20 therefore, of course, what is most beneficial to
21 you and your position.

22 We've also agreed to discuss the
23 fact that as we get transcripts from the court
24 reporter, we will post those online as soon as
25 possible after we receive them without conducting

1 Case 11-T-0534 6-19-14

2 any review or corrections.

3 In general, we will ask parties
4 to -- if they have any corrections they feel need
5 to be made to the transcripts, to please
6 circulate -- circulate those to us and all parties
7 within a week after the transcript is posted.

8 That whole process of transcript
9 correction can take place informally by e-mails
10 circulated among the parties and sent to the
11 judges. But, need not be formal filings made with
12 the secretary and put into the agency's document
13 matter and management system.

14 There will be no page limit
15 imposed on the reply briefs. Do we have any other
16 procedural matters we need to address today before
17 we go off the record and -- well, before we
18 conclude the hearings and go off the record in that
19 order?

20 MR. BLOW: I believe we're going
21 to get the affidavits in as exhibits, correct?

22 A.L.J. LIEBSCHUTZ: Yes, we are.
23 And we have two witnesses who did not appear at the
24 hearing because there was no cross examination for
25 them; that's Ms. Biedenkopf and Mr. Allen. Oh, I'm

1 Case 11-T-0534 6-19-14
2 sorry, and Mr. DelMonte. Mr. Kanyuck is going to
3 take care of getting us an affidavit from Mr.
4 DelMonte, and I think was going to get in touch
5 with Ms. Biedenkopf to arrange for the same --

6 MR. KANYUCK: That is correct.

7 A.L.J. LIEBSCHUTZ: -- and we
8 have already been in correspondence with the lawyer
9 for Mr. Allen, who tells us that he's going to have
10 an affidavit on its way.

11 And, based on those
12 representations, we will add the testimony of Mr.
13 DelMonte, Mr. Allen and Ms. Biedenkopf to the
14 transcript as if those witnesses had presented it
15 orally here today.

16

17

18

19

20

21

22

23

24

25

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Application of Rochester Gas and Electric Corporation for a Certificate of Environmental Compatibility and Public Need for the Construction of the “Rochester Area Reliability Project,” Approximately 23.6 Miles of 115 Kilovolt Transmission Lines and 1.9 Miles of 345 Kilovolt Line in the City of Rochester and the Towns of Chili, Gates and Henrietta in Monroe County.

Case No. 11-T-0534

Administrative Law Judge:
Hon. Eleanor Stein

Prepared Rebuttal Testimony of:

E. John Del Monte
Chief Executive Officer
Del Monte Hotel Group
909 Linden Avenue
Rochester, New York 14625

Submitted on behalf of 4545 East River Road, LLC

/s/ Alan J. Knauf, Esq.
KNAUF SHAW LLP
Attorneys for 4545 East River Road, LLC
Alan J. Knauf, Esq. and
Dwight E. Kanyuck, Esq., of Counsel
1400 Crossroads Building
2 State Street
Rochester, New York 14614
Tel.: (585) 546-8430
Email: aknauf@nyenvlaw.com
dkanyuck@nyenvlaw.com

1 E. JOHN DEL MONTE declares under penalty of perjury:

2 Q: Please state your name, employer, position, and business address.

3 A: My name is John Del Monte. I am the Chief Executive Officer of the Del Monte Hotel
4 Group. I am also co-executor of the Estate of my late father, Ernest J. Del Monte, who
5 was the sole member of 4545 East River Road, LLC (the “LLC”), which is the owner of
6 the parcels of land located at 4545 East River Road in the Town of Henrietta, County of
7 Monroe, State of New York, more specifically identified as Tax Parcel Nos. 173.03-2-
8 1.12 and 174.03-2-1.11 (the “Property”). The Del Monte Hotel Group, which includes
9 the LLC, has its principal offices located at 909 Linden Avenue, Rochester, New York
10 14625.

11 Q: What is the purpose of your testimony?

12 A: To provide additional information regarding the Property for the record in this proceeding
13 and the impact on the Property if either Alternative 9 or Alternative 20 is selected as the
14 location for Substation 255 as part of the Rochester Area Reliability Project (“RARP”).

15 **Education and Del Monte Hotel Group Background**

16 Q: Please summarize your background.

17 A: I have a background in hotel and business management and real estate development, and
18 have worked with the Del Monte Hotel Group for nearly 50 years.

19 Q: Please describe the business of the Del Monte Hotel Group.

20 A: The E.J. Del Monte Corporation, now the Del Monte Hotel Group, first began
21 development of real estate in 1958. Since that time, the Del Monte Hotel Group has
22 grown to now own and operate 17 hotels that include Marriott, Renaissance, Courtyard,
23 Residence Inn and Fairfield Inn brands located throughout New York State. *See*

1 DelMonte Hotel Group at <http://www.delmontehotels.com/home.html>. We are currently
2 developing hotels at the University of Rochester College Town complex and in
3 Pittsburgh, Pennsylvania. With our in-house management team, we oversee over 800
4 talented associates in the hospitality industry. In addition to developing and managing
5 hotels, we provide management services to third parties.

6 **The Del Monte Hotel Group History with the Property**

7 Q: When did the Del Monte Hotel Group acquire the Property?

8 A: Through its development entity 4545 East River Road, LLC, the Del Monte Hotel Group
9 purchased the Property in 2011 from Tower Investments, Inc.

10 Q: What was your plan for the Property when it was purchased?

11 A: We were attracted to the Property because of the architectural significance of the
12 buildings, the spacious floor plans (about 330,000 square feet of space), and riverfront
13 location. Although the buildings had been used as a training and office complex for
14 Eastman Kodak, our strategy was to convert the Property into a facility for the University
15 of Rochester or Rochester Institute of Technology. We prepared conceptual plans and
16 cost estimates to this effect. Among the various cost estimates completed as we were
17 assessing options for the Property was an estimate to demolish all of the buildings on the
18 Property. Because of the extensive asbestos abatement required, the total cost estimate to
19 demolish the buildings was in the neighborhood of \$3 million, including the cost of
20 asbestos abatement.

21 Q: What is the current status of the Property?

22 A: After assessing our options for the Property, we determined that our plans would not
23 work out with either university, and that it may instead be more attractive for use as high

1 end office space. Because such a use is not part of our core business, we decided to
2 market the Property targeted to developers focused on the professional office space
3 market. In February 2014, 4545 East River Road, LLC entered into a contract (the
4 “Contract”) to sell the Property to an entity associated with Rainaldi Brothers, Inc.
5 (“Rainaldi”). The Contract was to close in August 2014 when we learned that the
6 Property was under consideration as a site for Substation 255 and the associated
7 transmission lines in this proceeding. Because of the uncertainty regarding the fate of the
8 Property, we agreed with Rainaldi to extend the time to close until August 2014 with the
9 closing solely contingent upon a determination that the Property would not be a site for
10 Substation 255 or its associated transmission lines.

11 **The Impacts on the Property if Alternatives 9 or 20 are Selected**

12 Q: Have you reviewed the scope of proposed Alternatives 9 and 20 for the location of
13 Substation 255 and the associated transmission lines?

14 A: Yes.

15 Q: How would the Property be impacted if Alternative 9 is selected?

16 A: Alternative 9 requires the destruction of the buildings on the Property, thus eliminating
17 any value to the Property for development.

18 Q: How would the Property be impacted if Alternative 20 is selected?

19 A: While Alternative 20 does not appear to require the destruction of the buildings, the
20 proximity of Substation 255 to the buildings and entrance to the campus and the
21 proximity of the transmission lines to the buildings will aesthetically detract from the
22 Property, and could make it unsuitable for Class A office space, so the Property will be
23 significantly devalued.

1 Q: What will be the impact if a decision regarding Alternative 9 and 20 is delayed past
2 August 2014?

3 A: Our substantial investment in the Property will remain in limbo until there is a resolution
4 regarding Alternatives 9 and 20. If there is no resolution regarding Alternatives 9 and 20
5 by August 2014, the Contract will be cancelled and, as I understand the plans of Rainaldi,
6 the opportunity to redevelop the Property and bring hundreds of jobs to the site will be
7 lost.

8 Q: Does this conclude your testimony?

9 A: Yes.

Dated: May 9, 2014

/s/ Ernest John Del Monte
ERNEST JOHN DEL MONTE

**EXHIBIT A TO ALLEN AFFIDAVIT
DATED JUNE 25, 2014**

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Application of Rochester Gas and Electric Corporation
For a Certificate of Environmental Compatibility and
Public Need for the Construction of the "Rochester
Area Reliability Project," Approximately 23.6 Miles
of 115 Kilovolt Transmission Lines and 1.9 Miles of
345 Kilovolt Transmission Lines in the City of
Rochester and the Towns of Chili, Gates and Henrietta
in Monroe County

Case No.: 11-T-0534

DIRECT TESTIMONY OF JAMES ALLEN

Dated: May 9, 2014

Respectfully submitted,

James Allen and Judith Hook

By: /s/ Jason S. DiPonzio, Esq. _____
Jason S. DiPonzio, Esq.
16 E. Main Street
420 Reynolds Arcade Building
Rochester, NY 14614

1 **Q. Please describe your interest in the RARP proceedings.**

2 **A.** Judith Hook (my wife) and I are the owners of 2292 Scottsville Road, Town of
3 Chili, Monroe County. I submit this rebuttal testimony to refute claims that property owned by
4 my wife and I is vacant or abandoned farmland, and also in opposition to the selection of Alter-
5 nate Sites 9 and 20 for the location of a substation in the Rochester Area Reliability Project and
6 specifically, the routing of transmission lines (the “9/20 Transmission Route”) through property
7 owned by my wife and me. A copy of map showing our property in relation to the proposed 9/20
8 Transmission Route, with our property borders highlighted, is attached as **Exhibit A**. Our prop-
9 erty is denoted on **Exhibit A** with the letters “A-H.”

10 Our land has been improperly characterized as vacant or abandoned. This mischaracteri-
11 zation has been used in several subsequent submissions in these proceedings, significantly un-
12 derestimating the negative impact of the 9/20 Transmission Route.

13 We purchased our property in 2010 with the intent of developing a center for sustainable
14 farming, ecology and food systems as well as to build our home. The proposed 9/20 Transmis-
15 sion Route through our property would prevent us from achieving our planned use for the prop-
16 erty, and we would incur significant financial loss as a result of the financial investment we have
17 made for the development we have done over the past 4 years. In addition, we are highly con-
18 cerned for our neighbors, as the proposed 9/20 Transmission Route would have significant im-
19 pacts upon a large number of residents in the area, in contrast to the currently certified plan.

20 **Q. Please describe the process under which you and your wife identified your property**
21 **for purchase.**

1 **A.** My wife and I have long been concerned with sustainable ecology, farming and food sys-
2 tems. We are the co-leaders of Slow Food Rochester, part of an international organization devot-
3 ed to sustainable, healthy food systems.

4 Over a decade ago, we starting looking for land on which to build a house and communi-
5 ty resource that focuses on reconnecting to the land and the food we eat. We hired Ben Falk, au-
6 thor of *The Resilient Farm and Homestead*, to help with site selection and preliminary site plan-
7 ning. Upstate New York has rich, diverse landscapes of great natural beauty that has a long tradi-
8 tion of farming on fertile lands in the Genesee River valley.

9 **Q.** **When did you purchase your property?**

10 **A.** In April 2010, we purchased a 100 acre parcel of property (the “Property”) in the Town
11 of Chili along with Patricia Albanese and Fred and Susan Hagen as tenants in common. In July
12 2012, we received subdivision approval from the Town of Chili Planning Board, in order to sub-
13 divide the Property into three (3) separate lots. The Property was known as River Farms Subdi-
14 vision. A copy of our subdivision application to the Chili Planning Board is attached as **Exhibit**

15 **B.** Minutes of the Chili Planning Board meeting of July 10, 2012 are attached as **Exhibit C.** In-
16 deed, a member of Chili Planning Board expressed his support for our project, stating that “this
17 is going to preserve a very beautiful spot in the Town of Chili.” See **Exhibit C.**, p. 6.

18 In November 2012, each of the parties was deeded one of the lots of the River Farms
19 Subdivision.

20 **Q.** **Please describe the features of your property.**

21 **A.** The Allen-Hook parcel of the River Farms Subdivision consists of approximately 31
22 acres and can be described as being “dumbbell-shaped.” The westernmost portion of the parcel

1 contains approximately 20 acres, and the easternmost portion of the property consists of 10 heav-
2 ily wooded acres bordering the Genesee River. See **Exhibit A**.

3 We recognize the uniqueness of this place and have chosen to maintain our roots in this
4 region. Each place has its own unique possibilities, and this property, while it was previously in a
5 state of neglect, has an inherent beauty that could be restored and enhanced. Over the past 4
6 years, we have invested many hours and significant expense in this restoration process.

7 **Q. What is your overall development plan for your property?**

8 **A.** It is our intention to build our home on the Property, as well as an Innovation Center to
9 devote to sustainable organic farming, ecology and food systems. To this end, we hired Michael
10 Singer Associates (michaelsinger.com), an internationally known design firm focusing on site-
11 specificity and ecological regeneration, to do an initial master plan for the property, exploring the
12 educational potential of the home and experimental farm. We refined our goals to educate about
13 resilient, regenerative farming practices, with special emphasis to reach families and children
14 living in the Rochester area.

15 The River Farms property is an ideal fit for these goals as it has great potential for sus-
16 tainable farming while maintaining ecological diversity including forest and wetlands, yet re-
17 mains accessible to Rochester for our educational and community programs. A copy of the mas-
18 ter plan for the site showing the eventual array of activities we will develop is attached as **Exhib-**
19 **it D**.

20 **Q. What specific uses do you intend to develop?**

21 **A.** We plan to develop a center for educational activities concerning sustainable agriculture.
22 Sustainable agriculture is the act of farming using principles of ecology, both satisfying human
23 food needs which enhancing environmental quality and ecological resilience, and minimizing the

1 use of non-renewal resources. An article published by the University of California at Davis Sus-
2 tainable Agriculture Research and Education Program providing more background on sustainable
3 agriculture is attached as **Exhibit E**.

4 Specifically, we have begun to develop the infrastructure for the following:

- 5 a. Productive homesite;
- 6 b. Pastures;
- 7 c. Demonstration gardens;
- 8 d. Arboretum/food forest;
- 9 e. Herb gardens;
- 10 f. Greenhouses;
- 11 g. Organic community gardens;
- 12 h. Animal barns;
- 13 i. Innovation Center with Classroom barn;
- 14 j. Hazel nut orchard;
- 15 k. Organic berry crop and asparagus fields;
- 16 l. Fields dedicated to experimental organic field crops;
- 17 m. Chestnut grove;
- 18 n. Duck pond and irrigation pond.

19 **Q. What development activities have you engaged in thus far at the property?**

20 **A.** At the start of this process, we were facing land that had been abandoned for more than a
21 decade, and the fields and forests were significantly compromised by overgrowth of invasive
22 species. We hired EDR (Environmental Design and Research) to perform a detailed land analysis
23 and wetland delineation that was subsequently approved by the DEC, the Army Corp of Engi-

1 neers and the EPA. A copy of the wetland delineation report is attached as **Exhibit F**. With our
2 neighbor, Fred and Susan Hagen, we built a 2200' new driveway to provide access to both our
3 properties. We have spent the past two years clearing out invasive species, reseeding pastures,
4 and planting new trees, mostly native to the region. We have made great steps towards bringing
5 the land back to life with biodiversity of plants and insects, and restoring animal habitat. We
6 have purchased over 300 trees for planting the arboretum and food forest.

7 We also hired local architects Chris and Amanda Constanza, of *9x30 Design*, who spe-
8 cialize in energy efficient, environmentally sustainable, healthy buildings, and spent a year de-
9 signing a house that serves the goals of the property. While designed as a farmhouse, it has a
10 kitchen and large meeting space specifically designed for community events, a green roof, and is
11 constructed using insulated concrete forms that enable highly efficient climate control by storing
12 passive energy. It will use geothermal heating/cooling, and have extensive solar panels to pro-
13 vide most of the electricity needs.

14 **Q. Aside from the subdivision approval received from the Chili Planning Board, what**
15 **is the status of any other municipal approvals you require?**

16 **A.** The site plan for the construction of the home was submitted to the Town of Chili in De-
17 cember 2013. In April 2014, the town engineer for the Town of Chili submitted final comments
18 and it is anticipated that final site plan approval will be issued this month. The building plans are
19 ready to submit to the town's building department, and we have a contract with Tallo Construc-
20 tion to build the house.

21 **Q. When do you plan to commence construction at the property?**

22 **A.** We originally planned to start building the house in early summer. But now these plans
23 are on hold during the pendency of the proceedings before the Public Service Commission. If

1 Alternate 9/20 is selected and the 9/20 Transmission Route comes through our property, we will
2 have to abandon our plans and the property, at considerable financial loss.

3 **Q. What financial investment have you and your wife made in developing this proper-**
4 **ty?**

5 **A.** Thus far, we have spent approximately \$333,100 in the development of the Property,
6 broken down as follows:

7	Land Purchase	\$124,000
8	Legal Fees	\$5,100
9	Design Services	\$52,500
10	Equipment (tractor, sawmill, for land remediation, etc.)	\$44,500
11	Construction of 2200' Access Road	\$16,500
12	Development (clearing, trees, repairs)	<u>\$ 90,500</u>
13	Total Development Cost	\$333,100

14 **Q. How would the proposed 9/20 Transmission Route generally affect your develop-**
15 **ment plans for your property?**

16 **A.** The proposal to install high voltage power lines through our property is incongruous with
17 all of our incentives to purchase the property. Not only have we invested significant financial
18 resources in purchasing and improving the property, and but we have also spent countless hours
19 of work and study in designing the site and home.

20 If the alternate 9 or 20 is accepted, and the 9/20 Transmission Route traverses our proper-
21 ty, then the carefully planned Arboretum/Food Forest, irrigation pond, berry crops fields and
22 trees planted in the recent years will need to be sacrificed for two sets of transmission towers and
23 lines. Because these man-made structures are incongruous with the mission and setting of our

1 sustainable farm master plan, we will be forced to abandon the project, and we will ultimately
2 need to sell the property at great financial loss. Our significant investment of time and energy
3 cannot be replaced.

4 To be clear, the power lines eliminate the possibility of realizing our plans for the proper-
5 ty. We can expand on this along a number of dimensions.

6 **Q. What environmental impacts to your property would result from the 9/20 Trans-**
7 **mission Route?**

8 **A.** We have spent two years clearing out fields overgrown with invasive species, restoring
9 the soil, and planting a wide range of trees, mostly native to the region. This lays the groundwork
10 for all our experimental and educational programs. It is completely incongruous to develop our
11 program and realize our dreams with power lines running through it, and a large swath of land
12 cleared permanently to provide access that eliminates the possibility of our planned irrigation
13 pond, food forest and a number of our berry/nut orchards.

14 Additionally, the use of herbicides to maintain the right of way is completely inconsistent
15 with us having an organic farm, and eliminates at least another 100 feet of land on either side of
16 the right of way from organic production.

17 **Q. What personal economic impact would you suffer as a result of the 9/20 Transmis-**
18 **sion Route?**

19 **A.** We could never recoup the cost of building our home, as the type of people interested in
20 the green, energy efficient home would never buy such a house a few hundred feet from major
21 power line structures. As a result, we would be forced to abandon the building of our house after
22 the great expense in developing the site and preparing it for site plan approval, completing the
23 building plans and contracting with builders.

1 **Q. Are there impacts to the community that you foresee resulting from the 9/20**
2 **Transmission Route?**

3 **A.** There would also be a significant negative economic impact to the community. The
4 Town of Chili would lose significant tax revenue as the land would most likely revert to lower
5 valued “abandoned fields,” as it was classified when we purchased the property. In addition, the
6 many millions of dollars that RGE estimates to be the additional cost for the route through our
7 property would add to the utility bills of everyone in RGE’s service area.

8 The impact is much greater than the loss of our property. Our immediate neighbor, the
9 Hagens, have similar goals to us and plan a sustainable farming operation that would also be
10 highly synergistic with our operation. The proposed route would destroy both.

11 The destruction of our property would also result in the loss of an opportunity to provide
12 educational resources in the community. We are planning a unique educational program and re-
13 source for the community, with our focus on growing, farming, and preparing food. This will be
14 lost if the power lines are routed through our property. This loss will deliver a devastating blow
15 to our goals, as we have been working over the last ten years, to identify an appropriate farming
16 site that is compatible with our educational program and goals. In fact, we already sold our farm
17 land in the Naples area, which was our alternative site for such a farming/education program.

18 With most of the land near Rochester taken for housing subdivisions or large-scale field crops,
19 there is little opportunity to find an alternate site for our educational goals in close proximity to
20 Rochester.

21 **Q. Do you have any final comments on the routing options that are being considered?**

22 **A.** It is very puzzling to us that a new route for the transmission lines is proposed in options
23 9/20 when there is an already approved, certified route that clearly minimizes overall impact on

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Application of Rochester Gas and Electric Corporation
For a Certificate of Environmental Compatibility and
Public Need for the Construction of the "Rochester
Area Reliability Project," Approximately 23.6 Miles
of 115 Kilovolt Transmission Lines and 1.9 Miles of
345 Kilovolt Transmission Lines in the City of
Rochester and the Towns of Chili, Gates and Henrietta
in Monroe County

Case No.: 11-T-0534

AFFIDAVIT OF JAMES ALLEN

STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

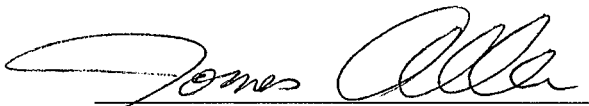
I, James Allen, being duly sworn, depose and say:

1. I am one of the owners of 2292 Scottsville Road, Town of Chili, Monroe County.

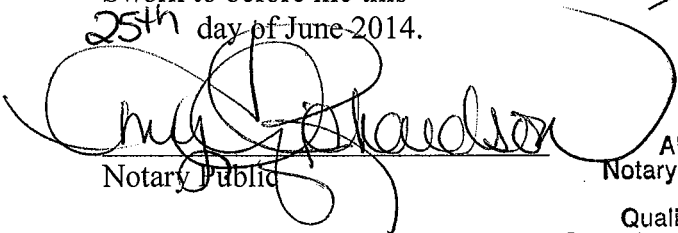
I have appeared in the above proceedings as an interested party.

2. On May 12, 2012, pre-filed testimony (the "Pre-Filed Testimony"), which consisted of 10 pages and incorporated 6 exhibits, was filed on my behalf. A copy of the Pre-Filed Testimony is attached as **Exhibit A**. The 6 exhibits were subsequently identified as Hearing Exhibits 59-64 in this matter.

3. I hereby adopt the Pre-Filed Testimony, together with Hearing Exhibits 59-64. I affirm under penalty of perjury that the Pre-Filed Testimony, together with Hearing Exhibits 59-64, is true and correct. I further request that these documents be admitted into the record as though stated orally at the hearings conducted in these proceedings.


James Allen

Sworn to before me this
25th day of June 2014.


Notary Public

AMY Q. RICHARDSON
Notary Public, State of New York
No. 01R15045153
Qualified in Genesee County
Commission Expires June 12, 2015

1 the community, no matter which site is eventually chosen for the substation. The substation site
2 for option 7 does result in the loss of some 10-11 acres of farmland, and there may be an argu-
3 ment for moving it across the river. Even if that was decided, however, reusing the existing
4 transmission corridor clearly minimizes cost and impact. Because the new lines could be aligned
5 with the existing towers so that they minimize the obstacles for using heavy farming equipment,
6 the impact of the transmission route 7 to the Krenzer's farming operation is minimal. They are
7 currently able to farm within a few feet of the existing transmission towers, and this would not
8 change. In contrast, the proposed 9/20 Transmission Route would destroy the possibility of de-
9 veloping 30 acres of sustainable farming focusing on biodiversity, a development that greatly
10 enhances the farming character of our area, as appropriate for the Chili Agricultural Conserva-
11 tion District.

12 Furthermore, there are virtually no new environmental or viewshed impacts by reusing
13 Transmission route 7. The land would continue to be planted in corn as it is now, and the new
14 poles would pass through land already impacted by the main transmission lines. In contrast, the
15 9/20 Transmission Route would destroy over half a mile of natural riparian environment along
16 the Genesee River, and greatly impact the rural farming character of our immediate Scottsville
17 Road neighborhood. Route 7 would be a better option no matter which of the proposed substa-
18 tion locations is chosen.

19

20

21

/s/ James Allen
James Allen

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Application of Rochester Gas and Electric Corporation for a Certificate of Environmental Compatibility and Public Need for the Construction of the “Rochester Area Reliability Project,” Approximately 23.6 Miles of 115 Kilovolt Transmission Lines and 1.9 Miles of 345 Kilovolt Line in the City of Rochester and the Towns of Chili, Gates and Henrietta in Monroe County.

Case No. 11-T-0534

Administrative Law Judge:
Hon. Eleanor Stein

Pre-Filed Testimony of:

Deborah M. Biedenkopf
Vice President
Finance and Development
Living Communities, LLC
50 Fairwood Drive
Rochester, New York 14623

1 DEBORAH M. BIEDENKOPF declares under penalty of perjury:

2 Q: Please state your name, employer, position, and business address.

3 A: My name is Deborah M. Biedenkopf. I am the Vice President for Finance and
4 Development of Living Communities, LLC, located at 50 Fairwood Drive, Rochester,
5 New York 14623. Living Communities, LLC is the developer, owner and operator of the
6 Rivers Run (“Rivers Run”) senior living community located on 30 acres of land on or
7 adjacent to Fairwood Drive along the Genesee River off of East River Road in the Town
8 of Henrietta.

9 Q: What is the purpose of your testimony?

10 A: To provide testimony on behalf of Rivers Run opposing the transmission line routing for
11 Circuits 940 and 941 proposed under Alternative 9 and Alternative 20 because of its
12 detrimental impact on Rivers Run and surrounding residential communities.

13 Q: Please describe the Rivers Run community.

14 A: Rivers Run is a locally owned and operated senior living and lifelong learning
15 community in collaboration with the Rochester Institute of Technology (“RIT”). Rivers
16 Run offers Independent Living and New York State Department of Health Licensed
17 Enriched Living to seniors. Rivers Run is zoned for residents age 55 and over and
18 responds to the Town of Henrietta Comprehensive Plan to offer quality housing for
19 seniors, including NYS Department of Health licensed assistive services. Rivers Run is
20 also a New York State Department of Health-licensed “Adult Care Facility.” As part of
21 the Rivers Run collaboration with RIT, Rivers Run is also the site of the 630-member
22 Osher Lifelong Learning Institute (“Osher”) and the RIT Boat House, utilized by the
23 college crew team.

1 Q: What types of housing is offered at Rivers Run and what is its current status?

2 A: Rivers Run offers homes for sale (“Cottages”) and apartments for lease. There are
3 currently 43 Cottages sold and owner occupied, and 21 Cottage units remaining to be
4 sold. The 82-unit apartment building is 70% occupied and marketing towards 100%
5 occupancy.

6 Q: What would be the impact on Rivers Run if either Alternative 9 or Alternative 20 are
7 selected as the routing for transmission line Circuits 940 and 941?

8 A: The transmission line routing for Circuits 940 and 941 associated with Alternatives 9 and
9 20 passes as close 300 feet from the Rivers Run residences. As a result, it would disrupt
10 the health, safety and quality of life of Rivers Run senior residents and visitors, and
11 Osher students, many of whom have medical conditions that could be negatively affected
12 by the proposed transmission route. As noted at the public hearing, some of the Rivers
13 Run residents expressed concern about the impact of the transmission line on the
14 operation of their personal medical devices, such as pacemakers.

15 Q: How would the selection of either Alternative 9 or Alternative 20 for the Circuit 940 and
16 941 routing impact the Rivers Run business?


17 A: Because of the concerns of current and potential residents related to the proximity of the
18 proposed transmission lines, the mere consideration of Alternatives 9 and 20 has already
19 had, and if chosen is expected to have additional, detrimental impacts on the value of
20 Rivers Run. Potential buyers of the remaining 21 Cottages are already postponing their
21 purchasing decisions because of the uncertainty. Current Cottage owners are worried
22 about the resale value of their homes. At the apartment building, we are experiencing a
23 slowdown in interest due to consumer concerns about safety and the visual impact of the

1 proposed routing for Alternatives 9 and 20. The bottom line is that should either
2 Alternative 9 or 20 actually be chosen for the transmission line routing for Circuits 940
3 and 941, there would be a significant negative impact on the Rivers Run community and
4 the viability of Rivers Run as an enterprise.

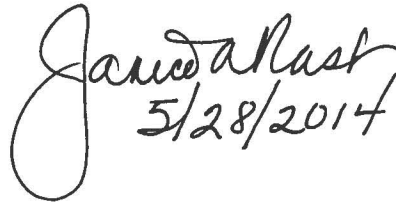
5 Q: Does this conclude your testimony?

6 A: Yes.

Dated: May 23, 2014


/s/ Deborah M. Biedenkopf
DEBORAH M. BIEDENKOPF 5/28/2014

JANICE A. NAST
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01NA6272071
Qualified In Monroe County
Commission Expires November 13, 2016


5/28/2014

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Application of Rochester Gas and Electric Corporation for a Certificate of Environmental Compatibility and Public Need for the Construction of the "Rochester Area Reliability Project," Approximately 23.6 Miles of 115 Kilovolt Transmission Lines and 1.9 Miles of 345 Kilovolt Line in the City of Rochester and the Towns of Chili, Gates and Henrietta in Monroe County.

Case No. 11-T-0534

Administrative Law Judges:
Hon. Elizabeth H. Liebschutz
and Michelle L. Phillips

AFFIDAVIT OF DEBORAH M. BIEDENKOPF

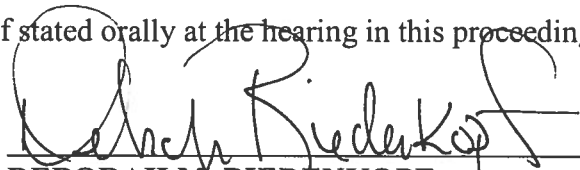
STATE OF NEW YORK)
COUNTY OF MONROE) s.s.:

DEBORAH M. BIEDENKOPF, being duly sworn, deposes and says:

1. I am a party to this proceeding on behalf of Living Communities, LLC, the owner and operator of the Rivers Run senior living community located adjacent to Fairwood Drive along the Genesee River off of East River Road in the Town of Henrietta.

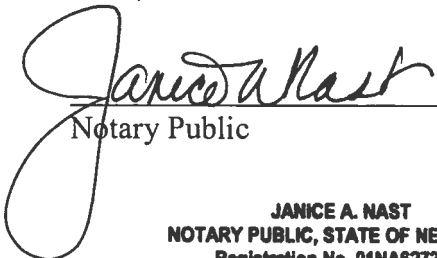
2. Annexed to this Affidavit is my Pre-Filed Testimony, sworn to May 23, 2014 and consisting of three pages, filed in this proceeding. I prepared the answers to the questions posed in my rebuttal testimony. I make no changes to my Pre-Filed Testimony.

3. I swear that my Pre-Filed Testimony is true, and allow that Testimony and this Affidavit to be submitted into the record as if stated orally at the hearing in this proceeding.



DEBORAH M. BIEDENKOPF

Sworn to before me
this 23 day of June 2014



Notary Public

JANICE A. NAST
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01NA6272071
Qualified in Monroe County
Commission Expires November 13, 2016

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Case 11-T-0534

6-19-14

And as their affidavits will come in, we will mark those as Exhibits Eighty-three, Eighty-four and Eighty-five. Mr. Eckhaus?

MR. ECKHAUS: Your Honors, I think circulated a -- an index exhibits. Are you planning to -- when those come in circulate a -- an updated index?

A.L.J. LIEBSCHUTZ: Yes, thank you, Mr. Eckhaus. And that reminds me as well that we have numerous exhibits that we have marked today, for which we do not have electronic versions which will need to be supplied by the responsible party who introduced them.

If my notes are correct, for Exhibit Forty-two, which was originally -- which was a prefiled exhibit by RG&E, the version we worked from here at the hearing has handwritten further corrections.

And, so, RG&E will owe us an updated corrected version of Exhibit Forty-two.

In addition RG&E supplied Exhibit Seventy-one during the cross of Mr. Fingado and the land use panel, which was a map of the Alternative

1 Case 11-T-0534 6-19-14
2 Twenty site, using the conservation easement route
3 dated June 13th, 2014.

4 RG&E is also responsible for
5 supplying us with -- sorry -- strike that.

6 Exhibit Seventy-four I think has
7 been supplied to the reporter, but I guess it does
8 need to be supplied to the judges.

9 Exhibit Seventy-four is the
10 witness qualification testimony which I understand
11 consists of a -- a single document.

12 RG&E is also responsible for the
13 map which was marked as Exhibit Seventy-six during
14 the cross of the environmental panel. That's
15 another map dated June 13th that I believe shows --
16 shows further detail of Site 7 with the
17 conservation easement route, and is a map of the
18 wetlands and water courses around Alternative
19 Seven.

20 Yes, RG&E also introduced
21 Exhibits Seventy-eight and Seventy-nine.
22 Seventy-eight was a two-page form of RG&E's
23 standard easement agreement.

24 And Exhibit Seventy-nine was the
25 deed to the property North Milewood Road. And I

1 Case 11-T-0534 6-19-14
2 think that's my full list of what we are owed by
3 way of exhibits from RG&E.

4 Mr. Evans, I believe you will
5 need to follow up with an electronic version of
6 Exhibit Seventy-two which was introduced through
7 the cross examination of the need panel.

8 It was a Democrat and Chronicle
9 article regarding the ownership of Ginna dated
10 April 1, 2014.

11 Exhibit Seventy-three was also
12 introduced during the cross of the RG&E need panel
13 that was a document labeled N.E.R.C. Implementation
14 Plan for Project 2010 through '17 and referred to
15 the definition of the B.E.S.

16 And then, Mr. Evans, you
17 introduced Exhibit Eighty during the cross
18 examination of the Ag and Markets witness, Mr.
19 Saviola, which was a map, a two-page map dated June
20 17th. And Exhibit Eighty-two, which was introduced
21 during the cross of the Department of Public
22 Service engineering panel which was a seven-page
23 printout taken from the RG&E website.

24 Do you have all that, Mr. Evans,
25 and can supply that to us by e-mail?

1 Case 11-T-0534 6-19-14

2 MR. EVANS: I'll let Mr. Bennett

3 respond.

4 MR. BENNETT: Your Honor, we put

5 all those exhibits on a C.D. that I gave to the

6 court reporter earlier today.

7 A.L.J. LIEBSCHUTZ: Oh, even

8 better.

9 MR. BENNETT: There's a few on

10 there that we end up not using, but all the ones

11 that we did introduce are on that C.D.

12 A.L.J. LIEBSCHUTZ: And all of

13 them are -- and I'm sorry, that's on the disc that

14 you gave the court reporter?

15 MR. BENNETT: Yes, your Honor.

16 A.L.J. LIEBSCHUTZ: Is that the

17 same disc with the testimony that you gave the

18 court reporter?

19 MR. BENNETT: Two separate discs,

20 your Honor.

21 A.L.J. LIEBSCHUTZ: Oh,

22 wonderful.

23 So we can just get the -- the

24 disc with the exhibits on it from the court

25 reporter and we will take care of the exhibits.

1 Case 11-T-0534 6-19-14

2 Thank you very much.

3 MR. BENNETT: Thank you, your
4 Honor.

5 A.L.J. LIEBSCHUTZ: That leaves,
6 Mr. Kanyuck, I'm not sure -- we -- Exhibit
7 Seventy-five is the stipulation. I don't think we
8 have an electronic version that contains all the
9 signatures.

10 MR. KANYUCK: That's correct.
11 I'll get that --.

12 A.L.J. LIEBSCHUTZ: So if you
13 could follow up with that and that can be -- the
14 easiest thing is to have it e-mailed to us to the
15 judges. We can take care of -- of getting that put
16 into the record. And the last outstanding exhibit
17 that I think I'm aware of is Exhibit Eight-one
18 which was introduced by D.P.S. staff as their
19 environmental panel was being crossed, which was a
20 copy of an -- an e-mail transmission from the
21 Office of Parks, Recreation and Historic
22 Preservation to Witness Powell.

23 MS. MORENO: Yes. And that was
24 provided on a disc to the court reporter separate
25 from the testimony.

1 Case 11-T-0534 6-19-14

2 A.L.J. LIEBSCHUTZ: So, again,

3 Ms. Court Reporter, if we could have that disc from

4 you. She gets the testimony. We get the exhibits.

5 A.L.J. PHILLIPS: I -- and then

6 that's -- the only thing left are the affidavits

7 which -- no, those come from other parties.

8 A.L.J. LIEBSCHUTZ: All right.

9 And then the remaining, as I say, Exhibit Numbers

10 Eighty-three, Eighty-four and Eighty-five will be

11 reserved for the affidavits accompanying the

12 testimony of the witnesses who were not present

13 today.

14 MR. KANYUCK: Your Honor, were

15 those -- were you planning to put those on the --

16 on D.M.M.?

17 A.L.J. LIEBSCHUTZ: Yes.

18 MR. KANYUCK: So we'll be able to

19 get that from there.

20 A.L.J. LIEBSCHUTZ: Yes. Yes.

21 We will try to get those on the

22 record as soon as possible. And you're providing

23 them on discs today is wonderful, in making our

24 task very easy or following up with e-mails to us

25 will suffice for those that couldn't be anticipated

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Case 11-T-0534

6-19-14

and brought on a disc today.

Do we have anything further that
needs to be addressed today?

With that we will thank you all
very much. The hearing is concluded. The record
is closed. We are adjourned.

(The hearing concluded)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Case 11-T-0534

6-19-14

STATE OF NEW YORK

I, Jamie Green, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereto, at Page 1238 hereof; that foregoing typewritten transcription consisting of pages 1238 through 1412, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 26th day of June, 2014.

Jamie Green, Reporter