

VOLUME E, PAGES 565-676

COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD

PUBLIC MEETING OF THE ENERGY FACILITIES SITING
BOARD, held remotely via Zoom, on Monday, February
22, 2021, commencing at 1:02 p.m.

SITTING: Kathleen A. Theoharides, Chair
Matthew H. Nelson
Cecile M. Fraser
Patrick C. Woodcock
Gary Moran
Jonathan Cosco
Joseph Bonfiglio
Brian Casey

Andrew Greene, EFSB Director

-----Reporter: David Arsenault, RPR-----

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<p style="text-align: right;">Page 566</p> <p>1 PROCEEDINGS - 1:02 p.m. 2 ----- 3 CHAIR THEOHARIDES: On the record. We 4 will begin. 5 Good afternoon and welcome. Before we 6 begin, I do want to provide again some basic 7 instructions on how to best use Zoom for today's 8 meeting. We have interpreters who will be 9 translating from English to Spanish and Spanish to 10 English. To select your desired language, click on 11 the globe icon at the bottom of your screen and 12 select English or Spanish so that you can hear 13 everything said today with interpretation as needed. 14 I'll give you a moment so that you can do that. 15 Please do not check the box that says 16 "mute original audio." We recommend this so that 17 you can still hear the voice of the actual speaker 18 faintly in the background, but mostly you will hear 19 the voice of the interpreter when speaking. Dial-in 20 participants on the phone number included in the 21 notice 646-558-8656 will hear the speaker's voice 22 without interpretation. For dial-in participants 23 who want to listen in Spanish during this meeting, 24 there is an additional phone line for this purpose.</p>	<p style="text-align: right;">Page 568</p> <p>1 This a remote meeting of the Energy 2 Facilities Siting Board regarding Eversource's 3 proposed project change for the Mystic-East Eagle- 4 Chelsea reliability project Docket No. EFSB 5 14-04A/DPU 14-153A/14-154A. 6 My name is Kate Theoharides, and I'm the 7 Secretary of Energy and Environmental Affairs for 8 the Commonwealth of Massachusetts and the Chair of 9 the Energy Facilities Siting Board. Joining me 10 today are other members of the Siting Board whom I 11 will introduce in a moment. 12 This meeting is a continuation of the 13 prior Siting Board meeting held on December 16, 2020 14 and February 8 and 9, 2020 which completed the 15 public comment portion of the meeting. Today's 16 meeting was announced at the Board meeting on 17 February 9th, and a notice was also translated into 18 Spanish and distributed to the parties posted on the 19 EFSB project website and emailed to prior meeting 20 commenters and officials. 21 Having completed the public comment 22 portion of the meeting previously, today's meeting 23 will continue with deliberations of the Board. The 24 Board will deliberate and vote on the tentative</p>
<p style="text-align: right;">Page 567</p> <p>1 Please write this information down. The telephone 2 number for the Spanish interpretation dial-in line 3 is 1-888-585-9008. And the room number is 572 195 4 548. 5 So to access the Spanish interpretation 6 dial-in line, first dial 1-888-585-9008; enter room 7 number 572 195 548; press the pound key two times; 8 record your name; press the pound key again. I'll 9 pause for those instructions to be interpreted into 10 Spanish and we'll also put this information up on 11 the screen. I'll wait so callers can now dial in to 12 the Spanish interpretation line if they would like 13 to use it. 14 If you are having any technical 15 difficulties, please call or text 857-200-0065 for 16 assistance. This number will be displayed 17 periodically during the meeting. You will also note 18 that this meeting is being recorded and will be 19 posted on the DPU/EFSB YouTube channel, including a 20 version with Spanish audio interpretation. 21 MR. GREENE: This does not need to be 22 translated. 23 (Spanish spoken). 24 CHAIR THEOHARIDES: Good afternoon.</p>	<p style="text-align: right;">Page 569</p> <p>1 decision before the meeting ends no later than 8:00 2 p.m. If necessary, the Board may resume the meeting 3 tomorrow morning at 9:00 a.m. 4 We will have a one-hour break at 5:00 5 p.m. and resume at 6:00 p.m. We will also have 6 shorter breaks during the meeting at approximately 7 2:30 p.m. and 3:45 p.m. for about ten minutes each. 8 In addition, our interpreters will take turns every 9 30 minutes, and we will pause briefly as needed to 10 let them do so. 11 Now let me introduce the other members 12 of the Energy Facilities Siting Board participating 13 in the meeting today. 14 Matt Nelson, Chair of the Department of 15 Public Utilities; Cecile Fraser, Commissioner of the 16 Department of Public Utilities; Patrick Woodcock, 17 Commissioner of the Department of Energy Resources; 18 Gary Moran, Deputy Commissioner and Designee for the 19 Commissioner of the Department of Environmental 20 Protection; Jonathan Cosco, General Counsel and 21 Designee for the Secretary of Executive Office of 22 Housing and Economic Development; Joseph Bonfiglio, 23 public member; and Brian Casey public member. 24 Andy Greene, Director of the Siting</p>

<p style="text-align: right;">Page 570</p> <p>1 Board, will be serving as meeting host along with 2 other staff of the Siting Board. 3 Before we begin, I will provide some 4 additional information about how we will conduct 5 this meeting. Due to the ongoing COVID-19 state of 6 emergency, the Siting Board meeting today will be 7 conducted remotely using Zoom. This meeting is 8 being held pursuant to the Massachusetts Open 9 Meeting Law, the Siting Board's regulations, 10 Governor Baker's March 10, 2020 Declaration of 11 Emergency, and the related order suspending certain 12 provisions of the Open Meeting Law. 13 The Board will continue its 14 deliberations on the tentative decision, consider 15 possible amendments to the tentative decision, and 16 finally vote on the tentative decision. All 17 deliberations of the Siting Board are taking place 18 during these public meetings according to the 19 Commonwealth's open meeting law and the Siting 20 Board's long-standing regulations. 21 In conducting the meeting I want to note 22 some important procedures we will be following. All 23 Board members must be audible to each other and the 24 audience. If a Board member becomes disconnected at</p>	<p style="text-align: right;">Page 572</p> <p>1 difficult for the stenographer as well who is here 2 to make sure your words are accurately identified in 3 the record. 4 We are providing English-to-Spanish and 5 Spanish-to-English interpretation for today's 6 hearing consistent with the Commonwealth's language 7 access policy. Everyone on Zoom should make sure to 8 select their desired language, English or Spanish, 9 by pressing the globe icon at the bottom of your 10 screen and then choosing English or Spanish. 11 If you do not select a language, you 12 will hear the current speaker in whatever language 13 is being spoken. Again, for dial-in participants 14 who want to listen in Spanish during the meeting, 15 the telephone number for the Spanish interpretation 16 dial-in line is 1-888-585-9008, and the room number 17 is 572 195 548. So to access the Spanish 18 interpretation dial-in, dial 1-888-585-9008; enter 19 room number 572 195 548; press the pound key two 20 times; record your name; press the pound key again. 21 Andy, do you want to read these in 22 Spanish? 23 MR. GREENE: I think we can move on. 24 CHAIR THEOHARIDES: A video recording of</p>
<p style="text-align: right;">Page 571</p> <p>1 any time, we will note that on the record. If there 2 are significant technical difficulties, I will stop 3 the meeting to allow the problem to be resolved. 4 Before we get to the substance of our 5 meeting, let me mention that a stenographer is 6 participating remotely who will be transcribing 7 everything said to make an official record of the 8 meeting. We may experience some technical 9 difficulties such as potential background noise, 10 video or audio issues and other glitches that may 11 prompt the stenographer to request someone to repeat 12 themselves. Board members and those on the panel 13 should remember to mute their audio when listening 14 and unmute when speaking. Everyone should speak 15 slowly and clearly, this includes myself, and allow 16 the prior speaker to finish before you begin 17 speaking. 18 The entire proceeding today is being 19 interpreted in Spanish and English in realtime. 20 When speaking, each person should remember to help 21 the interpreters by speaking in a loud, clear voice 22 at a moderate pace as best you can. If you are 23 speaking very fast or not loud enough, it can be 24 difficult for the interpreters to do their job and</p>	<p style="text-align: right;">Page 573</p> <p>1 the meeting today in both English and Spanish is 2 being made by the Siting Board and will be posted on 3 the Department of Public Utilities YouTube channel. 4 The YouTube website address is in the meeting 5 notice. 6 In addition, a transcript of this 7 meeting in both English and Spanish will be made 8 available as soon as possible and posted in the 9 Siting Board electronic file room. You can find a 10 link to the transcript on the Siting Board web page 11 for this meeting. 12 We will now begin the substantive part 13 of the agenda. There is one item on the agenda 14 today, which is consideration of the tentative 15 decision in the matter of NSTAR Electric Company, 16 doing business as Eversource Energy, EFSB 14-04A/DPU 17 14-153A/14-154A in which Eversource seeks approval 18 from the Siting Board for a proposed change to the 19 Eversource transmission project that the Siting 20 Board approved on December 1, 2017. 21 The previously approved project included 22 a new substation to be located on a city-owned 23 parcel of land in East Boston. In this proceeding 24 Eversource seeks approval to move the substation to</p>

<p style="text-align: right;">Page 574</p> <p>1 the west of the originally approved location within 2 the same City-owned parcel of land in the Eagle Hill 3 neighborhood. The Board will continue deliberations 4 and finally vote on the tentative decision. 5 The Board will now continue its 6 deliberations on the tentative decision. We will 7 first consider amendments, the tentative decision by 8 staff, and then we will consider any additional 9 amendments from Board members. 10 Before we continue deliberations, I 11 would like to say a few words. As we know and have 12 heard throughout the course of the meetings, the 13 proposed project we are deliberating on today will 14 be located in heavily industrialized area within an 15 environmental justice community that has 16 historically suffered disproportionate environmental 17 harms and a heavy burden of infrastructure. This 18 context has weighed heavily on my mind as I spent 19 the last two weeks thinking about this decision 20 since our last meeting. 21 There is no question that now is the 22 time for policy-makers to seriously consider the 23 prior injustices of how and where our infrastructure 24 has been sited. Some communities like East Boston</p>	<p style="text-align: right;">Page 576</p> <p>1 As we continue to rely on electricity 2 for basic functions and to transition to a clean 3 energy future, including electrification of home 4 heating and transportation sectors, both substations 5 and transmission lines are essential pieces of 6 infrastructure to maintain reliability and build the 7 electrical grid of the future. The notion that a 8 substation is part of a fossil fuel past is a false, 9 politically motivated narrative. Substations are a 10 piece of infrastructure that will be critical in our 11 ever-growing electrification of the building and 12 transportation sectors and will deliver ever- 13 increasing amounts of clean and renewable energy 14 produced by wind and solar. 15 The communities of East Boston and 16 Chelsea have a right to reliable electricity as we 17 make the transition to a more electrified, net-zero 18 carbon emissions footprint in 2050. That is a 19 consideration we have to balance here against the 20 impacts of siting this facility. 21 Throughout the entire process and during 22 the past two weeks since our last meeting I have 23 reviewed this case again, the staff's tentative 24 decision, the comments submitted by every</p>
<p style="text-align: right;">Page 575</p> <p>1 have traditionally borne more of a burden of 2 negative environmental impacts of major 3 infrastructure projects or proximity to places with 4 heavy polluting loads like the airport. 5 During the COVID-19 pandemic we know 6 that these communities, our environmental justice 7 communities throughout the state that are also home 8 to many of our first responders and essential 9 workers have been hit especially hard by this virus 10 and the resulting economic slowdown. The Energy 11 Facilities Siting Board asks for members to balance 12 providing reliable energy with costs and 13 environmental impact. Ensuring a reliable energy 14 supply and access to electricity and other services 15 requires infrastructure to be sited throughout the 16 state. 17 The rolling blackouts across Texas have 18 demonstrated that infrastructure, particularly 19 energy infrastructure, is crucial to ensuring 20 essential services, public safety and meeting basic 21 human needs. We have seen how disruptions in 22 essential resources such as electricity and natural 23 gas can quickly and directly impact public health 24 and safety and even become life-threatening.</p>	<p style="text-align: right;">Page 577</p> <p>1 stakeholder, and the questions and answers discussed 2 by my colleagues on this Board. 3 Based on the facts of the case and the 4 presentation of data by intervenors I have concluded 5 that there is not sufficient evidence to reopen the 6 needs assessment that has been evaluated and ruled 7 on in 2017. In 2017 the EFSB evaluated the need for 8 Eversource's transmission project, including the 9 substation, as well as non-wires alternatives and 10 various alternative combinations of transmission 11 routes. That case concluded that the project as 12 proposed is the best way to meet the need for 13 reliable electricity service for the Chelsea, East 14 Boston, and Lynn load area. 15 The underlying approval also stipulated 16 that construction on a project start within three 17 years, and that the company should work with the 18 City of Boston to relocate the substation to the 19 very location that is the subject of this project 20 change proceeding. Both of those conditions were 21 met by the utility. 22 Today the Board's sole decision is 23 whether to approve the project change which would 24 move the substation several hundred feet west from</p>

<p style="text-align: right;">Page 578</p> <p>1 the original site. This project change raises 2 issues of cost and environmental impact, but does 3 not require revaluation of project need, alternative 4 approaches, or site selection. Based on the 5 discussion with the Board at our previous meeting as 6 well as revisiting the extensive testimony in this 7 case, I sense there is agreement around this point 8 but we will open this up to further discussion as 9 needed.</p> <p>10 While it appears that the utility's 11 forecast data underscoring the need for the project 12 might not have been provided by Eversource to some 13 in this current case, those forecasts were made 14 publicly available online and were used by the 15 Siting Board to substantiate the need for the 16 transmission project as part of the approval process 17 in 2017. When the EFSB approved the project 18 in 2017, no parties appealed that decision. While 19 time has passed and one can argue that the load 20 forecast that Eversource provided previously might 21 have become outdated, there is not sufficient 22 evidence in this case to show that it is likely the 23 need for the transmission project has been reduced 24 substantially such that the East Eagle substation</p>	<p style="text-align: right;">Page 580</p> <p>1 Board's consideration that I would like to discuss 2 as we go through amendments. 3 At this point, I would ask to begin to 4 deliberations that we need a main motion before us. 5 Do I have a motion to adopt the 6 tentative decision? 7 MR. NELSON: So motioned. 8 CHAIR THEOHARIDES: Second? 9 MR. BONFIGLIO: Second. 10 (Discussion off the record.) 11 CHAIR THEOHARIDES: At this point I 12 would like to hear from other members of the Board. 13 Are there other members who would like to provide 14 commentary, ask questions? Or we can get directly 15 into the amendments portion of the discussions. 16 MR. CASEY: Brian Casey. I would 17 propose that we move forward with the amendments 18 section. 19 CHAIR THEOHARIDES: Brian, you are very 20 quiet. 21 MR. CASEY: That's a first. I suggest 22 we move right into the amendments section. 23 CHAIR THEOHARIDES: Sorry, I'm supposed 24 to be using last names. Mr. Casey.</p>
<p style="text-align: right;">Page 579</p> <p>1 would no longer be needed. New capacity, energy, 2 loads and transmission data comes out every year, 3 and if any changes in that data were sufficient to 4 reopen the Board's decisions, few if any Board 5 decisions would ever be truly final.</p> <p>6 Although the assessment of need is not 7 directly in the scope of this proceeding, I have 8 heard the significant concern about this project and 9 its location in East Boston that has been expressed 10 by members of the community as well as by many 11 residents outside of East Boston. I very much 12 appreciate the participation of the community 13 members and others and recognize the historical 14 environmental justices -- injustices that this 15 community has endured.</p> <p>16 While this project does not have some of 17 the typical impacts associated with other energy 18 infrastructure projects, it does add to the 19 cumulative amount of industrial infrastructure sited 20 in a community that already feels overburdened. 21 There have also been concerns expressed related to 22 other potential impacts, including the location of 23 the facility as sea level rises. In recognition of 24 these factors, I have prepared amendments for this</p>	<p style="text-align: right;">Page 581</p> <p>1 MR. CASEY: That's fine. 2 CHAIR THEOHARIDES: I'll ask Presiding 3 Officer Evans, are there any updates to the staff 4 amendment sheet? 5 MS. EVANS: Yes. Thank you, Chair 6 Theoharides. The staff sent out an amendment sheet 7 for this proceeding back in March when we were going 8 to have the March Board meeting. Staff sent a 9 revised amendment sheet on December 15, 2020 that 10 updated the various parts of the orders between 11 March and December. Since then we have had a couple 12 of additional procedural steps here because we have 13 had more meetings than anticipated. I would like to 14 further amend the December 15, 2020 amendment sheet 15 with the following language to update the procedural 16 section of the TD. 17 I think the best way to do it is, I'm 18 just going to note where I'm going to amend the 19 amendment sheet so that that language ends up in the 20 correct place in the decision. 21 So I indicate on the second page of the 22 amendment sheet, the second paragraph, we listed the 23 various comments we had received in response to the 24 request for written comments. I would end that</p>

<p style="text-align: right;">Page 582</p> <p>1 paragraph, add a sentence to say that:</p> <p>2 The Siting Board received additional</p> <p>3 public comments in January and February 2021.</p> <p>4 I would indicate toward the bottom of</p> <p>5 that same page of the amendment sheet that:</p> <p>6 The Siting Board postponed the December</p> <p>7 17, 2020 Board meeting due to severe weather.</p> <p>8 I would further add that:</p> <p>9 The Siting Board scheduled the</p> <p>10 continuation of the Board meeting for February 1 and</p> <p>11 February 2, 2021. The Board provided the same</p> <p>12 notice as for the December Board meeting. We</p> <p>13 required the company to translate the notice into</p> <p>14 Spanish, Portuguese and Arabic; publish the notice</p> <p>15 in local English- and Spanish-language newspapers;</p> <p>16 provide a copy of the notice in all four languages</p> <p>17 to all persons on the service list; provide a copy</p> <p>18 of the notice in all four languages to all owners of</p> <p>19 property and renters within one quarter mile of the</p> <p>20 new site; and post a copy of the notice on the</p> <p>21 company's website.</p> <p>22 The notice included snow dates of</p> <p>23 February 8th and 9th, 2021 in case of severe</p> <p>24 weather. The Siting Board meeting for February 1,</p>	<p style="text-align: right;">Page 584</p> <p>1 to amend the tentative decision to include the</p> <p>2 proposed amendments included on the staff's revised</p> <p>3 proposed amendment sheet.</p> <p>4 MR. NELSON: So motioned.</p> <p>5 CHAIR THEOHARIDES: Motion from Chair</p> <p>6 Nelson.</p> <p>7 MR. CASEY: Second.</p> <p>8 CHAIR THEOHARIDES: Second from</p> <p>9 Mr. Casey.</p> <p>10 CHAIR THEOHARIDES: Is there any</p> <p>11 discussion on the proposed staff amendments?</p> <p>12 MR. NELSON: They seem to be in order</p> <p>13 for me.</p> <p>14 CHAIR THEOHARIDES: Likewise.</p> <p>15 MR. MORAN: One question. If we have</p> <p>16 any other update amendments, should we make that</p> <p>17 separate from the staff amendments?</p> <p>18 CHAIR THEOHARIDES: Yes. We will move</p> <p>19 to that next.</p> <p>20 So if there's no further discussion on</p> <p>21 the staff amendments, I will now ask for a roll call</p> <p>22 vote by the Board in favor or opposed to the</p> <p>23 amendments on the staff revised amendment sheet as</p> <p>24 updated by the Presiding Officer today.</p>
<p style="text-align: right;">Page 583</p> <p>1 2021 was postponed due to severe weather. The</p> <p>2 Siting Board conducted a remote Board meeting on</p> <p>3 February 8th and February 9th, 2021 at which</p> <p>4 parties, limited participants, and others provided</p> <p>5 oral comment.</p> <p>6 The Siting Board conducted a</p> <p>7 continuation of the remote Board meeting on February</p> <p>8 22, 2021. Spanish language interpreters were</p> <p>9 available at the public Board meetings to provide</p> <p>10 realtime interpretation.</p> <p>11 So that is the update for that portion.</p> <p>12 The one other update to the</p> <p>13 amended amendment sheet -- revised amendment sheet,</p> <p>14 excuse me, is on the last page of the amendment</p> <p>15 sheet, the first paragraph. I would have that first</p> <p>16 sentence read after "for use with contracted</p> <p>17 interpreters," I insert:</p> <p>18 In addition, in preparation for the</p> <p>19 December 2020 and February 2021 Board meetings --</p> <p>20 recognizing that we had meetings in both months.</p> <p>21 And that concludes my updates to the</p> <p>22 revised staff amendment sheet of December 15, 2020.</p> <p>23 CHAIR THEOHARIDES: Okay.</p> <p>24 I would like to ask if there's a motion</p>	<p style="text-align: right;">Page 585</p> <p>1 Mr. Nelson?</p> <p>2 MR. NELSON: Affirmative, I vote</p> <p>3 affirmative.</p> <p>4 CHAIR THEOHARIDES: Mr. Woodcock?</p> <p>5 MR. WOODCOCK: Yes.</p> <p>6 CHAIR THEOHARIDES: Ms. Fraser?</p> <p>7 MS. FRASER: Yes.</p> <p>8 CHAIR THEOHARIDES: Mr. Cosco?</p> <p>9 MR. COSCO: Yes.</p> <p>10 CHAIR THEOHARIDES: Mr. Moran?</p> <p>11 MR. MORAN: Yes.</p> <p>12 CHAIR THEOHARIDES: Mr. Bonfiglio?</p> <p>13 MR. BONFIGLIO: Yes.</p> <p>14 CHAIR THEOHARIDES: And Mr. Casey?</p> <p>15 MR. CASEY: Yes.</p> <p>16 CHAIR THEOHARIDES: I will vote yes as</p> <p>17 well.</p> <p>18 The motion to include the revised</p> <p>19 amendments with a tentative decision is approved.</p> <p>20 Now to continue with our deliberations,</p> <p>21 I suggest that we consider additional amendments to</p> <p>22 the tentative decision individually and vote on</p> <p>23 whether to include each amendment in the tentative</p> <p>24 decision as we go along just so we can keep track of</p>

<p style="text-align: right;">Page 586</p> <p>1 all of them. Following the discussion of all 2 proposed Board amendments, we will vote on the 3 entire tentative decision, inclusive of all of the 4 amendments that the Board has voted to include, both 5 the staff amendments and any additional Board 6 amendments. 7 So let's move on to discuss any 8 additional amendments that Board members would like 9 to consider. 10 Mr. Moran, I believe you had something 11 to suggest? 12 MR. MORAN: Yes, I did. I actually -- 13 the amendments were just two updates to reflect the 14 updated status of the wetlands filings. I have the 15 location of the citation in a staff amendment 16 document. If I could just cite that, Page 4 of the 17 staff amendments. 18 CHAIR THEOHARIDES: I might have 19 misunderstood you. Sorry. 20 MR. MORAN: We'll have to find it in the 21 document, which I don't have, in the decision itself 22 which I don't have offhand. 23 CHAIR THEOHARIDES: Okay. Your 24 amendments are changes to the staff amendments</p>	<p style="text-align: right;">Page 588</p> <p>1 MR. MORAN: On Page 4 of the staff 2 amendments, the amendment to Page 52, Line 22, add 3 at the end of that amendment the following: 4 "The order of conditions was appealed to 5 the Massachusetts Department of Environmental 6 Protection on December 4, 2020." 7 And on Page 5 -- 8 MS. EVANS: If I could just say, the 9 first one would actually be on Page 52 of the TD 10 after the amendments that we included starting on 11 Line 22. 12 MR. MORAN: Thank you. 13 And on Page 5 of the staff amendments, 14 amend -- the amendment amending Page 62, Lines 23 to 15 25; delete the final sentence of the amendment and 16 replace with: 17 "The Order of Conditions was appealed to 18 the Massachusetts Department of Environmental 19 Protection on December 4, 2020. Eversource will 20 construct the project in accordance with the 21 requirements of the Department's final order." 22 MS. EVANS: And that on the TD would be 23 on Page 62 after the amendment to Lines 23 to 25. 24 Thank you.</p>
<p style="text-align: right;">Page 587</p> <p>1 themselves? 2 MR. MORAN: Yes. Which we were amending 3 the document. 4 CHAIR THEOHARIDES: Ms. Evans, can you 5 help with that? 6 MS. EVANS: Sure. If somebody could 7 make a motion and second it for Mr. Moran to give us 8 those amendments, if he indicates where they are on 9 the amendment sheet, I can indicate where they are 10 in the TD and we can go through it that way. 11 MR. NELSON: I would like to put a 12 motion on the floor for Mr. Moran to indicate what 13 additional amendments he has to the tentative 14 decision with regards to the wetland permit. 15 CHAIR THEOHARIDES: Seconded. 16 So we have a motion from Chair Nelson 17 and a second from myself. 18 Do we need a roll count on that? 19 MR. GREENE: We need a motion at this 20 point. So if Mr. Moran can sketch out what it is 21 that he would like the Board to consider, that would 22 be the next step. 23 MS. EVANS: You need a roll call just 24 for the vote, not for the motion.</p>	<p style="text-align: right;">Page 589</p> <p>1 CHAIR THEOHARIDES: We need a second to 2 that motion. 3 MR. NELSON: I'll second the motion. 4 CHAIR THEOHARIDES: Seconded by 5 Mr. Nelson. 6 Before we have a roll call vote, is 7 there any discussion of these amendments from 8 Mr. Moran? Okay. 9 Mr. Nelson? 10 MR. NELSON: Yes. 11 CHAIR THEOHARIDES: Mr. Woodcock? 12 MR. WOODCOCK: Yes. 13 CHAIR THEOHARIDES: Mr. Cosco? 14 MR. COSCO: Yes. 15 CHAIR THEOHARIDES: Mr. Bonfiglio? 16 MR. BONFIGLIO: Yes. 17 CHAIR THEOHARIDES: Ms. Fraser? 18 MS. FRASER: Yes. 19 CHAIR THEOHARIDES: Mr. Casey? 20 MR. CASEY: Yes. 21 CHAIR THEOHARIDES: I am also a yes. 22 Before we move on to additional 23 amendments, do any others have any changes to the 24 staff amendments that they would like to propose?</p>

<p style="text-align: right;">Page 590</p> <p>1 Okay. So let's move on to any 2 additional amendments from Board members. Who would 3 like to begin? 4 MR. NELSON: I have one for emergency 5 response planning. 6 CHAIR THEOHARIDES: Okay. Mr. Nelson, 7 go ahead. 8 MR. NELSON: I was hoping staff could 9 bring that amendment up on the screen for us. I'll 10 bring it up on my screen as well. 11 I think over the course of the 12 proceeding we heard fairly compelling questioning 13 and concerns from the intervenors and the public 14 commenters around what the company's emergency 15 response plan was along with what their plans are in 16 the event of flooding and fires. So this amendment 17 is meant to have the company develop an emergency 18 response plan and to allow that to be submitted to 19 the Siting Board, as you can see here, "in an effort 20 to improve public safety." 21 I think there is a concern, too, that we 22 wanted to note, given the substation's location 23 related to the jet fuel tanks, also for review to 24 make sure that all their fire apparatus are in</p>	<p style="text-align: right;">Page 592</p> <p>1 the substation, hereby known as the substation ERP, 2 that describes the specific steps to be taken in 3 response to emergency situations including but not 4 limited to flooding and fires. 5 With respect to flooding, the substation 6 ERP shall detail the plan of action, including 7 equipment requirements, and deploy temporary 8 barriers and pumps to keep the water away from 9 sensitive equipment. 10 The substation ERP shall also specify 11 thresholds and criteria for shutting down portions 12 of the entire substation in the event of flooding. 13 The substation ERP shall also describe 14 the structure of communication and authority that 15 would follow in the event of an emergency at the 16 substation, specifically identifying the public 17 safety and emergency management officials by whom 18 Eversource would coordinate. In developing the 19 substation ERP, the company shall contact the 20 appropriate municipal and/or state public and 21 emergency management officials and, 1, inquire as to 22 whether any information regarding the substation is 23 necessary to supplement existing emergency 24 evacuation procedures; 2, provide timely information</p>
<p style="text-align: right;">Page 591</p> <p>1 complete working order, are in line with the code, 2 but also that they can review any sort of fire- 3 suppression technology that they would deploy in 4 other facilities they use and whether or not that is 5 going to be appropriate here, provide that 6 information back so that we can continue to have 7 that kind of reporting into the Siting Board to 8 allow for us to get the information related to their 9 emergency response plan. 10 I'll give everyone a moment to read this 11 through. 12 Andy, should I read it into the record? 13 MR. GREENE: I don't know if we have to 14 read the exact text into the record. 15 Joan, do you have a legal opinion on 16 that? 17 MS. EVANS: I do. I think we should 18 read it into the record. 19 CHAIR THEOHARIDES: I can barely read it 20 on my screen. So that will be helpful. 21 MR. NELSON: I'll read into the record. 22 Tell me if I'm going too fast. 23 The Siting Board directs the company to 24 prepare a comprehensive emergency response plan for</p>	<p style="text-align: right;">Page 593</p> <p>1 about the substation in order to support evacuation 2 planning, and if so requested by other officials; 3, 3 participate in and support relevant evacuation 4 planning. 5 The company shall submit to the Siting 6 Board the substation ERP at least 30 days prior to 7 the start of operations of the substation and 8 indicate any evacuation-related provisions of the 9 substation ERP that are still in development with 10 the appropriate public safety and emergency 11 management officials. 12 That is the end of the amendment. 13 CHAIR THEOHARIDES: Before we discuss it 14 further, do I have a formal motion and a second to 15 adopt? 16 MR. MORAN: So moved. 17 MR. BONFIGLIO: Second. 18 CHAIR THEOHARIDES: I didn't see either 19 of those. 20 MR. MORAN: I so moved. 21 MR. BONFIGLIO: I seconded. 22 CHAIR THEOHARIDES: Are there 23 discussions or questions on this amendment or any 24 proposed changes?</p>

<p style="text-align: right;">Page 594</p> <p>1 MR. WOODCOCK: This would add additional 2 detail. There was in the draft tentative decision 3 an ERP required, and this provides specificity of 4 what's included within it? 5 MR. NELSON: That is correct. We wanted 6 to be specific, especially with relation to the 7 unique nature of the location of the substation and 8 its proximity to some of the industrial equipment 9 nearby. 10 MR. WOODCOCK: Thank you. 11 CHAIR THEOHARIDES: Are there 12 questions -- I'm missing board members. 13 Are there questions from Mr. Rosenzweig 14 or Mr. Daniels? I am not seeing any. I just want 15 to make sure. I'm not seeing everyone's screen. 16 MR. NELSON: I think you can bring it 17 down for the moment, Andy or Dean, so that we can 18 see everybody on the screen. 19 CHAIR THEOHARIDES: Mr. Nelson, how 20 would this -- it looks like this would require 21 coordination with first responders in East Boston. 22 That's articulated in the third piece. 23 MR. NELSON: That is correct. 24 CHAIR THEOHARIDES: Okay.</p>	<p style="text-align: right;">Page 596</p> <p>1 treated as a compliance condition with the Board's 2 decision. And when it is filed, it would be posted 3 for review by the public in our electronic file 4 room, which automatically makes it available for 5 both review and comment. That's implicit, I think, 6 by the description of what it is. 7 MR. DANIELS: Thank you. 8 MS. EVANS: I would also say that any 9 compliance filing for this project, that the company 10 would be required to file all the compliance filings 11 with all the parties to the proceeding so that they 12 would get direct notification of those compliance 13 filings. 14 MR. DANIELS: Thank you. 15 CHAIR THEOHARIDES: Joan -- Ms. Evans, I 16 imagine translation of all the filings will be as it 17 has been for the rest of the process? 18 MR. GREENE: (Spanish) Of course. 19 CHAIR THEOHARIDES: Okay. Thank you. 20 Are there questions or discussion? 21 Okay. We will then move to a roll call vote to 22 adopt this amendment as written. 23 Mr. Nelson, you have proposed it. 24 So Mr. Woodcock?</p>
<p style="text-align: right;">Page 595</p> <p>1 MR. NELSON: They have to comply with 2 all municipal and state codes related to this. But 3 I think given the knowledge of the local emergency 4 responders in the area, and ones we may not even be 5 thinking of right now, we wanted to make sure that 6 the company was able to document that they have done 7 that and include it in as part of the record here as 8 well. 9 CHAIR THEOHARIDES: Okay. I'm not 10 seeing further questions or discussion from members. 11 So having a motion and a second, we can move to a 12 roll call. 13 MR. NELSON: Mr. Daniels is raising his 14 hand. 15 MR. DANIELS: I have one question. I 16 would like to confirm whether the proposed ERP will 17 at some point before operation begins be accessible 18 to the public for their review and comment? 19 MR. NELSON: I believe as part of the 20 motion on the floor, the amendment on the floor, it 21 will be provided prior to the facility going into 22 operations. But it does not as currently written 23 have any comment period. 24 MR. GREENE: If I can add, this would be</p>	<p style="text-align: right;">Page 597</p> <p>1 MR. WOODCOCK: Yes. 2 CHAIR THEOHARIDES: Mr. Cosco? 3 MR. COSCO: Yes. 4 CHAIR THEOHARIDES: Mr. Bonfiglio? 5 MR. BONFIGLIO: Yes. 6 CHAIR THEOHARIDES: Mr. Moran? 7 MR. MORAN: Yes. 8 CHAIR THEOHARIDES: Ms. Fraser? 9 MS. FRASER: Yes. 10 CHAIR THEOHARIDES: Mr. Casey? 11 MR. CASEY: Yes. 12 CHAIR THEOHARIDES: I will vote in favor 13 as well. 14 MR. GREENE: I believe we also need to 15 hear from Chair Nelson. 16 CHAIR THEOHARIDES: Sorry. 17 MR. NELSON: I vote yes as well. 18 CHAIR THEOHARIDES: Thank you. 19 And thank you, Chair Nelson, for that 20 amendment. 21 Turning to other areas of project 22 change, based on the information we have reviewed in 23 the record and many comments about future sea-level 24 rise, severe storm events and flooding risk, I would</p>

<p style="text-align: right;">Page 598</p> <p>1 like to add an additional condition on the topic.</p> <p>2 Mr. Greene, can staff put up the text on</p> <p>3 the screen, please.</p> <p>4 MR. GREENE: Just give us a moment.</p> <p>5 CHAIR THEOHARIDES: Yes.</p> <p>6 So recognizing the impact of climate</p> <p>7 change both in the City of Boston and across the</p> <p>8 Commonwealth, I offer an amendment for the Board's</p> <p>9 consideration relative to sea-level rise and flood</p> <p>10 mitigation measures, and this would replace what we</p> <p>11 began to discuss at the last meeting.</p> <p>12 Under this proposed amendment the</p> <p>13 company will be required every five years to review</p> <p>14 any City and State projections for sea-level rise as</p> <p>15 these projections tend to be regularly updated, and</p> <p>16 submit a report to the Siting Board that analyzes</p> <p>17 the necessity, appropriateness, and cost of</p> <p>18 implementing additional flood mitigation measures at</p> <p>19 the substation to ensure the safety of the</p> <p>20 surrounding residents and infrastructure.</p> <p>21 The Siting Board would then review each</p> <p>22 report and determine whether any additional flood</p> <p>23 mitigations are necessary, appropriate -- and if</p> <p>24 determined so, implemented.</p>	<p style="text-align: right;">Page 600</p> <p>1 appropriateness, and cost of implementing additional</p> <p>2 flood mitigation measures at the substation to</p> <p>3 protect the substation from inundation.</p> <p>4 "In preparing each report, the company</p> <p>5 shall consult with the City of Boston, Office of</p> <p>6 Coastal Zone Management, and the Department of</p> <p>7 Environmental Protection. The Siting Board will</p> <p>8 review each report and determine whether any of the</p> <p>9 additional flood mitigation measures are necessary</p> <p>10 and appropriate and shall be implemented provided</p> <p>11 that any mitigation measures shall not have any</p> <p>12 detrimental effects on neighboring parcels at the</p> <p>13 substation."</p> <p>14 Mr. Greene, trying to get the procedure</p> <p>15 down, should the discussion happen before the second</p> <p>16 or before the motion? What's your preference?</p> <p>17 MR. GREENE: Now is a perfectly good</p> <p>18 time.</p> <p>19 CHAIR THEOHARIDES: I will open it then</p> <p>20 to any discussion or questions from Mr. Daniels or</p> <p>21 Mr. Rosenzweig.</p> <p>22 Mr. Woodcock?</p> <p>23 MR. WOODCOCK: I appreciate the</p> <p>24 amendment. Just to clarify, is this every five</p>
<p style="text-align: right;">Page 599</p> <p>1 Importantly, consideration be given</p> <p>2 under this amendment to ensure that any mitigation</p> <p>3 measures will not have detrimental effects on</p> <p>4 neighboring parcels. I was concerned about the idea</p> <p>5 of just determining what a flood mitigation</p> <p>6 structure might be today in our proposal rather than</p> <p>7 having the company consulting with the City, the</p> <p>8 Office of Coastal Zone Management and the Department</p> <p>9 of Environmental Protection about any flood</p> <p>10 mitigation strategies not affecting parcels that are</p> <p>11 adjacent to or near to the station.</p> <p>12 I would make a motion to adopt this</p> <p>13 sea-level-rise condition, including any</p> <p>14 modifications that we want to make from the</p> <p>15 discussion. We can discuss now or second it and</p> <p>16 then move to discussion.</p> <p>17 MR. GREENE: If we can begin by reading</p> <p>18 the text.</p> <p>19 CHAIR THEOHARIDES: I forgot that. Yes.</p> <p>20 The exact text is the following:</p> <p>21 "The company shall every five years</p> <p>22 review the City's and the State's projections, as</p> <p>23 applicable, of sea-level rise and submit a report to</p> <p>24 the Siting Board analyzing the necessity,</p>	<p style="text-align: right;">Page 601</p> <p>1 years from the date of operation?</p> <p>2 CHAIR THEOHARIDES: That's a good</p> <p>3 question.</p> <p>4 MR. WOODCOCK: I think it could work</p> <p>5 either way. I just wanted to clarify that.</p> <p>6 MR. NELSON: I think it makes sense to</p> <p>7 do it from the date of operation when it goes into</p> <p>8 effect.</p> <p>9 CHAIR THEOHARIDES: Anything else on</p> <p>10 that point? Mr. Moran?</p> <p>11 MR. MORAN: Not necessarily on the start</p> <p>12 date.</p> <p>13 CHAIR THEOHARIDES: That's all right.</p> <p>14 MR. MORAN: As far as a procedural item,</p> <p>15 how would this be dealt with? I guess this is a</p> <p>16 question to the Board staff. When this comes back</p> <p>17 every five years, is this something that appears</p> <p>18 before the full Board for determination or is it</p> <p>19 dealt with some other way?</p> <p>20 CHAIR THEOHARIDES: My understanding is</p> <p>21 this would be delegated to Board staff, but I am not</p> <p>22 certain of that.</p> <p>23 Mr. Greene?</p> <p>24 MR. GREENE: So this report when it</p>

<p style="text-align: right;">Page 602</p> <p>1 comes in again would be publicly available and 2 distributed to parties in the proceeding in 3 perpetuity. If there are proposed modifications of 4 the facility to address the risk of flooding and the 5 company wishes to actually redesign, re-engineer the 6 facility to address those risks, it would result in 7 a project change of the approved substation, which 8 if it is of a significant nature would come back 9 before the Board just as this project change is now 10 before the Board for its review and determination. 11 MR. MORAN: Thank you. 12 MR. NELSON: Mr. Greene, would that 13 automatically be triggered or would it follow a 14 standard proceeding where parties would have to make 15 the case on both sides? Who makes the determination 16 about the scope? 17 MR. GREENE: There's an initial 18 determination by staff as to sort of the level of 19 significance of the proposed change. If we are 20 talking about adding three extra bolts to a footing 21 in a concrete pad, it's probably not worthy of the 22 Board's further review. If we are talking about 23 adding a seawall or major structures that have 24 impacts to the community, that would most likely</p>	<p style="text-align: right;">Page 604</p> <p>1 Board in consultation with CZM and DEP and the City 2 in their roles, or would the Siting Board be signing 3 off on it independently? 4 MR. GREENE: I think the condition 5 itself by its own terms requires Eversource to 6 conduct outreach to CZM, DEP and the City of Boston, 7 so I would anticipate that their filing to the Board 8 every five years will include a description of what 9 the dialogue has been and the nature of engagement 10 with those agencies who, again, will have visibility 11 into the filing made. So that if there's any 12 inconsistency or disagreement, then I think they can 13 certainly express that to the Board when it reviews 14 the filing. 15 CHAIR THEOHARIDES: Okay. I think my 16 goal is to make sure that agencies with additional 17 oversight of sea-level rise and flooding have a role 18 in ensuring the information that is needed is in the 19 report. And I don't know if we need to be more 20 formal about it in the language I wrote. 21 MS. EVANS: Your language does say shall 22 consult. I view that as mandatory. 23 CHAIR THEOHARIDES: Okay. 24 Mr. Nelson?</p>
<p style="text-align: right;">Page 603</p> <p>1 need to go before the Board for its formal review 2 and determination. 3 MR. NELSON: That seems to be an 4 appropriate way. So that if it will affect the 5 community or the people in the community, they would 6 have a chance to voice their concerns. Again, if it 7 is just small to address a minor problem, it could 8 be scoped less. I think that seems appropriate 9 given the attention that the community has on this 10 site. 11 MR. GREENE: I should point out that in 12 either case, whether it is before the Board for 13 decision or dealt with informally at the staff 14 level, the documentation is still publicly available 15 and visible and can be commented on. 16 MS. EVANS: Again, the company files for 17 some kind of change pursuant to this section, that 18 not only goes onto our website but goes directly to 19 the parties. So the parties are notified of those 20 changes by the company. 21 CHAIR THEOHARIDES: Back to Mr. Moran, a 22 sort of procedural question. In terms of signing 23 off on the five-year report, would that be done in 24 consultation -- would that be done by the Siting</p>	<p style="text-align: right;">Page 605</p> <p>1 MR. NELSON: I have a legal question 2 maybe you can answer. Obviously five years is a 3 long time, and I imagine there will be a lot done on 4 flooding and flooding mitigation. If there's an 5 additional agency that is created or formed, is this 6 something that could be incorporated posthumous into 7 this, or just wondering how that generally works? 8 MS. EVANS: Yes, we could include 9 another agency. I don't think this limits the 10 company to consulting with just these agencies that 11 we've identified here. If there's an additional 12 agency created or that now becomes involved in 13 sea-level rise, I think the expectation would be to 14 include that agency also. 15 MR. NELSON: Also. 16 MS. EVANS: We could add "including but 17 not limited to," if that is more explicit for you. 18 MR. NELSON: That would be a proposal I 19 would make. 20 CHAIR THEOHARIDES: I support that 21 change. 22 MS. EVANS: Okay. 23 MR. NELSON: The big one that comes to 24 mind for me is MEMA, since MEMA has so many roles</p>

<p style="text-align: right;">Page 606</p> <p>1 with flood maps and everything like that, I imagine 2 they will have an expanded role. 3 CHAIR THEOHARIDES: Mr. Nelson, I think 4 that is a very well-taken point. I think we should 5 add MEMA proactively. 6 THE REPORTER: Could I have the acronym 7 clearly. 8 CHAIR THEOHARIDES: The Massachusetts 9 Emergency Management Agency. 10 THE REPORTER: So M. 11 CHAIR THEOHARIDES: They have been our 12 partner on all things climate resiliency. That was 13 a mistake not to include them on my part. 14 Any other discussion here? I will make 15 a motion to adopt the amendment with the changes 16 proposed by Mr. Nelson. 17 MS. EVANS: And myself. 18 CHAIR THEOHARIDES: And Ms. Evans. 19 MR. NELSON: I will second that. 20 CHAIR THEOHARIDES: All in favor -- 21 first, any further discussion? All right. I cannot 22 do all in favor. I will do a roll call. I will do 23 it first with Mr. Cosco? 24 MR. COSCO: Yes.</p>	<p style="text-align: right;">Page 608</p> <p>1 the English channel. I wanted to make sure we have 2 the interpretation properly set up. 3 CHAIR THEOHARIDES: Okay. 4 MR. GREENE: We are back. 5 CHAIR THEOHARIDES: One other area where 6 I would like to see an amendment to the tentative 7 decision is regarding the inclusion of a process to 8 reach a community benefits agreement, or a CBA, with 9 the East Boston community, Eversource, and other 10 officials. I have specific language in mind here 11 for an amendment that we can discuss that I would 12 like to offer, if you could please pull that text up 13 on the screen. I will talk through it and then read 14 it into the record. 15 So a community benefits agreement, which 16 is something new to this Board, would require the 17 company to enter into good-faith negotiations with 18 the Eagle Hill Civic Association or other community 19 representatives of the neighborhood prior to the 20 construction of the East Eagle substation. The idea 21 would be to ensure the neighborhood will see 22 additional benefits from the project and the 23 community will be compensated for any associated 24 negative impacts. Importantly in the agreement</p>
<p style="text-align: right;">Page 607</p> <p>1 CHAIR THEOHARIDES: Mr. Bonfiglio? 2 MR. BONFIGLIO: Yes. 3 CHAIR THEOHARIDES: Mr. Woodcock? 4 MR. WOODCOCK: Yes. 5 CHAIR THEOHARIDES: Mr. Nelson? 6 MR. NELSON: Yes. 7 CHAIR THEOHARIDES: Ms. Fraser? 8 MS. FRASER: Yes. 9 CHAIR THEOHARIDES: Mr. Casey? 10 MR. CASEY: Yes. 11 CHAIR THEOHARIDES: Mr. Moran? 12 MR. MORAN: Yes. 13 CHAIR THEOHARIDES: I will vote yes as 14 well. 15 MR. GREENE: The motion carries. 16 CHAIR THEOHARIDES: Thank you. 17 (Spoken Spanish.) 18 MR. GREENE: We have Spanish on the 19 English channel, for the interpreters' benefit. 20 (Discussion (inaudible) off the record.) 21 CHAIR THEOHARIDES: Mr. Greene, do we 22 need to pause? 23 MR. GREENE: We had a technical problem. 24 That is all it is. There was Spanish interpreted on</p>	<p style="text-align: right;">Page 609</p> <p>1 here, it must directly benefit the community of East 2 Boston. So I'll read the specific text. 3 "In recognition of the environmental 4 justice populations residing in the East Boston 5 community and the unique legacy of significant 6 environmental impacts associated with existing major 7 infrastructure in this community, the Siting Board 8 directs the company to enter into good-faith 9 negotiations for a community benefits agreement 10 prior to construction of the East Eagle substation. 11 "The agreement shall aim to include 12 measures to further mitigate impacts and further 13 increase environmental and energy benefits as 14 defined in the Commonwealth energy justice policy -- 15 environmental justice policy. 16 "As part of the agreement, the company 17 shall ameliorate negative impacts that are 18 reasonably likely to occur as a result of the 19 construction of the substation. Any expenditures or 20 actions taken under an agreement negotiated pursuant 21 to this condition must directly benefit the 22 community of East Boston. The Chair may establish 23 procedures to guide the negotiation of the 24 agreement, which may include but are not limited to</p>

<p style="text-align: right;">Page 610</p> <p>1 designating a counterparty or counterparties, 2 provided, however, that preference shall be given to 3 the Eagle Hill Civic Association, appointing a 4 mediator or other facilitator, receiving regular 5 reports on the progress of the negotiations and 6 establishing spending limits. 7 "If the Chair determines that the 8 company has negotiated in good faith and no 9 agreement has been reached by August 1, 2021, 10 construction may proceed notwithstanding this 11 condition." 12 I know that's a lot to take in and 13 process. We can pause for a minute and then discuss 14 before we do the motion. I will also open it to 15 Mr. Rosenzweig and Mr. Daniels, if you have 16 questions or comments. 17 MR. ROSENZWEIG: I do but it can follow 18 your discussion or I can put out some thoughts at 19 this point. Whatever you prefer. 20 CHAIR THEOHARIDES: I'll see if any 21 Board members have comments first. 22 Mr. Casey? 23 MR. CASEY: I would like to hear from 24 the petitioner first. My concern would be around</p>	<p style="text-align: right;">Page 612</p> <p>1 that they occur with duly authorized representatives 2 and they are conducted in a confidential manner so 3 that there can be a free exchange of ideas and 4 sharing of pros and cons and the give and take and 5 compromises that might be struck. That type of 6 procedure tends to produce the most effective type 7 of result for settlement discussions. We don't 8 want, and I don't think any party to that process 9 should want there to be a risk of publication or 10 exposure on issues that are under consideration 11 through the settlement process because that can tend 12 to thwart the free exchange of ideas and compromises 13 that may need to be struck for the balancing of 14 interests. So we would want that settlement process 15 to be conducted as a confidential process where the 16 information contained would be just shared with 17 those that are part of the negotiation group. So 18 that's one issue for you to consider. 19 The second is the August 1st date. Less 20 would be better for Eversource. It is our belief 21 that the need for this facility is acute. And we 22 certainly don't want a Texas-type episode to occur 23 in the local community because of aberrant 24 conditions on weather, extreme conditions. We have</p>
<p style="text-align: right;">Page 611</p> <p>1 budget, what has past practice been around the 2 neighborhood mitigation or linkage payments, the 3 older term that was used. 4 CHAIR THEOHARIDES: Okay. 5 Are there other comments from the Board 6 before we hear from Mr. Rosenzweig and Mr. Daniels? 7 MR. NELSON: Why don't we start there. 8 MR. ROSENZWEIG: I'll touch upon a few 9 concerns for the Board to weigh in evaluating this 10 condition. 11 As an initial matter, I think the 12 company would support a discussion process with 13 members of the community, their representatives to 14 address direct impacts that are associated with the 15 facility. It has always been our intent to minimize 16 the impacts to the extent possible and address as 17 many concerns as are feasible with regard to the 18 facility to those who are in the proximate area of 19 the project and to minimize those impacts if at all 20 possible. 21 Two areas come -- are matters of 22 concern. It is my experience, and I think it is a 23 general point that I ask the Board to consider, is 24 that when settlement negotiations like these occur</p>	<p style="text-align: right;">Page 613</p> <p>1 been delaying the construction of this facility for 2 years. It is very much needed at the present time. 3 The construction process for the project 4 is going to be about a two, two-and-a-half-year 5 process. Every month counts at this point. To the 6 extent we could shorten that window of time within 7 which there would be settlement discussions and 8 before which construction could commence, that would 9 certainly be to the advantage of the company 10 completing this project in a timely manner and 11 having it in place to serve customers' needs to 12 ensure reliable supply in the East Boston area. 13 And if you quickly do the math, if we 14 were not to commence construction until August 1st 15 or thereafter, and we are talking about two and a 16 half years, this facility would not be available to 17 serve customers until 2024 at the earliest. It 18 would be our hope to shorten that period of exposure 19 to the reliability of the system serving East Boston 20 as much as possible. So that is a second issue that 21 comes to mind. Every month counts. 22 We would like to get to the point of not 23 only achieving a balanced and reasoned settlement 24 discussion with the community members but being able</p>

<p style="text-align: right;">Page 614</p> <p>1 to commence construction as quickly as possible at 2 this stage. 3 CHAIR THEOHARIDES: Mr. Casey? 4 MR. CASEY: Mr. Rosenzweig, isn't it 5 safe to say that we can accomplish both goals, 6 meaning that the majority of the construction is 7 going to be infrastructure underground and probably 8 wouldn't play into mitigation or settlement 9 discussions? So if you look at the proposed 10 construction schedule, I would imagine the issues 11 that would be in discussion with the neighborhood 12 community would really be around probably the latter 13 stage of construction. Is that accurate? 14 MR. ROSENZWEIG: Yeah, that does sound 15 accurate. I'm just thinking of construction windows 16 where once you get to the winter period, sometimes 17 that can stall construction because of weather 18 conditions, frost. We don't have any street 19 crossings here, per se, but if we start to approach 20 a period of time where construction is not able to 21 begin before the winter period, November, December, 22 where construction can be more difficult, we start 23 to run into the risk of missing a construction 24 season and thereby extending construction by three</p>	<p style="text-align: right;">Page 616</p> <p>1 do borings and such in advance of the August 1st 2 date, which would be in my mind, if it has to go out 3 that far, would be a physical construction window 4 that wouldn't be triggered until the settlement 5 discussions have been completed or that date has 6 been achieved. 7 CHAIR THEOHARIDES: One of the questions 8 I have and one of the things I was trying to balance 9 while putting this together was the need to get a 10 reliability project on line as quickly as possible 11 for the peak period, which is sort of August, 12 September. So we definitely miss that period this 13 year no matter what we do. You are saying this is a 14 two-and-a-half-year build. I was thinking it was 15 more on the realm of six months to a year. 16 I am not sure that delaying till August, 17 just playing the months out, does much to the key 18 reliability period we are trying to hit here. I'm 19 also less comfortable starting any physical 20 construction before the agreement has been agreed 21 upon just in case there are any changes to, you 22 know, the design or layout or construction in the 23 agreement itself. So that is something I would 24 rather avoid. I would rather truncate the period to</p>
<p style="text-align: right;">Page 615</p> <p>1 or four months if we are not able to begin 2 construction as timely as we would otherwise want. 3 MR. CASEY: I guess what I'm saying is, 4 isn't there a way to keep the date that has been 5 proposed as far as concluding settlement discussions 6 but allowing some level of construction that we all 7 know wouldn't impact those discussions anyways, 8 i.e., borings, some footings, cabling, a lot of 9 transmission work, I mean there's a lot of stuff 10 that has to happen between now and August where you 11 could begin and it wouldn't compromise those 12 discussions. That's what I'm getting at. 13 MR. ROSENZWEIG: That's a fair point. 14 I'm also thinking broadly because this has come up 15 in prior Siting Board cases, the statutory term of 16 construction and commencing construction can 17 actually mean engaging in financial commitments and 18 doing preliminary site work. And I would like this 19 condition to be interpreted in terms of construction 20 as being physical, in-the-ground construction and to 21 exclude other elements of commencing construction 22 which have come up in other cases so that the 23 company can enter into commitments to engage its 24 contractor, to purchase materials and supplies, to</p>	<p style="text-align: right;">Page 617</p> <p>1 negotiate the agreement than split up -- I think I'm 2 okay with the preliminary construction things rather 3 than physical construction being broken up into two 4 blocks. 5 Mr. Nelson, I see you have a question as 6 well. 7 MR. NELSON: Yeah. I think one of the 8 concerns that I would have is the tenor of this 9 provision is to try to negotiate in good faith with 10 the community. So as soon as they start seeing the 11 site being constructed, I think that there would be 12 concern on the community's behalf that it's a 13 foregone conclusion. I do completely agree with 14 your position that we have to differentiate the term 15 "construction" to give meaning to what we mean by 16 that so that it is not interpreted, not ambiguous to 17 all the parties involved. 18 One of the things I think maybe the 19 Board could discuss in more details, again with the 20 perception issue being there is, you know, I would 21 maybe consider something happening -- I don't know 22 the exact -- I'm not a construction guy. I do not 23 know about laying foundation, putting up a 24 chain-link fence, I don't know what is constituted</p>

<p style="text-align: right;">Page 618</p> <p>1 here in terms of specificity. But there's a certain 2 risk that anything that happens before a certain 3 date would be on the company's ledger, right, that 4 if work was done. We could have a discussion around 5 what that term is, because I think that's going to 6 be very important to understand what exactly they 7 are able to do and not able to do. I do think the 8 community will have concerns around the aesthetic 9 and also the impact and location on how this will 10 appear in their community, is my guess. So it would 11 be hard to cut that off right at the beginning 12 without at least having some discussions around 13 that.</p> <p>14 I also think if I read -- Secretary, you 15 can comment on this -- your decision, that's the end 16 date but a decision could be reached prior to that 17 date as well; is that correct?</p> <p>18 CHAIR THEOHARIDES: That's correct.</p> <p>19 MR. ROSENZWEIG: Just a couple of 20 further comments. I understand your point. And 21 certainly it would be our intent to approach the 22 settlement discussions in good faith with the 23 community. We do believe there can't be an 24 unbounded amount of money that would be contemplated</p>	<p style="text-align: right;">Page 620</p> <p>1 confidentiality of the settlement discussions; and 2 the differentiating of the term "construction" so it 3 is clear that physical construction is really what 4 is contemplated here by the Board. Those are the 5 key factors that on quick review that I ask you to 6 consider.</p> <p>7 CHAIR THEOHARIDES: Okay.</p> <p>8 Mr. Daniels, I open it up to you at this 9 point so that we hear from both.</p> <p>10 MR. DANIELS: Sure. Thank you. So to 11 begin, I suppose I'm a little confused about the 12 goal of this proposed amendment. Reading it, it 13 seemed as though the goal would be to provide some 14 sort of benefits in kind in recompense for what the 15 community perceives it has lost by the construction 16 of the substation where it is proposed to be sited. 17 I emphasize that from the community's perspective, 18 or at least from my client's perspective 19 representing the community, that that loss is pretty 20 substantial to them. We are talking about a space 21 that for going on 20 years was promised to be 22 another green space for East Boston which already 23 sorely lacks them, and now they are not going to 24 have that green space. And people's enjoyment of</p>
<p style="text-align: right;">Page 619</p> <p>1 to be within the scope of this settlement 2 discussion. It has to be reasonable in light of the 3 impacts of the facility and reasonably related to 4 that. That would be very important to Eversource.</p> <p>5 I would urge the Board in adopting this 6 condition to differentiate the term "construction" 7 so that some of the interpretations that have come 8 up in cases in the past about physical construction 9 versus preliminary steps that are binding 10 commitments in furtherance of construction are 11 differentiated.</p> <p>12 I would also just emphasize to the Board 13 and to the Secretary that the peak period is really 14 the beginning of June through September. It is not 15 just the latter months that you mentioned. So that 16 every month does matter. June is a period in time 17 where there can be historic peaks because of school 18 still being in session, and at times we do see heat 19 waves in June that lead to very high peak loads.</p> <p>20 Those are all factors. Not having an 21 unbounded concept of what might be appropriate for 22 mitigation, given what we think are manageable 23 impacts, if it is reasonably related to the impacts 24 from the facility; the timing of August 1st; the</p>	<p style="text-align: right;">Page 621</p> <p>1 the adjacent green spaces is diminished by having 2 this thing next door.</p> <p>3 So at the outset I'm a little confused 4 as to what that kind of benefit and recompense would 5 actually look like. Are we just talking about 6 planting some more trees around East Boston on the 7 streets, or what that would look like?</p> <p>8 But I'm also somewhat confused by the 9 characterization of these discussions as being 10 settlement discussions, particularly given the 11 expressed preference for Eagle Hill Civic 12 Association as the counterparty, given that Eagle 13 Hill Civic Association isn't a party and they don't 14 have appeal rights in this proceeding. It is a 15 little weird to me to characterize this as any sort 16 of settlement discussion when one side at the table 17 is a nonparty.</p> <p>18 I think there's also going to be concern 19 in the community about making sure that the 20 counterparty is actually in touch with their 21 concerns and actually a good representative. And I 22 would suggest that Eagle Hill Civic Association has 23 not really been as involved in the issues concerning 24 this project, and so there may be doubts about their</p>

<p style="text-align: right;">Page 622</p> <p>1 suitability in that role.</p> <p>2 CHAIR THEOHARIDES: So to the second</p> <p>3 point, I think we have been looking for a group who</p> <p>4 is in the direct neighborhood and represents the</p> <p>5 community most directly impacted by the substation</p> <p>6 and represents a broad range of community members</p> <p>7 directly in the neighborhood. I would say there is</p> <p>8 discussion left open to who should be party or</p> <p>9 counterparties to this agreement. We can take</p> <p>10 information on that to make a final determination of</p> <p>11 who the party or appropriate parties would be; but</p> <p>12 looking for direct involvement in the neighborhood</p> <p>13 of East Boston.</p> <p>14 The first question, I think there is a</p> <p>15 broad range of outcomes that could result from this,</p> <p>16 I don't think there is any predetermined outcome of</p> <p>17 what an agreement would look like in this case.</p> <p>18 MR. NELSON: To the Secretary's point</p> <p>19 there, I think we don't want to dictate what the</p> <p>20 community wants. But I think we want to give them</p> <p>21 the opportunity to dictate that on their own terms</p> <p>22 as well. So we don't -- to your point, Mr. Daniels,</p> <p>23 I think that we are trying to suss that out of here</p> <p>24 as well.</p>	<p style="text-align: right;">Page 624</p> <p>1 there's not an agreement reached, if the petitioner</p> <p>2 is able to submit their last and final offer to</p> <p>3 staff and staff would be able to accept it? I'm</p> <p>4 wondering what occurs -- I'm trying to recollect the</p> <p>5 exact language at the end. I don't have that in</p> <p>6 front of me. If there isn't an agreement, my</p> <p>7 understanding was as written the company could</p> <p>8 proceed. But whether there could be an ability to</p> <p>9 accept an offer, there was a question of that</p> <p>10 unfortunate outcome.</p> <p>11 MR. ROSENZWEIG: Commissioner Woodcock,</p> <p>12 my interpretation of the language was that the</p> <p>13 company had to proceed in good faith and that would</p> <p>14 be demonstrated by what it was willing to put on the</p> <p>15 table and what proposals it made and how it handled</p> <p>16 the counterproposals. There will be someone in the</p> <p>17 position of being either a mediator or facilitator,</p> <p>18 I took from the language. And so if there was some</p> <p>19 element I believe at the end of this all that there</p> <p>20 wasn't an agreement and it was because the company</p> <p>21 had not acted as it should have acted, I think that</p> <p>22 will become self-evident.</p> <p>23 I really don't want to introduce another</p> <p>24 step where the company has to go into sort of a</p>
<p style="text-align: right;">Page 623</p> <p>1 CHAIR THEOHARIDES: The Board could</p> <p>2 have dictated the terms or the scope of what that</p> <p>3 agreement should look like or what would be</p> <p>4 considered through that agreement, but I don't think</p> <p>5 the Board feels that we know what the community</p> <p>6 would want to make this agreement about.</p> <p>7 MR. DANIELS: I mean I guess -- not to</p> <p>8 put too fine a point on it -- but I think what the</p> <p>9 Board has heard over many, many hours is that they</p> <p>10 don't want this facility in their neighborhood. And</p> <p>11 recognizing that that is not likely how things are</p> <p>12 likely to go, I'm not sure what space there is for</p> <p>13 meeting in the middle there, I guess is what I'm</p> <p>14 saying.</p> <p>15 CHAIR THEOHARIDES: Yeah. I don't know</p> <p>16 that this is -- that I would characterize this as a</p> <p>17 settlement discussion so much as a community</p> <p>18 benefits agreement to address some of the potential</p> <p>19 impacts from the project and to add benefits</p> <p>20 directly to the community that is impacted.</p> <p>21 MS. EVANS: I believe the word</p> <p>22 "settlement" is not there. It is called a CBA.</p> <p>23 CHAIR THEOHARIDES: Mr. Woodcock?</p> <p>24 MR. WOODCOCK: I wanted to assess if</p>	<p style="text-align: right;">Page 625</p> <p>1 defense of whatever it did or didn't do and await</p> <p>2 the outcome of that disposition before it can</p> <p>3 commence construction. There will already be</p> <p>4 parties in place that will be able to confirm or</p> <p>5 deny that the company has acted in a reasonable</p> <p>6 manner during the process.</p> <p>7 MR. WOODCOCK: I would be interested if</p> <p>8 maybe EFSB staff, if comfortable with the approach,</p> <p>9 if there is a way, or if there are reasonable steps</p> <p>10 taken or if the mediator believes that there was</p> <p>11 something that was established that is reasonable,</p> <p>12 whether that could be accepted as a step without the</p> <p>13 counterparty agreeing to it.</p> <p>14 MS. EVANS: Perhaps we should look at</p> <p>15 the last sentence of the proposed amendment.</p> <p>16 Because I think it addresses this. Dean, maybe you</p> <p>17 could bring that back up again.</p> <p>18 The very last sentence I believe gives</p> <p>19 the Chair the discretion to determine whether or not</p> <p>20 the company has acted, negotiated in good faith. It</p> <p>21 would be the Chair that would have that ability to</p> <p>22 make that determination to say whether or not the</p> <p>23 company can go forward.</p> <p>24 CHAIR THEOHARIDES: And that's based on</p>

<p style="text-align: right;">Page 626</p> <p>1 receiving the reports from the process during that 2 five-month period to ensure that both parties are 3 coming to the table to negotiate in a meaningful way 4 and, you know, A, not waiting to the last minute, or 5 B, not showing up to the table at all. 6 MR. GREENE: I would just offer the 7 observation that again as a compliance condition 8 with interim updates to the Board, there is always 9 the opportunity for staff to either informally or 10 formally conduct some oversight or investigation of 11 compliance with the condition. So if there seems to 12 be an impasse or bad faith occurring by month three, 13 let's say, of this time period, staff could again 14 inquire or investigate and apprise the Board on its 15 own of what's happening and propose any 16 interventions that might be necessary to try and 17 achieve a successful outcome of this process. 18 MR. WOODCOCK: Okay. I just wanted to 19 clarify that the EFSB staff is comfortable with this 20 approach and that the Chair has visibility in the 21 negotiations to make that determination. 22 MR. GREENE: I can express my own 23 opinion. Others may differ. I think that, 24 Commissioner Woodcock, we certainly endorse the</p>	<p style="text-align: right;">Page 628</p> <p>1 of them. 2 CHAIR THEOHARIDES: Why don't we start 3 with that. 4 MR. NELSON: Why don't we start with 5 that one. 6 I guess I'm going to ask David 7 Rosenzweig just to be clear. When I look at the 8 stages of construction, this is my layman's 9 understanding, there's the initial stage it could be 10 considered, which is planning, financing and kind of 11 the permitting period. Then there's the kind of the 12 engineering or layout portion. We are beyond both 13 of those steps in this current proceeding. So that 14 would be the definitional starting point. So the 15 next two pieces are excavation and footings and then 16 foundation, drainage and backfill are kind of what I 17 see as the next delineated stages. 18 Mr. Casey, or any members of the Board, 19 do you agree that is where we are at? I think we 20 are more at the -- 21 MR. CASEY: I think you captured it 22 well. 23 MR. NELSON: I think we are more at the 24 foundation, drainage and backfill piece of</p>
<p style="text-align: right;">Page 627</p> <p>1 intent of the amendment and would like to see some 2 mutually agreeable improvement in terms of 3 ameliorating impacts in the community and improving 4 the benefits to the community. So that's very 5 positive. 6 We do have concerns that if an agreement 7 is mandatory before construction can proceed, that 8 in effect grants an unchecked veto power to any 9 party that chooses not to sign on with the ultimate 10 agreement which would frustrate the Board's intent 11 in having this facility built, or could frustrate 12 it. 13 So we support the use of a facilitator 14 to try and achieve a successful, agreed-upon 15 outcome; again, with the opportunity to conduct 16 oversight along the way and try to nudge that 17 towards success. 18 MR. WOODCOCK: Thank you. 19 MS. EVANS: I'm wondering whether we 20 would like to add any language to this amendment to 21 reflect the physical construction concern that we 22 were discussing earlier. 23 MR NELSON: Yeah. I've got three 24 outstanding issues from the discussion; that's one</p>	<p style="text-align: right;">Page 629</p> <p>1 construction. I don't know if, Mr. Rosenzweig, you 2 have any comment on that. 3 MR. ROSENZWEIG: That's what I had in 4 mind, Mr. Chairman. I think the other elements that 5 are somewhere in between what you described and 6 physical construction are, the company would be 7 allowed to order equipment, transformers, breakers, 8 GIS breakers and other equipment which has lead time 9 associated with it. The company would also be 10 allowed to engage a third-party contractor who would 11 be in place to do the physical construction once a 12 settlement is achieved or an end date occurs. 13 Those types of measures in some of the 14 case law have been interpreted as being prohibited 15 in the sense that they represent construction, the 16 definition under Section 69G that applies to the 17 Siting Board would include those types of measures. 18 Maybe General Counsel Foster Evans would confirm 19 that. I just wanted to make sure that those are not 20 contemplated to be within the don't-start- 21 construction element before the completion of 22 settlement or compromise discussions, community 23 discussions and August 1st so that we can go 24 forward.</p>

<p style="text-align: right;">Page 630</p> <p>1 So that when that date does arrive, we 2 have a contractor in place, we have equipment ready 3 to be placed onsite. We have the cables that can be 4 pulled across the creek to be brought into the 5 station. The timing of those elements not be 6 suspended during this period of time. 7 MS. EVANS: I would agree that 8 interpretations of commencing construction have 9 included a broader range of activities than just a 10 backhoe in the ground. 11 MR. NELSON: So I would say that given 12 this, I think we should be very specific with our 13 language. I would say the intention -- please 14 correct me if I am wrong -- so far has been not any 15 of the preliminary work, ordering or setting-up 16 phase that could be accomplished. I do not believe 17 that was the intention of the restriction. I think 18 it was intended more of the -- so once you get to 19 the setting of a foundation, digging for drainage, 20 or doing any sort of backfilling, that would be the 21 prohibited step based on my interpretation of the 22 amendment. Things before that, such as preliminary 23 finding, moving things onsite, prestaging events 24 would be appropriate.</p>	<p style="text-align: right;">Page 632</p> <p>1 Go ahead, Ms. Evans. 2 MS. EVANS: Sorry about that. 3 The amendment currently states that the 4 company must enter good-faith negotiations for a 5 community benefits agreement prior to construction 6 of the East Eagle substation. Perhaps we can say: 7 Prior to the physical construction at the site of 8 the East Eagle Street substation. Would that 9 encompass what we are talking about? 10 MR. GREENE: I think we would need a 11 clarifying statement after that, Ms. Foster Evans: 12 Not including site preparation, civil engineering, 13 and execution of contracts for material and 14 construction services. 15 MS. EVANS: I was considering that 16 physical construction would not include executing 17 contracts. But if we wanted to go further and allow 18 site prep and maybe equipment deliveries onsite, 19 then we would need to specify that. 20 MR. NELSON: I would ask of either of 21 the parties whether that language delineates more 22 clearly the intentions of the amendment? 23 MR. ROSENZWEIG: I do support the 24 collective additional language from Mr. Greene and</p>
<p style="text-align: right;">Page 631</p> <p>1 Let me open that up to other members of 2 the Board and see if they think that's the right 3 delineation or if that's too far. 4 MR. GREENE: Can I suggest wording to 5 consider for the discussion? I think -- to 6 distinguish what we are talking about permitting 7 versus what 69G might prohibit within the definition 8 of construction, I think we are contemplating 9 allowing site preparation and preliminary civil 10 engineering of the site in general and allowing the 11 company to enter into contracts for material and 12 services. That's sort of what I think what we are 13 talking about. 14 CHAIR THEOHARIDES: That goes along with 15 what I was thinking. 16 MS. EVANS: May I offer some language 17 here to reflect that? I may not have caught 18 everything everyone has said. 19 CHAIR THEOHARIDES: One minute, Ms. 20 Evans. I want to take Mr. Casey's comment. 21 MR. CASEY: I would like to add major 22 equipment too as long-lead items that need to be 23 purchased. 24 CHAIR THEOHARIDES: Okay.</p>	<p style="text-align: right;">Page 633</p> <p>1 Ms. Evans. I would also just put the word 2 "equipment" in there, into the list of measures or 3 steps the company can take without triggering the 4 definition of construction for this purpose. 5 MR. DANIELS: I don't think my client 6 has a position, takes a position on it either way. 7 MS. EVANS: Can I give a shot at it 8 where I think we are here? So that same sentence 9 that we are talking about that currently says "prior 10 to construction of the East Eagle substation," that 11 part of the sentence would read: "Prior to the 12 physical construction at the site of the East Eagle 13 substation, not including site preparation and 14 equipment and material deliveries." 15 Does that cover everything? 16 MR. ROSENZWEIG: I would just add and 17 engaging in contracts with third-party suppliers or 18 vendors. 19 CHAIR THEOHARIDES: That last part seems 20 obvious to me as a nonconstruction. 21 MR. CASEY: Exactly. 22 MS. EVANS: It is not physical 23 construction. 24 CHAIR THEOHARIDES: It doesn't seem like</p>

<p style="text-align: right;">Page 634</p> <p>1 that's needed.</p> <p>2 MR. GREENE: Can I ask whether the term</p> <p>3 civil engineering needs to be added to site</p> <p>4 preparation for clarity or whether it is redundant?</p> <p>5 MR. CASEY: I would say it is redundant.</p> <p>6 Counsel captured it by saying physical activity. So</p> <p>7 civil engineering and site prep would be</p> <p>8 engineering.</p> <p>9 MR. NELSON: I'm comfortable with the</p> <p>10 language Ms. Evans read. I think it adds</p> <p>11 clarification to the language but I don't think we</p> <p>12 need to get perfect. We think we just need to</p> <p>13 clearly state what phase of the delineation of</p> <p>14 construction we are in, and I think the language</p> <p>15 does it.</p> <p>16 Maybe I should make a motion to adopt</p> <p>17 the language Ms. Evans stated or is that out of</p> <p>18 order?</p> <p>19 CHAIR THEOHARIDES: I think we can make</p> <p>20 an overall motion including the amendment from Ms.</p> <p>21 Evans and any other amendments to the amendment.</p> <p>22 MR. NELSON: The next item I had that</p> <p>23 was brought up was around confidentiality. I don't</p> <p>24 know if any of the Board members feel that the</p>	<p style="text-align: right;">Page 636</p> <p>1 piece is whatever those parties are, how they are</p> <p>2 constituted, that they have some kind of binding</p> <p>3 authority. So that there's no one playing Monday</p> <p>4 morning quarterback after the hard work has been</p> <p>5 done.</p> <p>6 CHAIR THEOHARIDES: Ms. Evans and</p> <p>7 Mr. Greene, from the language that we've written</p> <p>8 here, there is finality to whatever is agreed to in</p> <p>9 this process or is there more clarity needed?</p> <p>10 MR. GREENE: I'm not sure we have a</p> <p>11 definitive end point in the discussion in terms of</p> <p>12 whether we will achieve a mutual agreement or not.</p> <p>13 It certainly seems to contemplate the possibility</p> <p>14 that it does not come about, which would not</p> <p>15 preclude the company from building the substation if</p> <p>16 it had negotiated, if it was determined to have</p> <p>17 negotiated in good faith. But I think the option is</p> <p>18 available to the Board to still adopt the community</p> <p>19 benefits that at least have progressed during the</p> <p>20 negotiations that may not have been agreed upon but</p> <p>21 still are on the table that may be available to the</p> <p>22 Board to adopt or impose on the company going</p> <p>23 forward.</p> <p>24 MS. EVANS: It seems as if while we've</p>
<p style="text-align: right;">Page 635</p> <p>1 requirement of having the parties enter into a</p> <p>2 confidentiality agreement would have a benefit or</p> <p>3 would detract or whether we have no opinion</p> <p>4 whatsoever. My initial blush is that it would</p> <p>5 certainly -- I would not preclude it. I would not</p> <p>6 preclude it. I just don't know whether we should</p> <p>7 require it.</p> <p>8 CHAIR THEOHARIDES: The thought in</p> <p>9 drafting this the way it is drafted is to leave some</p> <p>10 discretion to work on this in a best practices</p> <p>11 manner going forward. We have not done one of these</p> <p>12 before. And I think there's more work we should do</p> <p>13 to understand the best practices from the</p> <p>14 environmental justice literature on how these are</p> <p>15 best executed. At this point I have left that</p> <p>16 deliberately open to determine moving forward. I</p> <p>17 don't know that I have a learned opinion on the</p> <p>18 matter of confidentiality at this point in time</p> <p>19 where I could judge that today.</p> <p>20 I'm open to other's perspectives here.</p> <p>21 MR. CASEY: I would echo your point. I</p> <p>22 think it is better to leave it open and flexible so</p> <p>23 that we can address the concerns of the</p> <p>24 neighborhood. But I would add that the important</p>	<p style="text-align: right;">Page 637</p> <p>1 identified one possible item on the list of how the</p> <p>2 negotiations would occur, regular reports on the</p> <p>3 progress of the negotiations, it seems as if either</p> <p>4 you have on August 1st an agreement filed or you</p> <p>5 want some kind of final report from the</p> <p>6 mediator/facilitator at that point in time, kind of</p> <p>7 where the parties are or what happened during the</p> <p>8 process. So that if that report contains certain</p> <p>9 items, perhaps the Chair would want to, would</p> <p>10 consider proposing some of those items.</p> <p>11 MR. NELSON: Ms. Evans, if I understand,</p> <p>12 you are saying that the last sentence that leads in</p> <p>13 that the Chair determines that the company has</p> <p>14 negotiated in good faith and no agreement has been</p> <p>15 reached by August 1st, construction may proceed</p> <p>16 notwithstanding this condition; you would add</p> <p>17 another sentence afterwards that said if that</p> <p>18 trigger is met or if that provision is met, the</p> <p>19 facilitator or mediator shall submit a report to an</p> <p>20 entity -- let me just use it that way because I</p> <p>21 think we will discuss it -- is that what I'm hearing</p> <p>22 is being proposed? So that we get a narrative about</p> <p>23 what happened during that process?</p> <p>24 MS. EVANS: I would suggest you get one</p>

<p style="text-align: right;">Page 638</p> <p>1 of two things by August 1st. You would either have 2 the parties file an agreement, a CBA. Or if there 3 is no CBA, I think your third-party mediator would 4 be the best one to report a final report of where 5 the parties are and what transpired during 6 negotiations. Confidentiality at that point would 7 not affect anything because there's no actual 8 agreement at that point, so I think it would not 9 affect the negotiations. So you would get one of 10 two things by August 1, 2021. 11 MR. NELSON: That seems reasonable to 12 me. 13 MR. MORAN: Then do we want to include 14 something explicitly stating that the Board may 15 impose findings from the report? 16 MS. EVANS: I would think that they 17 would not impose findings. The Board could have the 18 option of imposing -- 19 MR. MORAN: Mitigation measures. 20 MS. EVANS: -- mitigation measures, yes. 21 Thank you. I'm not sure what that process would 22 look like at that point in time. There would need 23 to be an additional process. 24 MR. WOODCOCK: That was what I was</p>	<p style="text-align: right;">Page 640</p> <p>1 MR. WOODCOCK: I do too. 2 CHAIR THEOHARIDES: Let's go with two 3 weeks. 4 I mean, there also may be limited value 5 to imposing any of the mitigation conditions if they 6 are not things that the community has expressed a 7 desire for. So I think that is something that needs 8 to be balanced as well in those decisions at the 9 end. I think one of the things the Board has 10 recognized is that we don't have those answers. 11 MR. GREENE: I think it might be helpful 12 in the requirement that the mediator submit a report 13 towards the arrival of the August 1st date that they 14 outline areas of agreement between the parties, 15 areas of disagreement, and perhaps a recommendation 16 for the Board as to what they think is an 17 appropriate mitigation package as part of the CBA. 18 CHAIR THEOHARIDES: I like that 19 approach. Then if we hear things the community has 20 wanted that the company has not agreed, we can look 21 at both sides and provide our recommendation of what 22 we think is a fair agreement. 23 MR. NELSON: If I could make a 24 recommendation of 14 days prior to the 31st just so</p>
<p style="text-align: right;">Page 639</p> <p>1 trying to get at. 2 CHAIR THEOHARIDES: Right. 3 MR. WOODCOCK: I think as a sequence the 4 Chair should receive a report from the mediator 5 prior to August 1st to allow the Chair to make a 6 determination if in fact it has been done in 7 good-faith negotiation. I don't know what the 8 specific date is. 9 CHAIR THEOHARIDES: Right now the way it 10 is written the Chair is supposed to receive multiple 11 reports before August 1st. I guess one of them we 12 may want to say is a final report before August 1st. 13 MR. NELSON: Yeah, I agree. I think you 14 should set the final date so that you know when you 15 have to make the determination and have that date 16 set prior to whatever the end date is set to be. 17 CHAIR THEOHARIDES: So if the end date 18 is August 1st, do you want it to be a full month in 19 advance, several weeks? I know that sometimes these 20 negotiations take right until the end or as much 21 time as there is. But some sort of interim report 22 at least two or three weeks out seems reasonable. 23 MR. CASEY: I would say a minimum of two 24 weeks.</p>	<p style="text-align: right;">Page 641</p> <p>1 we don't get into the business days or what does two 2 weeks mean and holiday situations. 3 MR. GREENE: Or snow days. 4 MR. NELSON: Hopefully not in August, 5 Andy. 6 MR. CASEY: What about just saying a 7 date? 8 MR. NELSON: I counted backwards to 9 August 17, which is a Tuesday. 10 MS. EVANS: July 17. 11 MR. NELSON: Yeah, yeah. 12 MR. GREENE: Here is a suggestion. We 13 had intended to take a break for everyone's benefit 14 a few minutes ago. Maybe with the discussion, staff 15 could try and modify this condition to reflect the 16 ideas that have been accepted, it seems, and then we 17 can reconvene and look at the condition again. I 18 just want to mention that I'm aware that Board 19 Member Cosco has a time constraint. So we may lose 20 him in the next half hour or so. 21 MR. COSCO: Yeah, I apologize, but I'll 22 be unavailable from 3:15 to about 3:45. 23 CHAIR THEOHARIDES: Okay. Let's take a 24 very quick ten-minute break now and reconvene. We</p>

<p style="text-align: right;">Page 642</p> <p>1 can go off the record. Thank you. 2 (A recess was taken.) 3 CHAIR THEOHARIDES: In the interest of 4 time, we can start back on the record. 5 MR. GREENE: While we were on break, 6 Chair Theoharides, we have reworded the community 7 benefits condition. I think we can present that for 8 review. 9 CHAIR THEOHARIDES: Okay. 10 Would you read it because of the small 11 text? 12 MR. GREENE: Sure. Or Joan, if you 13 would like to. 14 MS. EVANS: I can do that. I wonder if 15 we want to wait for -- 16 CHAIR THEOHARIDES: He's back. 17 MS. EVANS: I can't see him. Sorry. 18 We responded to some of the discussion 19 we just had on the record and propose the following 20 revisions to the proposed amendment. 21 The first is to deal with the question 22 regarding what can be done prior to entering into 23 the CBA. What we recommend is, at the top part of 24 the screen where we state that:</p>	<p style="text-align: right;">Page 644</p> <p>1 but not limited to the Eagle Hill Civic 2 Association -- to give more latitude on that 3 particular part of the provision. 4 CHAIR THEOHARIDES: I think that's 5 helpful. I would clarify that I do have discretion 6 to take input on this from parties and any others 7 who would care to submit additional information on 8 community views. 9 MS. EVANS: Thank you. Staff had a 10 quick discussion, obviously, on the break and wanted 11 to indicate, or make it clear that we expect that 12 any agreement that's -- that if an agreement is 13 reached between the parties, any such agreement is 14 filed with the Siting Board by August 1st, 2021 and 15 make that explicit. 16 CHAIR THEOHARIDES: Yeah. 17 MS. EVANS: Then the final sentence goes 18 to the question of what happens if no agreement is 19 reached. And I'll read the additional sentence. 20 "If no agreement is reached, the 21 facilitator or mediator shall submit a final report 22 by July 16, 2021 to the Siting Board outlining areas 23 of agreement and disagreement and recommending to 24 the Board mitigation measures that could be</p>
<p style="text-align: right;">Page 643</p> <p>1 The Board directs the company to enter 2 into good-faith negotiations for a community 3 benefits agreement prior to the physical 4 construction at the site of the East Eagle 5 substation, not including site preparation, 6 contracting, and delivery of equipment and materials 7 to the site. 8 Does that satisfy the concerns on that 9 portion of the amendment? 10 MR. ROSENZWEIG: If your question was to 11 me, I believe it does. Thank you. 12 MS. EVANS: I want to make sure that we 13 caught the discussions that were had by Board 14 members. 15 MR. NELSON: I have no problem with this 16 language that you have. 17 MR. BONFIGLIO: I think you captured it 18 well. 19 MR. CASEY: I concur. 20 MS. EVANS: I'll move down. In the 21 discussions that we had regarding the counterparty 22 or counterparties of any such community benefits 23 agreement, we indicated that preference shall be 24 given: However, that preference shall be given, to</p>	<p style="text-align: right;">Page 645</p> <p>1 implemented in lieu of an executed CBA." 2 CHAIR THEOHARIDES: So I don't 3 understand how a facilitator or mediator would know 4 that no agreement is reached prior to the final 5 agreement date of August 1st. 6 MR. NELSON: My point of order on this 7 one is this would be submitted to the Chair because 8 the Chair is the one who does the determination of 9 the prior sentence. 10 MS. EVANS: That's a good catch. 11 MR. CASEY: In theory we are saying an 12 agreement could happen in those two weeks. 13 CHAIR THEOHARIDES: Yeah. Most 14 agreements happen in the final week, I would think. 15 MR. CASEY: Right, but the Chair would 16 know that, is the point. 17 MR. NELSON: Let's do point of order 18 here. I think the purpose of this is the final 19 report will go to the Chair on July 16th, right? At 20 that time I would say -- the way this sentence is 21 constructed -- follow my logic here. We have 22 established that the final report goes to the Chair 23 on July 16th. There could be in the last two weeks 24 something that happens that results in a final,</p>

<p style="text-align: right;">Page 646</p> <p>1 negotiated amount. The Chair at that point makes a 2 determination. As part of that determination I 3 think she can send the final report to the Siting 4 Board. That would be at her discretion to send the 5 final report to the Siting Board outlining areas of 6 agreement and disagreement. So that would be in the 7 event that that isn't reached. 8 Does that make sense? 9 MS. EVANS: Mr. Hazle, can you edit this 10 while we are talking to indicate that the final 11 report goes to the Chair. 12 CHAIR THEOHARIDES: It shouldn't be 13 called the final report if it is coming to me on the 14 July 16th. It should be the called the interim 15 final report, because there are things that can 16 change. 17 MS. EVANS: Thank you. 18 MR. NELSON: Then I think the Chair has 19 the discretion to submit the interim final report to 20 the Siting Board. 21 MS. EVANS: So why don't we take out "to 22 the Siting Board." 23 MR. NELSON: Yeah. 24 MR. HAZLE: Okay.</p>	<p style="text-align: right;">Page 648</p> <p>1 MR. HAZLE: I'm sorry. I'm not clear if 2 there's a final sentence needed about the Chair's 3 discretion to require these mitigation measures to 4 be implemented. 5 MR. NELSON: "The Chair has discretion 6 to submit the mitigation measures" -- let's 7 categorize them as "nonagreed-to mitigation 8 measures to the Siting Board." 9 MR. HAZLE: "Mitigation measures not 10 otherwise agreed to," how about that? 11 MR. NELSON: Yeah that's good. "To the 12 Siting Board for consideration." 13 CHAIR THEOHARIDES: I would almost move 14 the second half of the prior sentence and end it 15 with "outlining areas of agreement and 16 disagreements," period. And then move the end to 17 "after consideration." 18 MR. HAZLE: Okay. Like that? 19 CHAIR THEOHARIDES: I need to read it a 20 minute. And I think I would say -- what I'm trying 21 to be clear here is that the interim final report 22 may actually spell out the direction for an 23 agreement, not just measures that we would seek to 24 impose because there was an agreement. So I just</p>
<p style="text-align: right;">Page 647</p> <p>1 July 16 outlining areas of agreement and 2 disagreement and recommendations for mitigation 3 measures that could be implemented in lieu of an 4 executed CBA. 5 Do we want a final sentence about the 6 Chair's discretion for submitting this to the Siting 7 Board? 8 MS. EVANS: You just need to add the 9 word "of," before mitigation, or "for," f o r. 10 CHAIR THEOHARIDES: So I think my other 11 issue is that I think we want this interim final 12 report even if they are steering towards an 13 agreement because we want to know where that's 14 headed. So I think something is submitted -- an 15 interim final report is submitted by July 16 16 regardless. 17 MR. NELSON: So delete the first clause 18 and just leave capital T. 19 MR. GREENE: I've also been advised by 20 counsel at EEA that the first use of "but are not 21 limited to" above where we are looking right now is 22 needed and we should not delete that. 23 MS. EVANS: Okay. 24 MR. GREENE: Thank you.</p>	<p style="text-align: right;">Page 649</p> <p>1 want to be clear that it is not only -- I guess it 2 is clear. It is clear that that could be an 3 agreement or disagreement.... -- 4 MR. GREENE: May I suggest after the 5 phrase "outlining areas of agreement and 6 disagreement" "and his or her recommendations to the 7 Board"? 8 MR. WOODCOCK: "To the Chair." 9 CHAIR THEOHARIDES: To the Chair. If 10 there's an agreement, this doesn't need to go to the 11 Board. 12 But is it really recommendations to the 13 Chair or is it -- 14 MR. NELSON: I think just 15 recommendations, right? 16 CHAIR THEOHARIDES: Well, I mean it is 17 not really recommendations. It is direction of the 18 conversations, it is outcomes of the discussion. We 19 are not the ones that are supposed to be litigating 20 this. 21 MR. NELSON: Right. 22 CHAIR THEOHARIDES: So I don't know that 23 we need recommendations so much as we need a report 24 out of what's been decided and what hasn't been.</p>

<p style="text-align: right;">Page 650</p> <p>1 MR. NELSON: So if I'm reading this 2 clearly -- I think you are right. I think the 3 facilitator/mediator submits the final, interim 4 final report to the Chair highlighting what 5 happened. There's two more weeks. At that time if 6 no determination is reached, the Chair has the 7 discretion to submit the mitigation measures not 8 otherwise agreed to to the Siting Board for 9 consideration, recommendations for the mitigation 10 measures that could be implemented in lieu of an 11 executed CBA. 12 CHAIR THEOHARIDES: That's not a 13 sentence. 14 MR. NELSON: We have to fix up that 15 sentence. 16 Recommendations from -- 17 MR. HAZLE: -- the interim final report? 18 MR. NELSON: Yeah. And then delete "for 19 mitigation measures"; could be implemented in lieu 20 of CBA. And what was submitted to the Board was at 21 the discretion of the Chair, just like an amendment 22 would be. 23 MR. GREENE: We do need a final phrase 24 at the end of this "with the Siting Board's</p>	<p style="text-align: right;">Page 652</p> <p>1 MS. EVANS: I think the way it is 2 currently drafted, it considers the Chair having 3 discretion to review the report and if there's no 4 agreement reached make a recommendation of what 5 types of mitigation measures that weren't agreed to 6 that could be implemented. I believe that's the 7 intent here of the way it is drafted. 8 The other thing is, before the interim 9 report and the language we have added, the way it 10 was drafted really gave the Chair lots of discretion 11 to figure out the logistics of this process. And 12 perhaps it's better to just let the Chair figure it 13 out when it is actually happening here instead of 14 being quite so prescriptive. I don't know if that 15 would be a better solution. 16 MR. GREENE: I think the language 17 actually works here, but on the second to last line 18 where it says "could be implemented," I think "may 19 be implemented" is a better word choice. 20 CHAIR THEOHARIDES: I think, Joan, the 21 point is well taken that if the Chair has discretion 22 to submit mitigation measures, why do we need to say 23 that? 24 MS. EVANS: I think we are trying to be</p>
<p style="text-align: right;">Page 651</p> <p>1 approval." 2 MR. WOODCOCK: I'm a little confused 3 with the purpose of the second to last sentence. 4 CHAIR THEOHARIDES: It says the same 5 thing -- oh, the second to last sentence. 6 MS. EVANS: I think you can combine the 7 last two sentences. 8 CHAIR THEOHARIDES: Yeah, they say the 9 same thing. 10 MR. HAZLE: Maybe with a semicolon? 11 CHAIR THEOHARIDES: I don't think you 12 need both of them. 13 MR. HAZLE: Okay. 14 MR. NELSON: The difference is the first 15 one is referring to the Chair and the Chair 16 receiving the report. The second one is referring 17 to what the Chair submits to the Siting Board. 18 Right? 19 MR. WOODCOCK: I don't know if we need 20 to have the Chair submit something to the Siting 21 Board. That's just a question. I don't know that 22 we need to have that step. 23 CHAIR THEOHARIDES: How would they get 24 there?</p>	<p style="text-align: right;">Page 653</p> <p>1 clear, but I'm not sure we are achieving that 2 result. 3 MR. WOODCOCK: I agree. 4 CHAIR THEOHARIDES: I agree too. 5 I think I like having the interim final 6 report by a date certain in here. I think that's 7 helpful to establish that up front. 8 MS. EVANS: And then you would have 9 discretion to figure out what to do with it from 10 there. If it resulted in some kind of major change 11 to the project, it would end up having to come in 12 eventually as a project change. So it would be 13 really the nature of whatever mitigation was agreed 14 to or recommended. 15 MR. CASEY: I think you can just change 16 the "the Chair has the discretion to submit the 17 mitigation measures not otherwise agreed to to the 18 Siting Board, which may be implement" -- remove 19 everything else -- "which may be implemented in lieu 20 of an executed CBA." Then you have consolidated 21 both sentences. 22 MS. EVANS: I think deleting made it 23 more clear rather than adding more language. 24 MR. CASEY: I meant delete the last part</p>

<p style="text-align: right;">Page 654</p> <p>1 and add that, right.</p> <p>2 MR. HAZLE: I was just holding it in</p> <p>3 case somebody changed their mind.</p> <p>4 MR. CASEY: Having the Board's approval</p> <p>5 or not; I don't know if that's required.</p> <p>6 CHAIR THEOHARIDES: I don't have strong</p> <p>7 opinions on this additional language.</p> <p>8 MS. EVANS: I think maybe just a little</p> <p>9 bit, to the Siting Board: The Chair has the</p> <p>10 discretion to submit the mitigation measures not</p> <p>11 otherwise agreed to to the Siting Board which may</p> <p>12 require them to be implemented in lieu of an</p> <p>13 executed -- the Siting Board would require that</p> <p>14 those measures be implemented. You could say Siting</p> <p>15 Board which may require these mitigation measures be</p> <p>16 implemented.</p> <p>17 MR. ROSENZWEIG: If I could suggest</p> <p>18 maybe imposed by the Siting Board? "Required"</p> <p>19 implies something else.</p> <p>20 MS. EVANS: Impose without the "d."</p> <p>21 MR. HAZLE: "Impose mitigation measures</p> <p>22 in lieu of"?</p> <p>23 MS. EVANS: Yes.</p> <p>24 Because we have changed it quite a bit,</p>	<p style="text-align: right;">Page 656</p> <p>1 CHAIR THEOHARIDES: Yes.</p> <p>2 Also a note that we are unspecific. The</p> <p>3 Chair has discretion to appoint a mediator or other</p> <p>4 facilitator; we then require the report to come from</p> <p>5 a mediator or facilitator. So I think a mediator or</p> <p>6 facilitator is a necessity here. So we just may</p> <p>7 want to be definitive about that rather than leaving</p> <p>8 it to my discretion since we have said the report</p> <p>9 must come from one in the bottom clause.</p> <p>10 I think this was a case of leaving it</p> <p>11 more open. But if we are binding where the report</p> <p>12 comes from, we may as well say that there needs to</p> <p>13 be a facilitator.</p> <p>14 MS. EVANS: So perhaps the sentence that</p> <p>15 begins with "the Chair."</p> <p>16 "The Chair may establish procedures to</p> <p>17 guide the negotiation of the agreement which will</p> <p>18 include appointing a mediator or other facilitator,"</p> <p>19 "and which may include."</p> <p>20 CHAIR THEOHARIDES: Yes.</p> <p>21 MS. EVANS: And the rest of it would be</p> <p>22 fine, except we would delete that part. Yes. Does</p> <p>23 that get at what you're looking for?</p> <p>24 CHAIR THEOHARIDES: Yes, exactly.</p>
<p style="text-align: right;">Page 655</p> <p>1 just so that it is clear on the transcript, let me</p> <p>2 read these couple of sentences again, please.</p> <p>3 After the sentence that ends</p> <p>4 "construction may proceed notwithstanding this</p> <p>5 condition," we would add the following two</p> <p>6 sentences:</p> <p>7 "The facilitator or mediator shall</p> <p>8 submit an interim final report to the Chair by July</p> <p>9 16, 2021 outlining areas of agreement and</p> <p>10 disagreement. The Chair has discretion to submit</p> <p>11 the mitigation measures not otherwise agreed to to</p> <p>12 the Siting Board which may impose these mitigation</p> <p>13 measures in lieu of an executed agreement."</p> <p>14 MR. NELSON: Secretary, I think you are</p> <p>15 muted.</p> <p>16 CHAIR THEOHARIDES: Sorry. Not trying</p> <p>17 to add more language, but I think in "the</p> <p>18 facilitator/mediator shall submit an interim final</p> <p>19 report to the Chair outlining areas of agreement and</p> <p>20 disagreement and a progress report." I mean, it</p> <p>21 seems like a status update is an important part of</p> <p>22 that report. Maybe that's clear from final report.</p> <p>23 MR. HAZLE: "Providing a status report</p> <p>24 and outlining areas of agreement and disagreement."</p>	<p style="text-align: right;">Page 657</p> <p>1 MR. GREENE: For clarity on the last</p> <p>2 sentence, I think there may be a whole range of</p> <p>3 mitigation measures that have been discussed. It</p> <p>4 may be important to note that the Siting Board may</p> <p>5 impose some or all of these mitigation measures. It</p> <p>6 is not necessarily a take it or leave it of the</p> <p>7 entire list.</p> <p>8 CHAIR THEOHARIDES: That's true.</p> <p>9 MR. WOODCOCK: One small suggestion?</p> <p>10 CHAIR THEOHARIDES: Sure.</p> <p>11 MR. WOODCOCK: So we are on the same</p> <p>12 page with the calendar. By my calendar, August 1 is</p> <p>13 a Sunday.</p> <p>14 CHAIR THEOHARIDES: That's a good</p> <p>15 reality check.</p> <p>16 MR. WOODCOCK: I don't like that we have</p> <p>17 determination of the Chair and proceeding on the</p> <p>18 same filing that the agreement and starting</p> <p>19 construction if the Chair determines on the same</p> <p>20 day. I would be interested in staff's suggestion on</p> <p>21 maybe having a filing on July 30th and start</p> <p>22 construction on August 2, which is a Monday. It</p> <p>23 didn't quite look right to me.</p> <p>24 MR. NELSON: That is materially no</p>

<p style="text-align: right;">Page 658</p> <p>1 different but would probably save us some headaches 2 in terms of sequence. 3 MS. EVANS: Yes, thank you. 4 CHAIR THEOHARIDES: Any other comments 5 or questions? Mr. Nelson? 6 MR. NELSON: I think we have improved 7 the amendment with clarity without changing the 8 underlying intent which I think will be welcome when 9 we read this later on. 10 CHAIR THEOHARIDES: Okay. I'm not 11 seeing other questions or comments. 12 I will make a motion to adopt the 13 amendment as amended by the Siting Board staff and 14 shown here on the screen in red line. 15 MR. GREENE: I think we may need to read 16 this into the record. 17 CHAIR THEOHARIDES: I can do that. 18 MR. HAZLE: It has gotten quite long. 19 CHAIR THEOHARIDES: It has. All right. 20 So a motion to include the amendment as follows. 21 MS. EVANS: You need a second. 22 MR. MORAN: Second. 23 CHAIR THEOHARIDES: From Mr. Moran. 24 I'll read it.</p>	<p style="text-align: right;">Page 660</p> <p>1 guide the negotiation of the agreement which will 2 include appointing a mediator or facilitator and 3 which may include, but are not limited to, 4 designating a counterparty or counterparties; 5 provided, however, that preference shall be given 6 to, but not limited to, the Eagle Hill Civic 7 Association receiving regular reports on the 8 progress of the negotiations and establishing 9 spending limits. 10 "Any agreement reached shall be filed 11 with the Siting Board no later than July 30, 2021. 12 If the Chair determines that the company has 13 negotiated in good faith and no agreement has been 14 reached by August 2nd, 2021, construction may 15 proceed notwithstanding this condition. The 16 facilitator or mediator shall submit an interim 17 final report to the Chair by July 16, 2021, 18 providing a status report and outlining areas of 19 agreement and disagreement. The Chair has 20 discretion to submit the mitigation measures not 21 otherwise agreed to to the Siting Board which may 22 impose some or all of these mitigation measures in 23 lieu of an executed agreement." 24 Reading it back, I would move the</p>
<p style="text-align: right;">Page 659</p> <p>1 "In recognition of the environmental 2 justice populations residing in the East Boston 3 community and the unique legacy of significant 4 environmental impacts associated with existing major 5 infrastructure in this community, the Siting Board 6 directs the company to enter into good-faith 7 negotiations for a community benefits agreement, 8 hereafter agreement, prior to the physical 9 construction at the site of the East Eagle 10 substation, not including site preparation, 11 contracting, and delivery of equipment and materials 12 to the site. 13 "The agreement shall aim to include 14 measures to further mitigate impacts and further 15 increase environmental and energy benefits as 16 defined in the Commonwealth's Environmental Justice 17 policy. As part of the agreement the company shall 18 ameliorate negative impacts that are reasonably 19 likely to occur as a result of the construction of 20 the substation. Any expenditures or actions taken 21 under an agreement negotiated pursuant to this 22 condition must directly benefit the community of 23 East Boston. 24 "The Chair may establish procedures to</p>	<p style="text-align: right;">Page 661</p> <p>1 "facilitator" sentence above "the final report." 2 Does that make sense? 3 MR. HAZLE: Is that the correct 4 location? 5 CHAIR THEOHARIDES: Yes. 6 Do I need to read it again? 7 MR. GREENE: For clarification, if I 8 may? 9 CHAIR THEOHARIDES: Yes. 10 MR. GREENE: Do we want to specify that 11 the facilitator is a company-funded facilitator? It 12 is selected by the Chair or approved by the Chair. 13 But should this be a company financial obligation to 14 provide the mediator funding source? 15 CHAIR THEOHARIDES: I think probably. 16 MR. NELSON: The other option of putting 17 it on community members will be burdensome. I don't 18 know what other entity would be appropriate. I 19 think that's a good suggestion, Mr. Greene. 20 CHAIR THEOHARIDES: I guess the only 21 thing is, is that something we could leave to 22 discretion -- the question is if the company pays 23 for it, is there an appearance of it being 24 nonneutral and do we want -- I don't know if the DPU</p>

<p style="text-align: right;">Page 662</p> <p>1 has funding to pay for something like this. I guess 2 not having the answer to that today, I'm wondering 3 if we need to make the decision. 4 MR. GREENE: You get to establish the 5 procedures to guide the negotiation of the 6 agreement. So I think that the independence of the 7 facilitator would be achieved even with the company 8 providing the financial resources to retain a 9 facilitator. 10 MR. NELSON: It wouldn't be a company- 11 selected facilitator. They would just get the bill. 12 They wouldn't necessarily be the one choosing this, 13 choosing it. 14 MS. EVANS: I think also, if you are 15 expecting the company to fund the facilitator, I 16 think it is better to make it explicit. 17 CHAIR THEOHARIDES: Okay. 18 MR. HAZLE: Ms. Evans, is this a good 19 location to specify who pays for the facilitator? 20 MS. EVANS: Yes. 21 CHAIR THEOHARIDES: Okay. 22 Other changes? Should I remake my 23 motion, Mr. Greene? 24 MR. GREENE: Yes, please.</p>	<p style="text-align: right;">Page 664</p> <p>1 CHAIR THEOHARIDES: I will vote yes. 2 Are there other amendments that we 3 should discuss from other members? I'm negotiating 4 between screens to see all of you at once here. 5 MR. WOODCOCK: I have one small one 6 regarding the community outreach process for 7 aesthetic design. 8 Ms. Evans, we discussed this a little 9 bit, ensuring that the community engagement be done 10 with translation and with accommodation for 11 nondaytime periods. I think that's a minor change. 12 But that's on Page 40 of the draft tentative 13 decision -- Page 39, rather. 14 MS. EVANS: Would you like me to propose 15 some language? 16 MR. WOODCOCK: Please. 17 MR. HAZLE: Ms. Evans, staff have 18 prepared this in advance. If you have it available, 19 you can read it. Otherwise I can either explain it 20 to Mr. Woodcock or share the screen and read it 21 directly. 22 MS. EVANS: Go ahead, Mr. Hazle. 23 MR. HAZLE: Mr. Woodcock, after you 24 expressed the desire to have some additional public</p>
<p style="text-align: right;">Page 663</p> <p>1 CHAIR THEOHARIDES: Okay. So I will 2 make a motion to adopt the amendment with the 3 changes incorporated by the EFSB Siting Board staff 4 and shown currently on the screen. 5 MR. MORAN: Second. 6 CHAIR THEOHARIDES: Mr. Moran seconded. 7 I'll do a roll call. 8 MR. GREENE: Any further discussion? 9 CHAIR THEOHARIDES: Sorry. Thank you. 10 Any further discussion? Okay. 11 CHAIR THEOHARIDES: Mr. Casey? 12 MR. CASEY: Yes. 13 CHAIR THEOHARIDES: Ms. Fraser? 14 MS. FRASER: Yes. 15 CHAIR THEOHARIDES: Mr. Cosco? 16 MR. COSCO: Yes. 17 CHAIR THEOHARIDES: Mr. Nelson? 18 MR. NELSON: Yes. 19 CHAIR THEOHARIDES: Mr. Moran? 20 MR. MORAN: Yes. 21 CHAIR THEOHARIDES: Mr. Woodcock? 22 MR. WOODCOCK: Yes. 23 CHAIR THEOHARIDES: Mr. Bonfiglio? 24 MR. BONFIGLIO: Yes.</p>	<p style="text-align: right;">Page 665</p> <p>1 engagement around the condition on Page 39, Siting 2 Board staff worked on the language that's included 3 in red here. The language that's in black text is 4 currently in the tentative decision and the red text 5 is new. So what we would add would say: 6 "The company shall make available 7 Spanish language interpretation and document 8 translation services for the focus groups and open 9 house. Eversource shall consult with GreenRoots in 10 regard to identifying a time and place for the focus 11 group and open house in an effort to maximize public 12 participation, for example, meeting venues in close 13 proximity to the new site, scheduling focus group 14 and open house during evening hours" -- excuse me, 15 "scheduling the focus group and open house during 16 evening hours." 17 CHAIR THEOHARIDES: Is that what you had 18 in mind, Mr. Woodcock? 19 MR. WOODCOCK: Yes, thank you. Also is 20 there a way to engage, as we don't know if we will 21 have open houses, whether there's a way to engage 22 through non-in-person. Open house has kind of an 23 open meaning, but engage the public through online 24 mediums.</p>

<p style="text-align: right;">Page 666</p> <p>1 MR. HAZLE: That's right. The tentative 2 decision was written preCOVID. I can definitely add 3 a virtual in here in appropriate places. 4 MR. CASEY: Should that be a more global 5 change in the document to address that because 6 that's probably throughout the document? 7 MR. HAZLE: I think in this particular 8 instance there's two events, there's a focus group 9 and open house. I think we can address them 10 individually here. 11 Do I need to say anything about in 12 accordance with COVID protocols or anything like 13 that? 14 MR. WOODCOCK: I think that accomplishes 15 it. I guess, you know, whether we could at least 16 have a public comment process that is available. I 17 think, to your point, this was devised in a 18 completely different environment. 19 MR. NELSON: I don't think you need to 20 add in alignment with COVID protocol. 21 MR. WOODCOCK: I think this accomplishes 22 it. 23 MR. HAZLE: Okay. 24 MS. EVANS: So that it is clear on the</p>	<p style="text-align: right;">Page 668</p> <p>1 tinkering with the language of these conditions than 2 discussing, for example, why an airport site has not 3 been seriously considered in neither this proceeding 4 or the underlying proceeding. Frankly, if you think 5 that the community's opposition is going to be 6 mollified by, for example, getting us in a room 7 together and talking about what the thing is going 8 to look like, or a process involving, you know, 9 going into a room with some community groups, 10 perhaps EHCA, and then getting some money to plant 11 some trees, that doesn't correlate with either 12 reality or with our vision of environmental justice. 13 The other thing I would say is that in 14 our Title VI-related filings and in other contexts 15 as well I think we have been more than clear in 16 terms of pointing to best practices and guidance 17 from the federal government, among other groups. 18 And quite frankly, you all should know and 19 Eversource should know the best practices by now if 20 you really want to follow them. So we really don't 21 have any interest in going along with this. 22 CHAIR THEOHARIDES: We can make that 23 removal. 24 MR. HAZLE: We can just say that</p>
<p style="text-align: right;">Page 667</p> <p>1 transcript, Mr. Hazle added in this paragraph that 2 we are editing that appears on which page of the TD? 3 MR. HAZLE: Page 39 and also on Page 91. 4 MS. EVANS: The item includes a list of 5 steps for the company to follow. And added to the 6 first step of the focus group meeting and the fourth 7 step the open house, we are adding the words "either 8 virtually or in person" to those events. 9 CHAIR THEOHARIDES: Is there any 10 discussion before we ask for a motion? 11 MR. DANIELS: On behalf of GreenRoots, I 12 would just like to ask that you take out the 13 requirement of consultation with GreenRoots. The 14 reason why is simply that, A, building off of my 15 earlier comments, we don't see much if any value in 16 either this or in the previous condition that was 17 discussed and adopted, in that you all sat here and 18 listened to hours upon hours of community members 19 saying exactly what they wanted, which was not to 20 site the substation where it has been proposed; and 21 either convince us that it is needed at all or 22 explain why it is not sited in a more suitable 23 location such as the airport. 24 And we have now spent much more time</p>	<p style="text-align: right;">Page 669</p> <p>1 Eversource can consult with, we can just say a 2 representative community organization generally, or, 3 Mr. Greene, would it be appropriate if Eversource 4 sought approval of Siting Board staff or anything 5 like that in lieu of consulting with GreenRoots? 6 MR. GREENE: Interested stakeholders, 7 perhaps? 8 MR. HAZLE: The sentence has been 9 revised and now reads: 10 "Eversource shall consult with 11 interested stakeholders in regard to identifying a 12 time and place for the focus group and open house in 13 an effort to maximize public participation." 14 If this looks acceptable to the Board, I 15 can take us back -- I'll stop sharing my screen. 16 CHAIR THEOHARIDES: Mr. Woodcock, since 17 it is your motion. 18 MR. WOODCOCK: Thank you, Dean. 19 Mr. Daniels, you've been clear about 20 when this was raised earlier of your client's 21 lack -- no interest in participation with this. I 22 did note in the record that it identified that this 23 process was lacking engagement and tried to address 24 those concerns. But I understand the point that</p>

<p style="text-align: right;">Page 670</p> <p>1 this does not address your client's position with 2 this project. 3 MR. DANIELS: I appreciate that. Thank 4 you. 5 CHAIR THEOHARIDES: All right. I think 6 I need a motion. 7 MR. WOODCOCK: I move to adopt the 8 modifications for community engagement for design of 9 aesthetics related to the proposed project. 10 MR. NELSON: Seconded. 11 CHAIR THEOHARIDES: Seconded by 12 Mr. Nelson. 13 So Mr. Casey, any further discussion? 14 MR. CASEY: No, no further discussion. 15 Nothing from me. 16 CHAIR THEOHARIDES: I will call you for 17 a vote. 18 MR. CASEY: A vote in the affirmative, 19 yes. 20 CHAIR THEOHARIDES: Ms. Fraser? 21 MS. FRASER: Yes. 22 CHAIR THEOHARIDES: Mr. Cosco? 23 MR. COSCO: Yes. 24 CHAIR THEOHARIDES: Mr. Nelson?</p>	<p style="text-align: right;">Page 672</p> <p>1 decision as amended through these discussions. 2 Is there any further discussion before I 3 call for a vote? 4 Hearing none, we will now vote on the 5 main motion as amended, and I will call a roll call 6 vote on the motion to approve the tentative decision 7 as amended. 8 Mr. Casey? 9 MR. CASEY: Yes. 10 CHAIR THEOHARIDES: Ms. Fraser? 11 MS. FRASER: Yes. 12 CHAIR THEOHARIDES: Mr. Cosco? 13 MR. COSCO: Yes. 14 CHAIR THEOHARIDES: Mr. Nelson? 15 MR. NELSON: Yes. 16 CHAIR THEOHARIDES: Mr. Moran? 17 MR. MORAN: Yes. 18 CHAIR THEOHARIDES: Mr. Woodcock? 19 MR. WOODCOCK: Yes. 20 CHAIR THEOHARIDES: Mr. Bonfiglio? 21 MR. BONFIGLIO: Yes. 22 CHAIR THEOHARIDES: I'll vote yes as 23 well. 24 The motion as amended is approved</p>
<p style="text-align: right;">Page 671</p> <p>1 MR. NELSON: Yes. 2 CHAIR THEOHARIDES: Mr. Moran? 3 MR. MORAN: Yes. 4 CHAIR THEOHARIDES: Mr. Woodcock? 5 MR. WOODCOCK: Yes. 6 CHAIR THEOHARIDES: Mr. Bonfiglio? 7 MR. BONFIGLIO: Yes. 8 CHAIR THEOHARIDES: And I will vote yes. 9 I think we are up to four amendments. 10 Are there other amendments today? 11 MS. EVANS: I'm sorry. It is four 12 amendments plus the staff amendments. 13 CHAIR THEOHARIDES: Yes, sorry. 14 MS. EVANS: Just to be sure we have 15 everything. 16 CHAIR THEOHARIDES: Yes. 17 Hearing none, we will return to the main 18 motion which is to approve the tentative decision 19 proposed by staff with all of the amendments we have 20 just approved, both those on the staff's revised 21 amendment sheet and those proposed and accepted by 22 the Board. 23 As just described, that is the main 24 motion now before us to approve the tentative</p>	<p style="text-align: right;">Page 673</p> <p>1 unanimously. 2 With that vote the Siting Board will now 3 proceed to issue a final decision inclusive of the 4 approved amendments. Staff is hereby directed to 5 prepare a final decision as amended for the Chair's 6 signature. 7 Before we adjourn, are there any other 8 matters that need discussion? 9 MR. DANIELS: Just a question on when we 10 can expect the final decision to issue? 11 CHAIR THEOHARIDES: Mr. Greene, do you 12 know the answer to that? 13 MR. GREENE: Yes. Because of the need 14 for translation of the document when issued, we will 15 need some additional time beyond our usual time 16 frame to provide that translation of the final 17 decision. So I would hope that in the next few days 18 we can complete that and both documents can be 19 issued simultaneously. 20 MR. DANIELS: All right. My 21 understanding of the statutory scheme is that the 22 appeal period would then start from the issuance of 23 the final decision rather than today's votes. Is 24 that correct? Is that also the staff's</p>

<p style="text-align: right;">Page 674</p> <p>1 understanding?</p> <p>2 MS. EVANS: That is correct.</p> <p>3 MR. DANIELS: Okay. Thank you.</p> <p>4 CHAIR THEOHARIDES: Are there any other</p> <p>5 matters to discuss? Hearing none, is there a motion</p> <p>6 to adjourn?</p> <p>7 MR. NELSON: So moved.</p> <p>8 CHAIR THEOHARIDES: Motion by Mr.</p> <p>9 Nelson. Is there a second?</p> <p>10 MR. BONFIGLIO: Second.</p> <p>11 CHAIR THEOHARIDES: Second by</p> <p>12 Mr. Bonfiglio.</p> <p>13 All those -- Do I need to --</p> <p>14 Sorry?</p> <p>15 MR. GREENE: Roll call.</p> <p>16 CHAIR THEOHARIDES: Mr. Casey?</p> <p>17 MR. CASEY: Yes.</p> <p>18 CHAIR THEOHARIDES: Ms. Fraser?</p> <p>19 MS. FRASER: Yes.</p> <p>20 CHAIR THEOHARIDES: Mr. Cosco?</p> <p>21 MR. COSCO: Yes.</p> <p>22 CHAIR THEOHARIDES: Mr. Nelson?</p> <p>23 MR. NELSON: Yes.</p> <p>24 CHAIR THEOHARIDES: Mr. Moran?</p>	<p style="text-align: right;">Page 676</p> <p style="text-align: center;">C E R T I F I C A T E</p> <p>1</p> <p>2</p> <p>3</p> <p>4 I, David A. Arsenault, Registered</p> <p>5 Professional Reporter, and Certified Reporter in the</p> <p>6 Commonwealth of Massachusetts, #100693, do hereby</p> <p>7 certify that the foregoing record is a true and</p> <p>8 accurate transcript of my stenographic notes taken</p> <p>9 on February 22, 2021, in the above-captioned matter.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p style="text-align: center;">_____ David A. Arsenault, RPR</p>
<p style="text-align: right;">Page 675</p> <p>1 MR. MORAN: Yes.</p> <p>2 CHAIR THEOHARIDES: Mr. Woodcock?</p> <p>3 MR. WOODCOCK: Yes.</p> <p>4 CHAIR THEOHARIDES: Mr. Bonfiglio?</p> <p>5 MR. BONFIGLIO: Yes.</p> <p>6 CHAIR THEOHARIDES: And yes.</p> <p>7 The motion carries and the meeting is</p> <p>8 adjourned. Thank you, everyone, for attending</p> <p>9 today's Siting Board hearing. We are off the</p> <p>10 record.</p> <p>11 (3:58 p.m.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	

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