

STATE OF VERMONT  
PUBLIC SERVICE BOARD

IN RE: IMPLEMENTATION OF AN ELECTRONIC FILING  
AND CASE MANAGEMENT SYSTEM PURSUANT TO 30 V.S.A.  
SECTION 11a, TO BE KNOWN AS ePSB

September 15, 2016  
9:30 a.m.

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112 State Street  
Montpelier, Vermont

Workshop held before the Vermont Public Service Board, at the Susan M. Hudson Conference Room, People's United Bank Building, 112 State Street, Montpelier, Vermont, on September 15, 2016, beginning at 9:30 a.m.

P R E S E N T

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                              John Cotter, Staff Attorney  
                              June Tierney, General Counsel  
                              Holly Anderson, Deputy Clerk

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Tom Lyle, BED  
Bill Powell, Washington Electric Co-op  
Chris Campany, Windham Regional Planning Commission  
Tim Duggan, DPS

1 MS. BISHOP: Welcome everyone. Thank  
2 you very much for coming today to our workshop on the  
3 draft procedures to implement electronic and case  
4 management for proceedings at the Public Service  
5 Board.

6 I am Ann Bishop. I'm the staff member  
7 at the Board whose been coordinating our staff team  
8 that's implementing this, and with me up here at the  
9 bench is John Cotter, a Staff Attorney with the  
10 Board, and Holly Anderson, the Board's Deputy Clerk.

11 Why don't we start by just -- if I could  
12 have everyone just identify their names so that we  
13 have that down for the court reporter, and we're also  
14 sending around a sign-up sheet. So if you would  
15 please go ahead and write your name on the sign-up  
16 sheet just so we make sure we have the correct  
17 spelling of everyone's name, and then it would be  
18 helpful if at the beginning when you ask a question  
19 if you could identify yourselves again for the court  
20 reporter just because we have such a large number of  
21 people in this room. So please go ahead and start.

22 MS. ELIAS: Jeanne Elias with the  
23 Department of Public Service.

24 MS. VALENTINETTI: Angela Valentineti  
25 with the Department of Public Service.

1 MS. BEAL: I'm Linda Beal. I'm with  
2 Murphy Sullivan Kronk.

3 MR. SMITH: Wil Smith. I'm with  
4 Renewable Energy Vermont.

5 MR. FARMAN: Steve Farman. I'm with  
6 VPPSA.

7 MS. AZARIA: Dale Azaria, Division For  
8 Historic Preservation.

9 MR. DILLON: Scott Dillon, Division For  
10 Historic Preservation.

11 MS. MASHLER: Samantha Mashler for Aegis  
12 Renewable Energy.

13 MR. LEWIS: Sash Lewis from Dunkiel  
14 Saunders.

15 MR. SILVER: Morris Silver for Morris  
16 Silver.

17 MS. KOHLER: Elizabeth Kohler, Downs  
18 Rachlin Martin.

19 MS. MOORE: Carolyn Moore, Downs Rachlin  
20 Martin.

21 MS. SCOTT: Rachel Scott, Downs Rachlin  
22 Martin.

23 MS. MALMQUIST: Nancy Malmquist, Downs  
24 Rachlin Martin.

25 MS. PIERCE: Melissa Pierce, Comcast.

1 MS. BAILEY: Melissa Bailey, VPPSA.

2 MR. MULLETT: David Mullett, VPPSA.

3 MS. DUGGAN: Jen Duggan, Agency of  
4 Natural Resources.

5 MS. DENT: Marcella Dent, Agency of  
6 Natural Resources.

7 MS. SMITH: Erica Smith, FairPoint  
8 Communications.

9 MR. POWELL: Bill Powell, Washington  
10 Co-op.

11 MR. LYLE: Tom Lyle, Burlington  
12 Electric.

13 MR. WALKER: Matthew Walker, Vermont  
14 Energy Investment Corporation.

15 MR. T. DUGGAN: Tim Duggan, Department  
16 of Public Service.

17 MR. CAMPANY: Chris Company, Windham  
18 Regional Planning Commission.

19 MR. RUTHERFORD: Matthew Rutherford for  
20 with Town of Stowe Electric Department.

21 MR. J. DUGGAN: Jamie Duggan, Division  
22 For Historic Preservation.

23 MS. BOUFFARD: Debra Bouffard, Sheehey  
24 Furlong & Behm.

25 MS. RICHARDS: Patty Richards,

1 Washington Electric Co-op.

2 MS. RADIGAN: Kate Radigan, Diamond &  
3 Robinson.

4 MS. BISHOP: Let's continue.

5 MS. COUTURE: Brenda Couture, Paul Frank  
6 + Collins.

7 MS. RYLANT: Heather Rylant, Paul Frank  
8 + Collins.

9 MS. GEARY: Joann Geary, Paul Frank +  
10 Collins.

11 MS. FLINT: Carol Flint, Department of  
12 Public Service.

13 MS. OLIVER: Jeanne Oliver, Vermont Law  
14 School Energy Clinic.

15 MS. PETERSON: Christine Peterson,  
16 Department of Public Service.

17 MR. BURKE: Dan Burke from the  
18 Department of Public Service.

19 MR. WHITAKER: Steven Whitaker, public.

20 MS. BISHOP: Great. So this is really  
21 our chance to hear what your comments and questions  
22 are about our draft procedures document. In  
23 addition, I will note that we have received a few  
24 comments by e-mail ahead of time and we will do our  
25 best to address those today as well.

1                   So it might -- there's a couple  
2 different ways we can approach this. One is to go  
3 through the draft procedures document systematically  
4 section by section and that may be the most efficient  
5 use of our time. So why don't we start with that  
6 approach. Does that seem reasonable to people?

7                   MS. ELIAS: Yes.

8                   MS. BISHOP: Great. Thank you. So the  
9 first section is about what types of cases ePSB will  
10 be used for initially, and I should clarify that we  
11 are implementing ePSB in two phases, and so the  
12 procedures that are -- the types of proceedings that  
13 are listed in Section 1A are those that would be  
14 included in phase one.

15                   We did have a question that was  
16 submitted to us about whether Section 248a  
17 applications are included in phase one and yes they  
18 are. Does anyone else have any -- are there any  
19 other comments or questions about Section 1A? Yes.

20                   MR. SILVER: In Section number 4 says  
21 petitions. Does that cover every petition that one  
22 would file?

23                   MS. BISHOP: Yes.

24                   MR. SILVER: Okay.

25                   MS. BISHOP: When you think about from

1 an ePSB perspective the filing of a petition is the  
2 same regardless of what the subject matter is. You  
3 may need to include different -- provide different  
4 information or attach different specific types of  
5 documents, but it's all a petition.

6 MR. SILVER: Then what's not covered  
7 because that seems like a very broad reach document  
8 because it would cover financings and complaints and,  
9 you know, 248's.

10 MS. BISHOP: Things that aren't covered  
11 include tariffs, rulemaking, some of the telco CPG  
12 application forms, commercial mobile radio service  
13 application forms, there's a notice form that gets  
14 used before certain telecommunications mergers.  
15 Those types of things that are done right now using  
16 forms are not included. I'm looking at my colleagues  
17 up here. Do you remember anything else? I think  
18 those are the main items.

19 MR. COTTER: I don't have the list. I  
20 mean I think probably what most people will find is  
21 that people who practice before the Board generally  
22 will probably find that a lot of what they do is  
23 going to be incorporated into phase one, and folks  
24 that would find things that are not necessarily  
25 incorporated into phase one are probably people that

1 do really specific things over and over for the same  
2 type of client, for example, like a CMRS application.  
3 You know we have entities that specialize in that  
4 that are not necessarily Vermont based and so -- but  
5 yeah I think we're probably going to find that a lot  
6 of what we do is incorporated into phase one, and I  
7 think, Morris, a good example of your question  
8 regarding use of the petition if you look at  
9 applications and registrations, for example, for net  
10 metering projects are included, but we also get  
11 petitions for the larger net metering projects and  
12 they are included under the word petitions. So --

13 MR. SILVER: When I looked it didn't  
14 occur to me there was anything not included.

15 MS. BISHOP: I think basically -- that's  
16 basically the major categories. There may be a  
17 couple other small ones that we've missed. Yes.

18 MS. RICHARDS: Patty Richards from  
19 Washington Electric Co-op. Would rate cases be  
20 included as well?

21 MS. BISHOP: Rate cases are going to be  
22 part of phase two because those are essentially  
23 started -- the vast majority of them are started with  
24 a tariff filing.

25 MS. RICHARDS: Okay.

1 MS. BISHOP: It doesn't say Board  
2 investigations are part of phase one and there's --  
3 we realize that the way a rate case is going to be  
4 handled in ePSB it starts with a tariff filing. If  
5 the Board decides to open an investigation, then that  
6 is an investigation that the Board has initiated, but  
7 what we were really primarily thinking about here is  
8 where the very first thing in an entire matter is  
9 that the Board is opening an investigation. Does  
10 that help?

11 MS. RICHARDS: Yes. I have two other  
12 questions. How about IRPs?

13 MS. BISHOP: IRPs would be included.

14 MS. RICHARDS: In phase one?

15 MS. BISHOP: In phase one. Typically an  
16 IRP -- when an IRP is filed it tends to be  
17 accompanied by a petition asking the Board to review  
18 and approve an IRP. So that would be a kind of  
19 petition.

20 MS. RICHARDS: Last question. Consumer  
21 complaints. Could you describe that briefly? So  
22 from an electric utility standpoint we can get a  
23 member, consumer, that's upset with us and they are  
24 going to call in to the DPS and file a complaint  
25 verbally. Is the consumer complaints piece in phase

1 one, basically the utility's response, the written  
2 response that we do, or can you describe that a  
3 little bit?

4 MS. BISHOP: Sure.

5 MR. COTTER: Assuming I think, correct  
6 me if I'm wrong, generally my understanding is it's  
7 going to look a lot like it looks right now. There's  
8 -- you know, initially presumably there would be some  
9 interaction, personal interaction between the utility  
10 and the consumer, and if the consumer is not  
11 satisfied, the consumer, if they contact the Board  
12 first, would get referred to the Department of Public  
13 Service or they may go directly to the Department of  
14 Public Service. Then Consumer Affairs gets involved  
15 and attempts to negotiate a resolution between the  
16 utility and the consumer, and then if the consumer is  
17 not satisfied with that, the consumer may file a  
18 complaint with the Public Service Board. They are  
19 not going to be required to file a complaint with the  
20 Public Service Board using ePSB, but they certainly  
21 can.

22 MS. RICHARDS: So if they are going  
23 through the Department process, is that not going to  
24 be like an eFiling set up only if it hits the PSB?

25 MS. BISHOP: So the Department has -- is

1 implementing its own electronic system and I don't  
2 know if the Department wants to say anything about  
3 its system today, but --

4 MS. FLINT: Carol Flint. We could  
5 comment briefly. So we are working with the  
6 programmers to have an online complaint form that  
7 would feed into our data base or consumer complaint  
8 data base. Does that help?

9 MS. BISHOP: The way it works right now  
10 the Department's system is -- I mean the Department  
11 has a whole lot of cases that it processes that never  
12 actually come to us. So that's going to continue in  
13 the new world. We're not -- the implementation of  
14 ePSB is not changing that relationship. It's just  
15 changing once -- by statute a customer can file with  
16 the Board now. If they chose to do that and then we  
17 send it to the Department, they have a lot of  
18 process. Whatever happens there is not part of ePSB.

19 MS. RICHARDS: Okay. That makes sense.  
20 So the eFiling piece would only be if it's ratcheted  
21 up to the Public Service Board as a more formal  
22 complaint process?

23 MS. BISHOP: Right, unless the customer  
24 chooses to start with us. A customer by statute can  
25 file with us initially. If they do that, we will be

1 sending it to the Department the same way we do today  
2 and they then work with the customer to try and  
3 resolve it before it actually leads to a formal  
4 proceeding with us.

5 MS. RICHARDS: Thank you.

6 MR. WHITAKER: Can I make a suggestion?  
7 That if a FAQ, frequently asked questions, comes out  
8 of this workshop to distinguish for the public, the  
9 non-attorney public, between complaints with the DPS  
10 and complaints with the Board because those are --  
11 seem to be blending together in this.

12 MR. COTTER: I think sort of the general  
13 point to be taken from this particular discussion is  
14 that the document that we sent around were the  
15 procedures for dealing with the Board in a Board  
16 proceeding and as well as dealing with other parties  
17 in that proceeding, but these apply to Board  
18 proceedings. They don't apply to any Department --  
19 internal Department processes.

20 MS. BISHOP: Yes.

21 MS. PIERCE: So for cable operators  
22 notices are required to be filed with the Board  
23 regarding programming service or rate changes  
24 pursuant to Rule 8 or CPGs. Would those fall under  
25 miscellaneous administrative matters?

1 MS. BISHOP: I'm thinking. Sorry. Let  
2 me get back to you. That's a good question and I  
3 just -- I am not -- I don't remember off the top of  
4 my head whether we put them in miscellaneous admin  
5 matters or we put them somewhere else. One of the  
6 distinctions we're making about miscellaneous admin  
7 matters those should only include things that don't  
8 require any Board action. Anything that's requesting  
9 the Board to do something we would not consider  
10 miscellaneous admin, but I just want to check and  
11 make sure that that's what we were thinking about  
12 with those cable filings. Yes.

13 MS. ELIAS: I see that number six is  
14 public comments unrelated to a specific proceeding.  
15 What about public comments related to a specific  
16 proceeding?

17 MS. BISHOP: Public comments related to  
18 a specific proceeding will be able to be filed via  
19 ePSB in the proceeding that's in ePSB. If the -- if  
20 someone is filing a public comment in a type of case  
21 that's not yet in ePSB, then they need to file their  
22 public comments not in ePSB. So they would continue  
23 to use our web site or send us an e-mail or send in a  
24 written paper comment.

25 MS. ELIAS: Say that again. They can

1 file it in the proceeding?

2 MS. BISHOP: So let me give you an  
3 example. We have a tariff filing that comes in.  
4 Tariffs are not part of phase one. If someone wants  
5 to file a public comment on the tariff filing, they  
6 can't use ePSB to do that because there's no case yet  
7 in ePSB.

8 MS. ELIAS: Right. But for proceedings  
9 that are in progress, one of the things that I just  
10 think is that number six makes you think that the  
11 opposite isn't true or the converse or obverse,  
12 whatever it is, and that's I think --

13 MS. BISHOP: So you're suggesting that  
14 we clarify in the procedures. We did mention that in  
15 the order associated with the procedures, but we  
16 didn't clarify it in the procedures.

17 MS. ELIAS: I think it would be very  
18 helpful because that's very important public input  
19 and it is fairly frequent that members of the public  
20 are seeking to comment on specific pending  
21 proceedings.

22 MS. BISHOP: Yes.

23 MS. AZARIA: I have a question about the  
24 very last phrase in this Section A. So ePSB will be  
25 used for all of these proceedings that are commenced

1 on and after November 1st and where filer elects to  
2 use electronic filing. So does that mean that --  
3 does it have to satisfy both conditions? It has to  
4 be new starting in November or December and the  
5 person chooses or does that mean that it applies to  
6 proceedings -- all proceedings filed in November or  
7 December or after and also to older proceedings where  
8 a filer elects to use the system?

9 MS. BISHOP: Okay. There's two parts to  
10 your question. The first part is what did we mean --  
11 what's going to happen with cases that are pending at  
12 the time ePSB goes live? We are going to be making  
13 some case-by-case determinations about whether to  
14 keep the cases that are pending outside of ePSB in a  
15 paper world or move them into ePSB, and part of that  
16 decision is really related to resources because if  
17 there has been -- if a case has been going on for  
18 three years and there's file drawers worth of  
19 documents, it could be very resource intensive to try  
20 and bring something like that into ePSB. On the  
21 other hand, if something was just started in October  
22 and is expected to go on for the next year, we may  
23 very well say that's when we want to move in.

24 The underlying premise is we need to  
25 make sure from a record keeping perspective that the

1 records are either paper in a case or they are  
2 electronic in a case, and so if we -- we don't want  
3 to have cases that are part in paper and part  
4 electronic. So that deals with the cases that are  
5 pending at the time. I want to say --

6 MS. AZARIA: And so the parties to those  
7 cases will get some kind of notice --

8 MS. BISHOP: Yes.

9 MS. AZARIA: -- this case is now in  
10 ePSB.

11 MS. BISHOP: Yes. We would notify  
12 people about that. I also want to say November 1st  
13 is probably more like end of November. I know  
14 everyone has been eagerly awaiting this, as have we  
15 at the Board, for a long time now. We are -- we have  
16 been working very hard for a number of years on this  
17 and we really are getting close, but I think that  
18 November 1st is probably more like late November.  
19 Hang on one second. I would like to finish answering  
20 this question first.

21 The other part of your question was what  
22 do we mean by and where a filer elects to use  
23 electronic filing. Essentially I'm going to turn to  
24 John here if I misstate anything. We're implementing  
25 this through a procedure. We have not actually

1 changed Rule 2 which is our -- governs our procedures  
2 for filing with the Board. So we are not requiring  
3 people to use ePSB on day one. Our plan is that  
4 we're going to implement ePSB. We expect that we're  
5 going to be learning along with all of you as ePSB is  
6 implemented, and there may be some things in the  
7 procedures that we decide should -- or the Board  
8 decides should be changed going forward, and it's a  
9 lot easier to change a procedure than it is to change  
10 a rule, but long term we would be revising the  
11 Board's rules so that the procedures related to  
12 electronic filings are incorporated in rules. Until  
13 we do that, however, if someone chooses to file in  
14 paper, they can file in paper.

15 MR. COTTER: I think that's accurate. I  
16 think also as a practical matter our expectation is  
17 that the majority of cases will probably be initiated  
18 electronically because with the exception of some  
19 initial service requirements, for example, of the  
20 petition that gets filed, you end up not having to  
21 make, you know, if it's a large case, dozens of  
22 copies of things and start shipping them off to  
23 people and it's one of the major efficiencies of it.

24 So I mean our expectation is that for  
25 the most part people are going to hop to use ePSB

1 with the exception of folks who may not have  
2 broadband internet access at their homes or may not  
3 have a computer or frankly may not just be  
4 comfortable using a computer for that sort of thing,  
5 and once it becomes mandatory there will always be  
6 the possibility of exceptions because not everybody  
7 in Vermont is going to be able to have broadband  
8 internet access, for example, and we don't want  
9 somebody that lives in a very rural area that doesn't  
10 have that kind of service to have to drive 10 miles  
11 to a library to get on a computer so they can file a  
12 response or something. So yes it's optional for the  
13 time being, but even when it becomes mandatory there  
14 will be some exceptions for people that otherwise  
15 could not participate effectively using it.

16 MS. AZARIA: Thank you.

17 MS. BISHOP: Yes.

18 MR. WALKER: Matthew Walker, Vermont  
19 Energy Investment Corporation. I understand EEU  
20 proceedings are not included in this phase one and I  
21 just want -- curious to know when EEU proceedings and  
22 other related dockets might get incorporated into  
23 ePSB?

24 MS. BISHOP: So actually EEU proceedings  
25 can be -- are a part of phase one. Typically those

1 get started with somebody making a filing asking the  
2 Board to do something or open an investigation into  
3 whatever. Someone is filing a petition asking us to  
4 do something. So that -- those kind of proceedings  
5 would be included.

6 I realize there is one other type of  
7 case, and I'm putting that in quotes deliberately,  
8 that I didn't mention earlier that's part of phase  
9 two and that is the filing of reports, and the EEU,  
10 for example, files a lot of -- there's a lot of  
11 reports that get filed and I'm including in that  
12 service quality reports, monthly, quarterly reports,  
13 and those kind of reports that are filed outside of a  
14 docket or outside of a case will be able to be filed  
15 in ePSB, but those are part of phase two. So that  
16 aspect of EEU matters is really part of phase two,  
17 but those kinds of proceedings that in today have  
18 like EEU-2016-01 those kind of proceedings we expect  
19 would be incorporated or would be able to be filed in  
20 ePSB in phase one. Whether existing ones get brought  
21 in or not will be decided on a case-by-case basis,  
22 but new ones would be able to be filed as part of  
23 phase one.

24 MR. WALKER: Thanks for that  
25 clarification. My next question was going to be the

1           DRP has begun and it sounds like that will be  
2           determined on a case-by-case basis on whether or not  
3           that will get incorporated?

4                     MS. BISHOP:  Yes.  Yes.

5                     MR. WHITAKER:  Could you elaborate on  
6           EEU?

7                     MS. BISHOP:  The EEU is the Energy  
8           Efficiency Utility.  The DRP is a demand resources  
9           plan proceeding which is a particular kind of  
10          proceeding related to energy efficiency utilities.  
11          Yes.

12                    MS. RADIGAN:  Kate Radigan, Diamond &  
13          Robinson.  Hypothetically if we have a 248 filing and  
14          we decide to file it through the ePSB, will that  
15          system then shoot it out to all the statutory  
16          parties, that filing?  Will it then just go out to  
17          all the statutory parties that need to get --

18                    MS. BISHOP:  It will go out to the state  
19          agencies that need to get it.  It will not go out to  
20          towns and regional planning commissions that need to  
21          get it.  That is still the filer's obligation to  
22          provide them with copies.  It will also -- any  
23          adjoining landowners who need to get a copy of that,  
24          that is also the filer's obligation to provide notice  
25          or copies to them.

1 MS. RADIGAN: Okay. And then if as the  
2 proceeding goes on parties file their notices of  
3 appearance, will they then be loaded into the system  
4 and then any filing after that be shipped out?

5 MS. BISHOP: Yes. So let's say there's  
6 a regional planning commission that becomes a party  
7 to the case and they want -- they provide us with an  
8 e-mail address. Then they would be treated just like  
9 any other party who has given us an e-mail address  
10 and they would -- it would -- ePSB would  
11 automatically send it to them.

12 MS. RADIGAN: So no hard copies has to  
13 go out to them?

14 MS. BISHOP: If they have given us an  
15 e-mail address. If a regional planning commission  
16 has not given us an e-mail address or if there's an  
17 intervenor who has not given us an e-mail address,  
18 they then are intending to participate still in  
19 paper, and then they would -- anyone who makes a  
20 filing in the case and the Board when we issue  
21 documents would need to provide them with paper, and  
22 similarly those people participating in paper need to  
23 provide paper copies to everybody in the case.

24 MR. COTTER: Also just to clarify when  
25 something gets filed through ePSB or if the Board,

1           you know, is issuing a big order, the documents  
2           themselves aren't getting shipped to the other  
3           parties who are participating electronically and  
4           notice that the documents are available and a link to  
5           get to those documents will be provided to those  
6           people. They are going to have to go there and  
7           download those documents themselves.

8                       MS. BISHOP: The reason for that is  
9           because of concerns with people's e-mail boxes  
10          getting full. If you're attaching large numbers of  
11          documents to it and we don't want -- or some people's  
12          e-mail systems are set up that if an e-mail with  
13          attachments is sent to a long list goes out, then it  
14          gets sent into the spam folder. We don't want any of  
15          that. Yes.

16                      MR. CAMPANY: Chris Campany, Windham  
17          Regional Planning Commission. So the 45-day prefiled  
18          will still be paper as they have been?

19                      MS. BISHOP: The 45-day prefiled for a  
20          regional planning commission is still going to be  
21          paper as it has been. The Board is not taking on --  
22          it's one thing for the Board to make sure that we  
23          work with other state agencies to make sure that we  
24          have appropriate e-mail addresses for them. Regional  
25          planning commissions and towns have a lot of

1 priorities other than making sure that the Board has  
2 the most current e-mail address for them at all  
3 times, and so we are -- we do not want to be in a  
4 situation where we have an e-mail address that's out  
5 of date and as a result somebody doesn't get notice  
6 that they should have gotten. So it will still be in  
7 paper.

8 MR. COTTER: Another aspect of that is  
9 if you go and you look at the statute that authorizes  
10 us to implement ePSB, I think it was Section 11b or  
11 something, I don't remember.

12 MS. BISHOP: 11a.

13 MR. COTTER: 11a or b, not a  
14 parenthetical just 11 with the little letter after,  
15 it authorizes the use of ePSB to provide service  
16 electronically to the state agencies that would  
17 otherwise be entitled to service of things like that.  
18 It doesn't authorize the use of it for sending those  
19 kinds of documents or notice of those documents to  
20 regional planning commissions, to town selectboards,  
21 town planning commissions, things like that. So  
22 statutorily people still need to provide those types  
23 of things in hard copy to those entities.

24 MS. BISHOP: Yes.

25 MS. BOUFFARD: Debra Bouffard from

1 Sheehey Furlong & Behm. Just to follow up on what  
2 the -- information about a link being generated when  
3 the filing is made, will that be instantaneously or  
4 will it be the next day?

5 MS. BISHOP: It's going to be  
6 immediately.

7 MS. BOUFFARD: Okay.

8 MS. BISHOP: With the -- in the vast  
9 majority of things. So the ones where there is an  
10 obligation to provide an advance notice type of  
11 filing that's instantaneous. With respect to net  
12 metering registrations and applications where  
13 interest is a comment deadline that is calculated  
14 based on when a filing is deemed complete, what we --  
15 the way the system has been designed is that there  
16 will be a determination made by the Board that the  
17 filing is complete -- administratively complete  
18 enough to process before notice of that is sent out  
19 to other entities so that an application form or  
20 registration form can actually be generated by the  
21 system, a PDF version of the information that's  
22 provided, and the comment -- the application number,  
23 the case number can be included on that and the  
24 comment due date is included on that, and that's to  
25 help make it easier because those get -- those will

1 then need to be mailed out to various adjoining  
2 landowners, et cetera, and it will be helpful for  
3 those people to have the case number and the comment  
4 due date upfront.

5 MS. MALMQUIST: Nancy Malmquist. What  
6 is your plan for prefiled testimony being admitted  
7 into evidence at a technical hearing? After folks  
8 file electronically there might be objections, there  
9 might be corrections. Is there an expectation for  
10 folks to bring or do anything to have the final  
11 corrected copies admitted? How are you handling  
12 that?

13 MS. BISHOP: So the way in ePSB  
14 documents have a status, if you will. When it first  
15 comes in it's filed. If something is admitted into  
16 evidence, then it's going to say admitted. If there  
17 are corrections made to something that's been  
18 prefiled at a hearing, we would expect the parties to  
19 come and make the corrections on the paper copy that  
20 would be provided to Board staff. Board staff will  
21 upload that into the system and the version that is  
22 admitted will be the version that says admitted.

23 MS. ELIAS: So in the first paragraph  
24 when you're talking about filer I assume that means  
25 the initiator of a case. So that's the election of

1 the entity or individual who makes the initial  
2 filing, but if that entity decides to go electronic  
3 and use ePSB and there are parties or members of the  
4 public who comment that don't have access to  
5 electronic means and intend to file and serve via  
6 paper, is the Board going to make electronic copies  
7 of all paper things filed so that the Board's record  
8 on the electronic level is complete?

9 MS. BISHOP: If a case starts  
10 electronically so the case is in ePSB and there are  
11 one or more parties in that case who are  
12 participating in paper and filing documents with the  
13 Board and all the parties in paper, the Board's plan  
14 is to scan those documents in so that the electronic  
15 version is complete because that electronic record is  
16 going to be -- is our official record for that case.

17 MS. ELIAS: So just to follow up I want  
18 to underscore the importance of the public comments  
19 related to a proceeding that almost invariably come  
20 in, in paper getting scanned and put into a case  
21 file.

22 MS. BISHOP: That is the plan.

23 MS. ELIAS: Great.

24 MS. BISHOP: Okay. We're still in  
25 Section 1A. Yes. Go ahead.

1 MS. MASHLER: Samantha Mashler, Aegis  
2 Renewable Energy. Just to clarify Jeanne's point so  
3 anything that is submitted via hard copy will be  
4 digitized by Board staff?

5 MS. BISHOP: Correct.

6 MS. MASHLER: Okay.

7 MS. BISHOP: That's for those cases that  
8 are in ePSB.

9 MS. MASHLER: And is that including  
10 procedures that become mandatory? You know as the  
11 rules change and, you know, there's sort of phasing  
12 out of the opt-in system and increasingly  
13 requirements of certain procedures going through  
14 ePSB?

15 MS. BISHOP: I would -- I don't want to  
16 speculate about what will happen when we get to that  
17 point because frankly we're focused right now on  
18 going live with phase one and that is two steps  
19 further down the line.

20 MS. MASHLER: Thanks so much.

21 MR. WHITAKER: Is it possible,  
22 especially in this interim period, to both  
23 participate electronically, be able to send in  
24 comments or filings but also not waive the service  
25 coming from other parties?

1 MS. BISHOP: No.

2 MR. WHITAKER: Because I'm questioning  
3 this idea of just sending a link whether that  
4 actually constitutes service because we have  
5 unreliable broadband. If you can't get to the  
6 document when you need to, there's some justice  
7 questions there.

8 MS. BISHOP: The way we have designed  
9 ePSB and the way -- what's reflected in the draft  
10 procedures is that if you're electronic, you're  
11 electronic. If you're paper, you're paper. What we  
12 didn't want was parties saying I want to serve other  
13 parties electronically, but I want them to provide me  
14 with paper because there's just a fundamental  
15 mismatch there. I will make a note of your concern  
16 about what happens when broadband is unreliable and  
17 bring that back to the Board, but our -- the  
18 underlying concept here is that you're either  
19 electronic or you're paper.

20 MR. WHITAKER: But if this is a  
21 procedure and not yet been approved as a rule, how  
22 can it constitute legal service?

23 MR. COTTER: Because we're statutorily  
24 authorized to develop this procedure to implement  
25 electronic filing and case management.

1 MR. WHITAKER: But the procedure trumps  
2 the Rules of Civil Procedure?

3 MS. TIERNEY: There are different  
4 concepts getting mixed up in there, Mr. Whitaker. I  
5 would be happy to talk about it offline.

6 MR. WHITAKER: Thanks.

7 MS. BISHOP: Okay. Moving on to  
8 paragraph -- to the section -- the rest of Section  
9 1 --

10 MS. TIERNEY: So far already.

11 MS. BISHOP: -- are there any --  
12 actually I have one more comment that came in asked  
13 about the advanced notices and whether those also  
14 applied to the Section 248a cases and yes they do.  
15 So Section 248a advance notices will be part of phase  
16 one.

17 Now moving on to the rest of Section 1  
18 any other questions or comments? Yes.

19 MS. AZARIA: Dale Azaria with Division  
20 For Historic Preservation. I have a question about  
21 Section D here that continues to require that a hard  
22 copy of each document be provided to the Board.  
23 What's the timing requirement on that?

24 MS. BISHOP: The official record is the  
25 electronic version. So there is no longer a

1 requirement that the paper version has to be in by  
2 the close of business on the date that it's due. We  
3 would hope that parties would be providing it in an  
4 expeditious manner and promptly putting a copy in the  
5 mail, but there's no need for people to messenger  
6 over copies any more, and glad I could make your day.

7 MR. COTTER: I sold all my stock in that  
8 Green Mountain Messenger Service.

9 MS. BISHOP: I do want to make one point  
10 related to the provision of paper copies, though,  
11 which is you will see when we get later in here that  
12 as long as something is filed in ePSB by 5 o'clock  
13 it's considered filed on the same day, and you do not  
14 need to provide your paper copy of your electronic  
15 filing that same day. It can come in the mail the  
16 next day or the day after is fine, but if you are --  
17 if you are still participating in paper, the Board's  
18 office hours officially end at 4:30. So you do need  
19 to get your paper copy to the office by 4:30 if  
20 you're not using ePSB.

21 MR. LEWIS: Sash Lewis from Dunkiel  
22 Saunders. So as long as parties are required to file  
23 these hard copies with the filed documents should  
24 these conform to the formal requirements for staples  
25 and tabs, et cetera, that are set forth in Section 9

1 of the draft rules for procedure?

2 MS. TIERNEY: That's an excellent  
3 question. I think we need to think about that. Do  
4 you have a recommendation?

5 MR. LEWIS: I think our preference is to  
6 continue filing in the way we're used to. They are  
7 easier to handle when they are stapled. They  
8 certainly look better with tabs, but we'll defer to  
9 the Board obviously.

10 MS. TIERNEY: Did you say it was Josh?

11 MR. LEWIS: Sash.

12 MS. TIERNEY: Nice to meet you, Sash.  
13 Real quick question for Dale. Did you have a  
14 recommendation for mailing hard copies?

15 MS. AZARIA: No. I saw that there was a  
16 five o'clock deadline for the electronic and was  
17 thinking that there might be times when, you know, we  
18 finalize a document at 4:45 and therefore it's not  
19 getting down here by 4:30 and I just wanted to make  
20 sure that we could actually use that extra 45  
21 minutes.

22 MS. BISHOP: Yes.

23 MR. COTTER: Just a followup to Mr.  
24 Lewis's question. The formatting requirements for  
25 somebody that's filing non-electronically they are

1 that way so that when it comes in and if the case is  
2 in ePSB and so the electronic record is our official  
3 record, those requirements are there so that it's  
4 efficient and easier for Board staff, whoever gets  
5 assigned the chore of scanning those things in and  
6 uploading them, so they are not sitting there pulling  
7 out staples and pulling off tabs and things like that  
8 that would make it difficult to do that.

9 MS. BISHOP: Yes.

10 MS. ELIAS: Is the ePSB -- I just  
11 thought of this as you said this. Is the ePSB set up  
12 so we do not get the 347 page PDF filed one package  
13 oh here's my petition, my testimony, my exhibits, and  
14 it's unindexed one document that's 350 pages long or  
15 something?

16 MS. BISHOP: ePSB is set up so that each  
17 document is uploaded separately. Your petition is  
18 uploaded separately from your accompanying brief.  
19 Each witness's prefiled testimony is a separate  
20 document. Each exhibit is a separate document and  
21 that's to enable people when they are looking for  
22 something in the system to find what they are looking  
23 for and not just have one huge file that's got a lot  
24 of stuff included in it, and you will be able to --  
25 ePSB has very robust search capabilities. So if

1 you're looking for a particular kind of document or  
2 you can search by a witness name or an exhibit  
3 number, that kind of thing.

4 MS. TIERNEY: You may have covered this  
5 before I got here so I apologize if I'm covering  
6 something you have already gone through, but if you  
7 wouldn't mind by a show of hands how many people here  
8 have worked in other courts or administrative  
9 agencies using electronic filing? Okay. Very good.  
10 That's very helpful to know. Thank you.

11 MR. COTTER: You can teach us a lot.

12 MS. BISHOP: And just, June, if you  
13 wouldn't mind identifying yourself.

14 MS. TIERNEY: I'd rather be incognito.  
15 Good morning. My name is June Tierney and I'm the  
16 General Counsel for the Public Service Board.

17 MS. BISHOP: Okay. Yes.

18 MR. HAND: Geoff Hand from Dunkiel  
19 Saunders. Just want to go back to the point earlier  
20 about something that's filed in hard copy by someone  
21 who is not participating in the ePSB process and the  
22 Board scans those. Do you have a sense of the  
23 timetable for getting that scanned and up on to the  
24 system? We have an issue where a lot of times pro se  
25 filers won't send us a copy of what they filed with

1 the Board so we have to call the Board regularly to  
2 find out if something has been filed in our docket.  
3 I'm just wondering in terms of the timetable what we  
4 should expect there to see that or should we still be  
5 checking at deadlines to see if something has been  
6 filed?

7 MS. BISHOP: I can't give you a specific  
8 answer in terms of where -- if something comes in at  
9 4:30 it's probably not going to be scanned that same  
10 day, but I think the goal is that ePSB is as up to  
11 date as possible. I think that we're going through a  
12 transition when we implement ePSB just as much as all  
13 of you are going through the transition using it, and  
14 so I think it would be our intent to scan documents  
15 in as soon as we can, but I don't want to promise you  
16 that it's going to be, you know, same day if it's  
17 filed before noon or something like that.

18 MR. HAND: Sure. I wasn't expecting  
19 that, but just in terms of a general time frame and I  
20 understand there's much to be learned here, but it  
21 will be helpful for us to understand what we should  
22 expect and part is that we don't bother you guys with  
23 telephone calls about what's been filed.

24 MS. BISHOP: And I have made a note  
25 about this and I'm taking various notes and we also

1 have a court reporter here. It's very helpful just  
2 -- even if I am able to answer a question of yours,  
3 it's helpful for us to know that this is an area of  
4 concern or an area of interest for you to make sure  
5 that as we continue on with our implementation that  
6 we address all of them and keep them in the front of  
7 our minds.

8 MR. COTTER: Also, Mr. Hand, just to  
9 reiterate I know it doesn't specifically address the  
10 concern you raised, but if somebody elects to  
11 participate in hard copy, the requirement for them to  
12 serve hard copies of anything they file on all the  
13 other parties still exists. I understand that  
14 doesn't necessarily address your concern because you  
15 have had experience where even in the absence of  
16 electronic filing you didn't get hard copies anyway,  
17 but -- so I mean hopefully as people learn the system  
18 a little bit more maybe that will become less of a  
19 concern, but maybe not.

20 MR. HAND: Thank you.

21 MS. ELIAS: To that point, Mr. Cotter, I  
22 think Mr. Hand and I experienced both the same thing  
23 and that is public comments by non-parties are filed  
24 in paper and parties are dying to know what the  
25 public says and those individuals don't have the

1 service obligation that a party has, and that's what  
2 we -- that's what the Department is really, really  
3 interested in hearing as soon as we can and I think  
4 the Board understands that, but there's no  
5 understanding of the service obligation, and if they  
6 are a non-party, I'm not sure that they actually have  
7 one.

8 MS. TIERNEY: They don't, but you can  
9 always come upstairs and see the paper.

10 MS. ELIAS: Sure, and that's Mr. Hand's  
11 point which is, you know, we're bugging the Board.

12 MS. TIERNEY: I think his is a little  
13 different. I think his are parties who are not  
14 conforming to the rules.

15 MR. COTTER: He mentioned deadlines and  
16 there are no deadlines for public comments.

17 MR. HAND: Both are an issue.

18 MS. TIERNEY: Right and it's very  
19 helpful to hear that actually. You should come to  
20 the Act 174 working group meeting and let us know  
21 about that. That would be very helpful.

22 MS. BISHOP: I want to clarify one thing  
23 or add one comment in response to our discussion of  
24 public comments. We've talked about the notices that  
25 ePSB is providing to parties in the case. ePSB is

1 providing notices whenever a party files something,  
2 whenever a motion to intervene is filed in a case,  
3 whenever the Board issues a document in the case. If  
4 a public comment is filed in the case, a notice is  
5 not automatically sent to the parties in the case.  
6 It will be in ePSB and the parties can check it and  
7 will be able to see it, but ePSB is not sending out  
8 notices of public comments, and primarily the reason  
9 for that is because we do have cases where we get  
10 voluminous numbers of public comments that would be  
11 challenging to be getting all of those e-mails  
12 everyday.

13 MS. TIERNEY: When we get the postcard  
14 campaign, for instance, it's an identical comment,  
15 but we'll get 3,000 of them. You folks wouldn't want  
16 3,000 notices going out to you either so --

17 MS. BISHOP: Yes.

18 MR. WHITAKER: Again it's related to the  
19 all in or all out concept. It would -- similar to  
20 some discussion threads on news articles some of them  
21 have an opportunity to subscribe to changes so that  
22 you get an alert only when something new is filed and  
23 that might be useful for parties who haven't waived  
24 all their paper all in, I guess would be the  
25 characterization, waived all their paper service

1 rights to just be able to be notified when something  
2 comes in.

3 MS. BISHOP: The system does have a  
4 subscription feature. It's intended for people who  
5 are not parties to a case but who want to be  
6 following the case and are interested when parties  
7 file things in the case or the Board issues documents  
8 in the case. Again, people who subscribe will not be  
9 getting notifications of public comments that are  
10 filed in a case, but if you subscribe to a case, you  
11 will get a -- the system will send you notification,  
12 e-mail notification, when the parties file something  
13 or the Board issues a document.

14 MR. WHITAKER: But will the public  
15 comments be all aggregated in one tab or something so  
16 you can go find them?

17 MS. BISHOP: Yes.

18 MR. WHITAKER: One other thing related  
19 to the scanning. There is an issue I emailed the  
20 clerk, I think possibly got to you, about if it's not  
21 a searchable PDF it might be rejected, and then I  
22 found that the draft rules don't cut and paste as an  
23 example. So the whole issue of how to make proper  
24 searchable PDFs the statutes, for instance, are --  
25 there's a script font issue. They don't make

1 searchable PDFs if you copy a statute. So there's  
2 some issues related to that.

3 MS. TIERNEY: To be specific when you go  
4 on the Leg web site?

5 MR. WHITAKER: When you go to the Leg  
6 site that script as contrasted with the New York  
7 Times prints a non-searchable PDF and that's an  
8 issue.

9 Secondly, as you're scanning I would hope  
10 you're taking notice of the national archivist's  
11 minimum standard of 400 dpi and not scanning it  
12 default 200.

13 MS. TIERNEY: We were debating that very  
14 thing the other day. Thank you.

15 MS. BISHOP: I will say a couple of  
16 things which is yes we are asking for PDFs to be  
17 searchable. PDF is not the only format someone can  
18 use when they submit a document. If they don't know  
19 how to make -- put something into a PDF, they can  
20 submit a Word document. They can submit Excel. If  
21 it's a picture, it can be a jpeg. There's a couple  
22 video formats that are allowable. This is addressed  
23 in the draft procedures. When I -- if I'm in Word  
24 and I say I want to save my file as a PDF, the result  
25 is a searchable PDF. So I'm aware of the fact that

1 it can be difficult at times when you're cutting and  
2 pasting PDFs tend to put in some weird line breaks  
3 where you don't necessarily expect them to be, but I  
4 believe that's just a -- the document is still  
5 searchable and you can put in a word and search it.  
6 Even if when you cut and paste from it you do have to  
7 do some clean up.

8 MS. BISHOP: Yes.

9 MS. BOUFFARD: Again I'm Debra Bouffard  
10 from Sheehey Furlong & Behm. For items like proposed  
11 orders or PDF do you want those submitted as Word  
12 documents or PDFs or both?

13 MS. BISHOP: That's a good question. We  
14 haven't explicitly talked about that so let me make a  
15 note of that and I'll get back to you guys.

16 MS. BOUFFARD: As a courtesy we do  
17 generally submit them as a Word document.

18 MS. TIERNEY: Is it any more difficult  
19 for you, Debra, to provide both?

20 MS. BOUFFARD: No.

21 MS. TIERNEY: One thought that occurs to  
22 me, it's dangerous to think out loud, the virtue of  
23 having a PDF that's not mutable is you folks then  
24 have reliance what you have filed is actually the  
25 document in the record, but you're quite right when

1 we get a draft P for D, not that we ever cut and  
2 paste from what you folks submit ever, nonetheless  
3 occasionally you want things very promptly and all  
4 our intellectual capital has to go into thinking  
5 about the merits of your case not the typing. So it  
6 would be helpful to have both, and we'll give that a  
7 thought.

8 MR. BURKE: I was going to ask the same  
9 question, but as a followup should we -- I know we  
10 usually send e-mails to the clerk with Word copies  
11 when we do that. Should we kind of discontinue doing  
12 that once ePSB is out?

13 MS. BISHOP: We are expecting that  
14 rather than --

15 MR. BURKE: Holly would appreciate that.

16 MS. BISHOP: We are expecting that  
17 people will no longer need to be sending e-mails to  
18 the clerk with electronic copies of filings or Word  
19 versions of things if you're filing in ePSB.

20 MR. BURKE: But is there a way to put  
21 the Word version up there that's not part of the  
22 official record? Just like if we submit a PDF that's  
23 not changeable, I guess if that makes any sense, if  
24 we're sending a Word version just as a courtesy copy  
25 for the Hearing Officer.

1 MS. BISHOP: Let's take that back and  
2 we'll have to have some discussions about that. I  
3 think, if I understand you correctly, you're saying  
4 if you use ePSB to provide just a PDF version, would  
5 we then want you to submit a Word version to the  
6 clerk?

7 MR. BURKE: Yes.

8 MR. WHITAKER: And not make it available  
9 to the public I think is what he was saying.

10 MS. BISHOP: I think he's talking about  
11 draft orders. Right.

12 MR. BURKE: I just wonder if the  
13 courtesy copy becomes part of the record.

14 MS. TIERNEY: It's interesting because  
15 the courtesy copy is really a tool, but there's a  
16 confidence issue because, again, all parties should  
17 see everything that goes to the Board. So we'll have  
18 to give that some thought, Dan.

19 MS. ELIAS: And the whole scrub and meta  
20 data issue.

21 MS. TIERNEY: Exactly.

22 MS. BISHOP: Yes.

23 MS. RICHARDS: Patty Richards from  
24 Washington Electric Co-op. Excel files in filings  
25 they can be very difficult to convert to PDF. I'm

1 thinking about rate cases or during the Hydro/Quebec  
2 U.S. PPA many Excel files are very complicated, not  
3 readily convertible.

4 MS. BISHOP: They can be in Excel.

5 MS. RICHARDS: What about protection of  
6 data? Models? Somebody like consultants, for  
7 example, were hired in the HQ proceeding and didn't  
8 want to give up their Excel models which are highly  
9 technical reviewing various analysis. How do we deal  
10 with that?

11 MS. BISHOP: So --

12 MS. RICHARDS: Do it as a PDF, but it  
13 turns into a very cumbersome file.

14 MS. BISHOP: You're getting into the  
15 issue of potentially allegedly confidential  
16 information and we have designed ePSB to accommodate  
17 the filing of such allegedly confidential or  
18 confidential information. When we first go live,  
19 though, we don't want people to file that kind of  
20 information electronically. We want you to continue  
21 to file it the same way you would now. So, for  
22 example, in that situation we certainly have had  
23 times where there have been spreadsheet models that  
24 are filed with the Board accompanied by a request for  
25 approval of a protective agreement or a request for

1 an actual protective order, and those are filed on  
2 disk or CD today and we would expect that that aspect  
3 of things would continue the way it is right now.  
4 Probably 98 percent of what's filed with the Board is  
5 -- I'm looking at my colleagues here -- is actually  
6 -- is public documents and it's really a very small  
7 fraction of stuff that falls into this category of  
8 allegedly confidential or confidential, and we want  
9 to make sure that everyone is comfortable using the  
10 new system both outside the Board as well as inside  
11 the Board before we start putting such confidential  
12 information into it.

13 So for what you're talking about if, for  
14 example, there is a couple of pages that get produced  
15 as a result of the model that become an exhibit and  
16 sometimes those exhibits are all public, sometimes  
17 there are parts of the exhibit that would be  
18 confidential, the redacted version of that could be  
19 filed in ePSB. The confidential version would still  
20 need to be filed in paper, and if there was a model  
21 that was part of that, that would be filed on CD  
22 similar to how it's done today. Does that help?

23 MS. RICHARDS: Yes.

24 MS. BISHOP: Yes.

25 MS. RADIGAN: Kate Radigan, Diamond &

1 Robinson. So if there was an exhibit, a full exhibit  
2 that needed to be filed under seal pursuant to a  
3 protective order, under ePSB would you just file an  
4 exhibit sheet saying this exhibit has been filed  
5 under seal?

6 MS. BISHOP: Presumably yes you would  
7 still -- in other words, you're saying you can't  
8 actually redact it.

9 MS. RADIGAN: Right.

10 MS. BISHOP: It has to be completely --

11 MS. RADIGAN: Correct.

12 MS. BISHOP: You would still have some  
13 kind of an exhibit number on it. There would be some  
14 kind of a sheet that says something about the fact  
15 that you were not able to redact it.

16 MS. RADIGAN: Okay.

17 MS. TIERNEY: That's a good moment to  
18 just give people some reassurance, Kate. Baby steps.  
19 Right now we've taken the draconian step of not  
20 putting the confidential or allegedly confidential  
21 material into the system because I mean the bottom  
22 line is there are a lot of issues on the electronic  
23 side of the fence that we haven't fully resolved yet  
24 and we don't want to put people's stuff at risk, but  
25 if you had done what you just described, filed a

1 sheet that said filed under seal and the rule or the  
2 procedure had not specifically said that's how to do  
3 it, that's okay because you will probably get a call  
4 then from Holly or Judy at some point saying Kate you  
5 got to do this not that and then that's how we'll  
6 mozy along until we have an actual procedure  
7 established.

8 So, in other words, we're going to be  
9 making plenty of mistakes on our end so please don't  
10 feel like you're going to be in a terrible place if  
11 you make a mistake or if you do something that  
12 doesn't seem quite right. We're all working together  
13 here to try to get it right.

14 MR. HAND: I had some of the same  
15 comment. It seems like it would be good as a  
16 practice to ensure there's some record in the  
17 electronic docket that shows an allegedly  
18 confidential document was filed and it's available in  
19 hard copy some place. That's, I think, a common  
20 practice in other electronic filing systems so you  
21 have a complete record of what was filed even if it's  
22 not available electronically.

23 MS. TIERNEY: It's a placeholder.

24 MR. HAND: Yes.

25 MS. BISHOP: Yes.

1 MS. MALMQUIST: I would think, to Ms.  
2 Tierney's point, that's the one area where you may  
3 for quite some time be paper and/or CD party-to-party  
4 direct oriented because under the protective  
5 agreements some parties, but not all parties because  
6 the scope of their intervention, may see some type of  
7 confidential information. So it's not that you sign  
8 the protective agreement the Board is just going to  
9 have a portal for you to access. I would think that  
10 one area is going to require some party-to-party  
11 submission.

12 MS. BISHOP: Let me clarify one other  
13 thing. Even when people file electronically with the  
14 Board we have set up the system that parties will  
15 always need to provide the confidential information  
16 directly to other parties. EPSB will never allow  
17 someone outside the Board to access a confidential  
18 document that's in ePSB. You will be able to see  
19 that it's there, but you won't actually be able to  
20 open it and we did that just to further protect that  
21 information. Yes.

22 MR. SILVER: Morris Silver. One quick  
23 question while we're on this topic. Section 2 sub 2  
24 defines the term asserted confidential document and  
25 that sure sounds a lot like allegedly confidential

1 information under the protective agreements and  
2 orders that we're using. Are these intended to be  
3 exactly the same definitions? And, if so, could we  
4 use the same terms because I know that I'll parse  
5 them and try to find some differences if they are  
6 not.

7 MS. BISHOP: They are actually not  
8 intended to be exactly the same. It's intended to  
9 reflect the fact, and I will -- Mr. Cotter will  
10 correct me if I get this -- explain this incorrectly,  
11 it's intended to reflect the fact that sometimes we  
12 get a motion for designation of prefiled testimony as  
13 confidential and the testimony is filed. It's  
14 asserted to be confidential. It's not allegedly  
15 confidential pursuant to a protective agreement  
16 because sometimes this could be -- take a utility's  
17 initial tariff filing could have some information in  
18 it that it is asserting confidentiality for right  
19 upfront and it's different than allegedly  
20 confidential under the protective agreement because  
21 it's actually the -- what you want to admit into  
22 evidence.

23 MR. SILVER: Maybe I could reform my  
24 comment then. Maybe it should reference including  
25 allegedly confidential information under a protective

1 order.

2 MS. BISHOP: Okay. Thanks. Yes.

3 MS. BOUFFARD: I had just one question  
4 to follow up on the discussion about the filing  
5 materials under seal. If I make a filing through  
6 ePSB and there's one piece of it or a couple that are  
7 confidential, is the expectation that I get that  
8 piece hand delivered or filed with the Board in paper  
9 that same day?

10 MS. BISHOP: That's a good question.  
11 The question is what's the expectation if a filing is  
12 made via ePSB but one piece of it is confidential and  
13 therefore it's filed with the Board in paper, do --  
14 is the expectation that that paper portion of it be  
15 filed with the Board the same day. I would like to  
16 say let us talk about that because I don't think we  
17 have had any conversations about that explicitly and  
18 --

19 MS. TIERNEY: And do you have a  
20 suggestion? If you were holding the scepter to do  
21 this, how would you do it, Debra?

22 MS. BOUFFARD: I think it's easiest just  
23 to proceed to get everything completed that day, but  
24 there is this little wrinkle that, you know, the ePSB  
25 we can file until 5 o'clock and from Burlington I

1 have to have things in the courier's hands by 3  
2 o'clock to make it down here. So --

3 MS. TIERNEY: And you have also put your  
4 finger on the point that you have the benefit of the  
5 courier service and there are many participants who  
6 don't have those resources. So it's -- these have  
7 been the kind of questions that have been occupying  
8 us for several years now and we're still stumbling  
9 over ones we hadn't thought of. So thank you.

10 MR. WHITAKER: I can see an opportunity  
11 to game that. If you don't have your confidential  
12 exhibit ready, you can claim it confidential and get  
13 a couple of extra days out of it. That might not be  
14 --

15 MS. TIERNEY: Mr. Whitaker, your mind  
16 works in very interesting ways. Thank you.

17 MS. BISHOP: This may be a time to raise  
18 another comment. One of the questions we were asked  
19 from people about was what kind of speed does the  
20 system have and what about congestion and if you have  
21 lots of people trying to upload big files at the same  
22 time. So that's getting into technical stuff which  
23 I'm not an IT person, but I will say this. ePSB is  
24 being hosted in DII's data center here in Montpelier.  
25 They have told us that the bandwidth in and out of

1 the data center is quite robust. However, the  
2 bandwidth each individual person has wherever they  
3 are working from is going to be different. So there  
4 isn't one answer that I can say here is the upload  
5 speed because it's going to depend in part on where  
6 someone is uploading the documents from.

7 As far as the product itself, the  
8 software product, JTI, our vendor, has implemented  
9 the system in courts that have much higher volumes of  
10 case loads than the Board does and have much larger  
11 number of users of the system. One of the things  
12 that's a little bit different for us is that we tend  
13 to have more larger files than many of their other  
14 customers do. So in terms of is the system going to  
15 be able to handle a case where we have 40 people all  
16 trying to file something at the same time? Yes. Is  
17 what happens to the speed if we have 40 people trying  
18 to upload 50 megawatt documents at the exact same  
19 time --

20 MR. COTTER: Megabytes.

21 MS. BISHOP: Megabytes. Did I say  
22 megawatts? As I said I'm not an IT person. We  
23 personally have not tested that. So what I would  
24 encourage people to do as we are implementing the  
25 system is to recognize that we're learning about this

1 the same time that you are, and at least when you're  
2 doing your first few filings maybe give yourselves a  
3 little bit of time, and if you do run into a problem  
4 please do not be shy about contacting the Board  
5 because we need to know about people's experience  
6 using the system so that we can make changes if we  
7 need to. Yes.

8 MR. LYLE: How about just relaxing the 5  
9 p.m. deadline for electronic filings? Technically  
10 the day is not over until 11:59.

11 MR. LEWIS: Can I point out on that  
12 score both the Vermont Superior Court and the  
13 District of Vermont ECF system use midnight.

14 MS. BISHOP: So that's very interesting.

15 MS. TIERNEY: Let's see how many lawyers  
16 we have in the room. If you're a lawyer, please put  
17 your hand up.

18 MS. ELIAS: We have to admit this.

19 MS. TIERNEY: If you are somebody who  
20 supports a lawyer, please put your hand up. All  
21 right. Now tell them, Ann.

22 MS. BISHOP: This is actually a very  
23 interesting issue that we actually have received some  
24 input from a variety of stakeholders on. We have  
25 also looked at what other courts here in Vermont do

1 as well as what other utility regulatory commissions  
2 do and basically the answer is it's all over the map.

3 When we got input from the stakeholders  
4 it was -- there was a fairly distinct division where  
5 the attorneys were suggesting they would like to have  
6 it be calendar day, so 11:59, and the individuals who  
7 were supporting them were preferring more of a close  
8 of business deadline.

9 MR. WHITAKER: We don't get paid by the  
10 hour.

11 MS. BISHOP: And frankly in our  
12 jurisdictions it's about 50/50 split. This was a  
13 choice that was made. I would be curious to see  
14 given the people in the room today, I mean it's not  
15 set in stone obviously, so of the people here how  
16 many of you would prefer a calendar day deadline?

17 MS. RICHARDS: 11:59.

18 MS. BISHOP: 11:59. 1, 2, 3, 4, 5, 6,  
19 7, 8, 9, 10, 11.

20 MS. TIERNEY: Put your hand down, Ms.  
21 Radigan.

22 MS. BISHOP: How many would prefer the  
23 five o'clock deadline?

24 MR. HAND: You will show a split in our  
25 firm.

1 MS. BISHOP: 14. So, you know, you just  
2 did 11 to 14.

3 MR. COTTER: We'll do 11:14.

4 MS. RADIGAN: My next question is what's  
5 the sense of having a five clock filing deadline if  
6 you're not going to read it anyway.

7 MS. TIERNEY: Oh I wouldn't be so sure.  
8 A lot of people are hanging around to pack up what  
9 you just filed and spend the overnight reading it.  
10 So that's valuable time for the Board staff too.

11 MS. MALMQUIST: For parties too. If we  
12 have a quick week or ten-day turnaround for certain  
13 things, you expect to have it and get it out.

14 MR. CAMPANY: That's right.

15 MR. HAND: I apologize I came in a few  
16 minutes late and you may have said this, but I gather  
17 the concept is to make this live for all the dockets?

18 MS. BISHOP: Eventually.

19 MR. HAND: So in terms of staggering  
20 what is the plan? Have you given thought to just a  
21 few dockets to see how it works? We're all anxious  
22 to get there, but given other experiences with other  
23 tech releases recently I think there's a lot of value  
24 to staged small.

25 MS. BEAL: What he said.

1 MS. BISHOP: We have not talked about  
2 limiting it to a few test cases initially, but we can  
3 take that message back and consider that, yes.

4 MS. BEAL: My experience in being part  
5 of a system that implements these kind of electronic  
6 changes is that the first 30 days are basically hell.  
7 That's when you find out about all the bugs. So if  
8 there's any way you can do an upfront smaller beta  
9 testing type arrangement just to work out the major  
10 problems because there will be. There will be huge  
11 problems. You can't anticipate them. So if there's  
12 a way do it upfront, beta test it for a month or  
13 something before you go live, it will not be wasted  
14 time.

15 MS. BISHOP: Thank you. Yes.

16 MS. MASHLER: I want to echo that  
17 because I have a lot of (A) concerns about, you know,  
18 what happens if there's ineffective service because  
19 whatever is happening in the black box of the IT  
20 folks isn't the same as what I get out in hard copy,  
21 and, B, you know just having some familiarity with  
22 the functionality of the system before you actually  
23 use it to submit materials or, you know, pursuant to  
24 a proceeding that would have innumerable value.

25 MS. BISHOP: Okay.

1 MS. BEAL: Just a week of dummy testing.

2 MS. RICHARDS: I know we had a nice vote  
3 here for the five clock hour, but for somebody -- for  
4 a company that's filing material I'm concerned about  
5 work quality content. Invariably you go to the  
6 deadline and people go to Kate in the office. I  
7 won't throw Josh under the bus.

8 MS. RADIGAN: I was going to say are you  
9 questioning my work.

10 MS. RICHARDS: Josh is going to hand it  
11 off to Kate at 4 o'clock and she's going to get it  
12 into the format to file these under pressure to get  
13 it done in an hour. I'm throwing Josh under the bus.

14 MS. RADIGAN: That's okay. He does it  
15 all the time.

16 MS. RICHARDS: So if I'm doing a filing,  
17 I know it's due at five, I'm scrambling to finish it  
18 and do the last minute touches on it, you just send  
19 it in wherever you are because it's a five clock  
20 deadline. There's an invariable inherent pressure,  
21 if it's 11:59, to get it done before like 9 o'clock  
22 at night because you want to go home and sleep.

23 For the work quality content I think  
24 giving a little bit of flexibility to the 11:59 we're  
25 going to put in better documents, Kate is certainly

1 going to push back if she gets something at 4 o'clock  
2 and she there until 9 she's not going to be happy  
3 working, but it leads to a better filing and work  
4 product and from a client standpoint I'm concerned  
5 about that.

6 MS. BISHOP: Okay. Let me make a note  
7 of that. Go ahead.

8 MS. BEAL: This is in the feedback part  
9 of things as a person who supports attorneys and has  
10 dealt with five o'clock and midnight deadlines. The  
11 same attorneys that are pushing you to the limit at  
12 five o'clock push you to the limit at midnight. So  
13 it's a style of working for people who seem to work  
14 up to the deadline and that's fine, that's how people  
15 do it, but it's possible to actually get a good  
16 product filed by five o'clock. It really is, and I  
17 have to work with attorneys who do that all the time.  
18 So just for a little push back.

19 MS. BISHOP: Okay. Did we actually  
20 finish Section 1? So I think we're moving into  
21 Section 2. Actually, Mr. Silver, we started moving  
22 into Section 2. Does anyone have questions -- any  
23 questions about -- I guess maybe we should do this a  
24 little bit more systematically here. Definition one,  
25 agency account.

1 MR. WHITAKER: Is it an appropriate time  
2 to ask a security question? Are you setting up for  
3 factor authentication, call backs to a cell or  
4 something so there's not a possibility of another  
5 party filing something on somebody else's behalf?

6 MS. BISHOP: The way the system is set  
7 up each person has a user ID and a log-in. That's  
8 how the system knows you are who you are. If you're  
9 filing anything other than a public comment, you need  
10 to be logged into the system using your ID and  
11 password.

12 MR. WHITAKER: I guess my point goes  
13 deeper to that down into the IT level which I guess  
14 we'll take up in writing.

15 MS. BISHOP: Okay. Thanks. Okay. We  
16 did have a couple of questions about agency accounts,  
17 and the purpose of an agency account is really  
18 intended to enable multiple employees of the same  
19 organization, whether that's a law firm or a company  
20 or an agency, government agency, to readily see the  
21 cases that they are parties to or representing  
22 clients in, and there is a -- we talked about sort of  
23 My Existing Cases tab and there's also an My  
24 Organization Cases tab, and so this was one of the  
25 questions that was asked was is there a way to say

1 these are the cases that I specifically filed versus  
2 my organization filed. Yes there is, but please keep  
3 in mind that My Existing Cases when you file it it's  
4 the person actually who has logged in doing the  
5 filing which might or might not actually be the  
6 attorney who is the one on the service list because  
7 it might very well be the person who is supporting  
8 the attorney.

9 MR. COTTER: At 11:59 at night.

10 MS. BISHOP: So there is a way to  
11 distinguish between the cases that you specifically  
12 filed versus other people in your organization filed.

13 MS. ELIAS: That raises a question about  
14 who gets the notification. So support staff at the  
15 Department does the initial filing. Say it's for  
16 whatever reason we're the initiator. Are there going  
17 to be opportunities for multiple persons within an  
18 agency account to get notifications; a response was  
19 filed, a discovery request was filed?

20 MS. BISHOP: So we used the term  
21 official representative in ePSB. That's sort of a  
22 new term that the Board hasn't really explicitly used  
23 before. The way we think about it is an official  
24 representative is the person who today would be on  
25 your paper service list. So if you have two

1 different attorneys who have filed notices of  
2 appearance in a case, both of those would be on the  
3 service list, both of those would directly get  
4 notifications from ePSB when filings are made.  
5 However, if there is somebody who says I also want  
6 these other people in my company who are working with  
7 me on the case to receive these notifications, there  
8 are a couple different ways you could do that.

9 One would be for you at the company  
10 organization level, we're trying to give you as much  
11 authority and ability as possible to manage the  
12 distribution of things within your own organization.  
13 You can have your e-mail set up so that when you get  
14 an e-mail from ePSB, and we will let everyone know  
15 what that e-mail address is, when you get an e-mail  
16 from ePSB your system automatically forwards it to  
17 whoever else in your organization you want to get it.

18 So if you want the particular paralegal  
19 who works with you all the time to get it, you could  
20 do it that way. The other way you can set it up is  
21 we have a subscription feature. If you want your  
22 paralegal to subscribe to a particular case, that  
23 paralegal could subscribe to the case. They are not  
24 on the service list, but they would get e-mail  
25 notifications of things.

1 MS. MASHLER: In terms of -- so am I  
2 understanding correctly that in filing the entity who  
3 is on the notice of appearance form has to be the  
4 account -- owner of the account that files?

5 MS. BISHOP: No. Okay. So let's -- I'm  
6 going to use us as an example here. Let's pretend  
7 we're not with the Board. Let's pretend John is  
8 actually the attorney who is representing company A  
9 and I am his support person. I am the person who is  
10 actually filing the case. Whenever someone is filing  
11 a case there will always be a place for you to say  
12 who is the official representative and in that place  
13 I will say John Cotter is the official  
14 representative. The system then knows oh while I  
15 made the initial filing he's the one who is on the  
16 service list and he's the one who will be getting the  
17 notifications in the future. Does that help?

18 MS. MASHLER: Well I'm really just sort  
19 of thinking about my situation. My company files pro  
20 se and I'm like the application preparer essentially,  
21 but I'm not licensed to practice so I don't represent  
22 anyone. I just prepare it and it's submitted pro se,  
23 and so I just want to make sure that, somebody being  
24 constantly paranoid about unauthorized practice and  
25 things like that, that I make sure that, you know, if

1 the notice of appearance as a CEO of the company who  
2 is representing pro se and not me do I have to go  
3 through his account rather than like one which I  
4 have?

5 MS. BISHOP: No. You can file under  
6 your own account. The person who is actually -- the  
7 person pushing the buttons to submit it does not have  
8 to be the attorney of record in the case.

9 MS. MASHLER: Okay. Wonderful. Thank  
10 you.

11 MS. BISHOP: How's that?

12 MS. RICHARDS: So if we have questions  
13 about the details on this, who would we call at the  
14 Public Service Board to get filing set up? Let's say  
15 we want four people in the organization and our law  
16 firm to get notices. Who would we call to say how do  
17 we do this? Holly.

18 MS. ANDERSON: Judy first.

19 MS. BISHOP: Holly is going to be our  
20 system administrator and -- which means she will be  
21 the point person for those kind of questions. We  
22 also are working on putting together training  
23 materials. Our intent is to have some training  
24 sessions before we go live.

25 We are working on frequently asked

1 questions. One of the suggestions also has been a  
2 user guide. That's one possibility. We're also  
3 looking at creating short little videos that would  
4 show you screenshots with some audio about do this  
5 then do that then do this. So we're -- we are trying  
6 -- and that kind of information would be up on the  
7 web site so that when people are trying to submit  
8 something they would be able to start there, but if  
9 you have questions, Holly is going to be our point  
10 person. When we first go live there will be others  
11 in our office who are also answering questions  
12 because we recognize that there's likely going to be  
13 a higher volume of questions initially, but long term  
14 -- okay.

15 Moving on. Actually does anybody want  
16 to take a short break? All right. Why don't we take  
17 a 10-minute break and then we'll resume at 10 after  
18 11.

19 (Recess.)

20 MS. BISHOP: Okay. A couple of things.  
21 Mr. Cotter reminded me of something over the break.  
22 When we were talking about Word files that are  
23 uploaded into the system and not being able to change  
24 those files he reminded me that the way our system  
25 works even -- first of all, nobody outside could

1 change a filing that's been made with the Board.  
2 Board staff, while we could open the document and  
3 make changes to it, if we then save it again  
4 basically the system saves a second version of that  
5 document. So that original Word document is still  
6 going to be there as it was when it was submitted.

7 MR. COTTER: In other words, we can't go  
8 in, and not that anybody at the Board would, but even  
9 if we wanted to we couldn't get in and make your  
10 original filing look like something that it wasn't.

11 MS. RICHARDS: How about a hacker and  
12 cyber security issues?

13 MS. BISHOP: So, again, as a non-IT  
14 person I'm going to give you my understanding of how  
15 this works. There are actually different servers  
16 involved. There is one server that's behind the  
17 state's firewall. It's actually a few servers behind  
18 the state's firewall. The concept is part of the  
19 system is behind the state's firewall. That's the  
20 part Board staff have access to. There's another  
21 part that's outside the state's firewall. That's the  
22 part that all of you have access to. From outside  
23 the firewall you can send things in. You can add  
24 data to behind the firewall, but you cannot delete  
25 anything behind the firewall or change anything

1 that's behind the firewall. So you can make a  
2 filing, you can make a new filing, but you cannot say  
3 oh my gosh I just attached my kid's homework instead  
4 of the petition and I need to fix that. I need to  
5 delete it. You can't delete it. You can basically  
6 -- what you would do is you would say I need to amend  
7 my previous filing. The system will allow you to do  
8 this. Say this is the document I'm amending and you  
9 can pick it, it will let you do that, and then the  
10 system would say we talked earlier about sort of  
11 those document statuses, that original one, your  
12 kid's homework, would now have a status of superseded  
13 and the new correct one would say filed. So -- but  
14 you cannot actually delete that. Yes.

15 MR. LEWIS: The federal ECF system  
16 attaches a document stamp to the top of PDFs which is  
17 a useful record to preserve exactly what you filed  
18 with confirmation from the court. Does this system  
19 have an analog to that? I think that addresses some  
20 of these concerns inasmuch as you can have your own  
21 record of exactly what the court received.

22 MS. BISHOP: Let me -- I know that we  
23 have had some discussions about the possibility of  
24 attaching a document stamp to it. To be perfectly  
25 honest off the top of my head I can't tell you where

1 we came out on those. So let me just make a note of  
2 that. Document stamp.

3 MR. LEWIS: Thanks.

4 MR. WALKER: I have a question that's  
5 asking questions regarding previous sections that we  
6 have already reviewed.

7 MS. BISHOP: It's okay.

8 MR. COTTER: You mean the one previous  
9 section we reviewed.

10 MR. WALKER: You said that pending  
11 proceedings would be determined on a case-by-case  
12 basis whether they would be incorporated into the  
13 ePSB. Just curious if there's criteria for making  
14 those decisions.

15 MS. BISHOP: We have not identified  
16 specific criteria for what cases would be pulled in  
17 and what wouldn't. I mean we have had some  
18 discussions about the fact that one of the  
19 considerations is going to be resource constraints  
20 and how much work is involved in pulling in what's  
21 already happened in the case. One of the  
22 considerations is likely to be how much longer is  
23 this case going to go because if something is -- if  
24 this is a net metering registration form that has a  
25 10-day comment period and was filed the day before we

1           went live, we may not be -- we may decide not to  
2           bring that in, whereas, something else that was filed  
3           a day before we went live that is going to go for a  
4           year maybe we would decide to bring that in. I'm  
5           just throwing out some considerations. There have  
6           not been any hard and fast criteria or specific  
7           triggers or anything like that, that we have said  
8           this is definitely coming in, this is definitely not.

9                       MR. WALKER: Will you be making those  
10           determinations upon the go-live date or would that be  
11           something that should be addressed in any comments  
12           after this workshop?

13                      MS. BISHOP: If you have specific  
14           suggestions for proceedings that you anticipate will  
15           be pending at the time we go live late November-ish,  
16           please feel free to include those in comments.

17                      MR. WALKER: Okay. Thank you.

18                      MS. TIERNEY: Do we have a good sense of  
19           what you're concerned about?

20                      MR. WALKER: Yes.

21                      MS. TIERNEY: I know you want rules, but  
22           what's prompting the question?

23                      MR. WALKER: Well the original question  
24           was to see if EEU proceedings would be included in  
25           ePSB and that was answered affirmatively that it will

1 be, and then the demand resource proceeding which  
2 just began which is, you know, a year and a half long  
3 proceeding, that my subsequent questions just now  
4 were stemming from whether or not the DRP would be  
5 included.

6 MS. TIERNEY: All right. Thanks.

7 MR. WALKER: Thank you.

8 MS. BISHOP: Okay.

9 MR. WHITAKER: I think what I was  
10 hearing in the Microsoft Word versus PDF filing is  
11 that parties filing an editable version were asking  
12 that it be not shared probably fearing somebody would  
13 manipulate it and circulate it as disinformation.

14 MS. TIERNEY: That was not what I was  
15 hearing. What I was hearing was the PDF would get  
16 filed and should they also file the Word, and one  
17 question we have is who is served by the filing and  
18 we identified it's a tool that the staff would use,  
19 but then we also identified that could cause concerns  
20 about transparency. So that's where we are.

21 MR. WHITAKER: If they are both filed,  
22 both will be available to the public.

23 MS. TIERNEY: Indeed and that would  
24 weigh heavily in having both available as long as  
25 it's clear the PDF that's not mutable is the

1 controlling copy. That's the muddled state of my  
2 mind is what we mean.

3 MS. BISHOP: Moving back to Section 2  
4 definitions, I think we've already talked about  
5 asserted confidential document. Is there anything  
6 else about that one? Board is pretty  
7 straightforward. I hope that one is clear.

8 MS. TIERNEY: Morris, could you parse  
9 more of the procedures order? All of that parsing,  
10 if you could give it to us, that would be good.

11 MR. SILVER: I will think about it and  
12 do my best.

13 MS. TIERNEY: Thanks so much.

14 MR. WHITAKER: Can I make one  
15 recommendation on that? If people are going to file  
16 redacted documents without attempting a protective  
17 order, that they have to file an index with it. It's  
18 going to be a rule or procedure issue. We can talk  
19 about it later.

20 MS. TIERNEY: We should because, again,  
21 there are several meaty concepts in what you just  
22 said that we should unpack before we go further.

23 MR. WHITAKER: All right.

24 MS. BISHOP: I'm kind of skipping  
25 through number 4, number 5, number 6, number 7,

1 number 8. I'm assuming people will let me know if  
2 they have got any questions. Anything else on page  
3 2? 9? 10? Boy we're flying. Anything else in the  
4 rest of Section 2?

5 MS. MASHLER: I'm sorry. I was looking  
6 at number 12, electronic service, receipt of notice  
7 constitutes service. So just to clarify receipt,  
8 like does that mean like the moment that the e-mail  
9 is dispatched or like is it like the mailbox rule or  
10 do they actually have to open it?

11 MR. COTTER: Oh I don't think you need  
12 to open the notice any more than you would need to  
13 open an envelope. It's your responsibility to do so.

14 MS. MASHLER: Okay.

15 MR. HAND: That also raises the question  
16 about the civil rules give three additional days for  
17 service by mail. So if you have got different people  
18 participating in the same docket using different  
19 methods, you should think through how you establish  
20 the deadline for filings or responsive filings.

21 MS. TIERNEY: Just so we share the pain,  
22 Mr. Hand, when you propose schedules you should be  
23 thinking about this too.

24 MS. BISHOP: Anything else in Section 2?  
25 Okay. Section 3, confidential documents and asserted

1 confidential documents. Okay. Section 4, initiation  
2 of and participation in Board proceedings via ePSB.

3 MR. LEWIS: Just to follow up on what  
4 Geoff was saying, it might be worth noting that the  
5 Vermont State rules for electronic filing do provide  
6 the extra three days under Rule 6.

7 MS. BISHOP: So we had -- there were a  
8 couple more questions about the sort of my existing  
9 cases concept that was mentioned in Section 4 that we  
10 haven't talked about yet, and one of the questions  
11 was whether each user can establish subfolders or  
12 subfiles to manage multiple dockets. No, not within  
13 ePSB. My Existing Cases is essentially a list of the  
14 cases and next to each case there's kind of a drop  
15 down menu that gives various choices that you have of  
16 things you might want to do. You might want to view  
17 the case. You might want to file something in the  
18 case, and there's different kinds of things you might  
19 want to be filing. It's not -- it's not really a  
20 place where you're keeping your own file -- working  
21 files as you're moving through the case.

22 MS. ELIAS: Can I ask a followup on  
23 that? So we would have a paralegal or a secretary at  
24 the Department be the filer in theory, and then we  
25 have one of our seven different attorneys be the

1 official representative. Does the official  
2 representative have an ability to look at only their  
3 cases as the official representative or get -- they  
4 get the notifications for that and not all the entire  
5 Department's?

6 MS. BISHOP: They will get the  
7 notifications for only their cases not the entire  
8 Department's, but if you're looking at your  
9 organization cases, you're going to see all of them.  
10 In other words, there's a My Existing Cases tab and  
11 there's a My Organization Case also if you want to  
12 search for a particular case type in the case number  
13 and it will pull it up.

14 MS. ELIAS: Right. So you do know My  
15 Existing Cases with the Department is all the cases  
16 at the Board?

17 MS. BISHOP: Yes. My Existing Cases is  
18 all the cases that the Board has and for the  
19 Department and except that's for the organization,  
20 organization cases, my cases.

21 MS. ELIAS: Would be -- the legal  
22 division secretary that would be about all of them.

23 MS. BISHOP: Yes. I think that some of  
24 what you're seeing here is a little bit of a  
25 difference in how we use the system versus how many

1 courts use the system. Because we are providing  
2 public access to all cases to everybody and all  
3 public documents to everybody this feature functions  
4 a little bit differently than in courts where they  
5 only allow you to actually access the case -- the  
6 details of the case if you're a party in that case,  
7 and so the initial reason behind having this feature  
8 was really designed for those more -- those courts  
9 that restrict access in the way we are not doing.  
10 Yes.

11 MS. AZARIA: Kind of related to that for  
12 the Division For Historic Preservation we will look  
13 at pretty much everything that gets filed to figure  
14 out whether or not there's a reason for us to  
15 participate. Is there a way to go on to ePSB and see  
16 everything that's been filed in the last week,  
17 something like that?

18 MS. BISHOP: Yes. Yes. We will be --  
19 there will be some predefined searches, if you will,  
20 one of which is what are the new cases that have been  
21 filed in the last week, and you can also -- you will  
22 be able to pick some additional criteria if you want.  
23 So the Division For Historic Preservation may not be  
24 interested in tariff filings that were filed in the  
25 last week. You may be primarily interested in siting

1 type of cases. So you would be able to go in and  
2 refine that search based on whatever criteria -- you  
3 know, whatever cases you want to see.

4 MS. AZARIA: And then we can assign an  
5 official representative for those in which we  
6 participate?

7 MS. BISHOP: Yes. Yes. The state  
8 agencies, as I think you're already aware, but for  
9 other people in the room the state agencies have --  
10 who are required to receive notice have come up with  
11 what I'll call generic e-mails so that that generic  
12 notice that goes out when that filing first comes out  
13 and they haven't decided who exactly is going to be  
14 representing them in a case or even if they are going  
15 to be involved in that case. They will make sure  
16 that they can control whoever it goes to in the  
17 organization to make sure that if someone is on  
18 vacation it doesn't get stuck in their inbox,  
19 whatever. So that notice function will happen, and  
20 then when you -- when an official representative is  
21 designated they would -- the future notices will be  
22 sent to them.

23 MR. LACKEY: Will ePSB have a feature  
24 for distributing digests of filings that are not --  
25 to which I haven't subscribed under My Existing

1 Cases?

2 MS. BISHOP: Can you help me understand  
3 what you mean by a digest of filings?

4 MR. LACKEY: Well from a practical  
5 standpoint I like to know what the activity is at the  
6 Board and without having to search -- I don't know --  
7 always know what's been filed. So right now I look  
8 at recent Board orders which is better late than  
9 never because at that point the Board's already  
10 issued an order, but in order for me to stay aware  
11 what's going on at the Board it would be helpful to  
12 have some kind of a summary of what's been filed  
13 maybe distributed by e-mail if you can elect -- if  
14 you elect to do that, like Telecom Daily oh here's  
15 what happened yesterday, here's a case I'm interested  
16 in maybe I ought to get on the case.

17 MS. BISHOP: We have not talked about  
18 that. I will make a note of it that that's something  
19 that there's some interest in. The closest we got to  
20 that in terms of conversations with our vendor was to  
21 see whether there's a way to automatically notify  
22 people when a certain kind of a case is filed, and  
23 say, for example, a case in a particular town is  
24 filed automatically. Send the notification to  
25 somebody that the town says please notify me. The

1 system isn't set up that way to do that. It's very  
2 case based. So once the case is filed you can  
3 subscribe to it and then you get notices, but it's  
4 not really designed to say I'm interested in cases  
5 about telecommunications let me know when a new one  
6 is filed. You would have to -- I think you would  
7 have to search and say what came in this week that's  
8 telecommunications related and it would show you the  
9 list, but I'm going to make a note of what it is that  
10 you're asking for.

11 MR. LACKEY: Well if that search tool is  
12 easy to configure and set up, that's usable. It  
13 should be less work to get some kind of an auto  
14 e-mail each day or each week that says here's  
15 everything that was filed and I can just scan through  
16 that and find out if there's something that's  
17 relevant or important for our company.

18 MS. TIERNEY: Larry, if I understand you  
19 correctly, what you're describing is something where  
20 there would be a thumbnail sketch of the issues in  
21 the case. Is that what you're --

22 MR. LACKEY: Well or even just more  
23 basic it might be the name of the party filing or the  
24 petitioner or the title of the document.

25 MS. TIERNEY: Okay.

1           MR. LACKEY: Or the header on the -- the  
2 caption on the matter. You can tell a lot just from  
3 that information. A lot of things happen at the  
4 Board that are of interest to our company, but right  
5 now there's not -- it's very difficult to be aware of  
6 what's going on because we're not always served with  
7 notice of a filing, petitions.

8           MS. TIERNEY: I'm just trying to isolate  
9 this in my mind because on the typical Board order I  
10 heard your comment after the fact it's better late  
11 than never, but I'm getting from you preferably there  
12 would be something on the front end. What we have on  
13 our typical Board order is a caption, for instance,  
14 and then we have say a title for what our order's  
15 about, but neither one of those elements capture what  
16 people file. I suppose they put the caption on their  
17 filings, but they don't necessarily put a descriptive  
18 title in their own filing, and when you used the word  
19 digest what I was hearing was what I would be  
20 accustomed to see under digest which is a two or  
21 three line description of the case, and I was  
22 wondering if what you're getting at would be better  
23 served by a rule requirement that is imposed on the  
24 parties to describe their own case when they file.

25           MR. LACKEY: Well it may depend on how

1 rich the information is that they put into the ePSB  
2 when they make a filing; for example, do they have to  
3 select what kind of a filing it is, a petition or a  
4 motion where -- or the company concerned. Those kind  
5 of things are in the -- in ePSB.

6 MS. TIERNEY: Then you can design your  
7 own search and get what you want. Yes I think they  
8 will be able to do that, which is also a good point  
9 to advertise to folks if you have dream searches that  
10 you would like to see built into the architecture of  
11 the system, there's no harm in at least letting us  
12 know what those searches are or at least the subject  
13 matter of them.

14 MS. MASHLER: CPG applications is one  
15 because to your point I do the same thing. Like I  
16 check the recent Board orders everyday and I'm always  
17 waiting for the public hearing because the calendar  
18 like on the public hearing actually has access to the  
19 full application where you can review the substance  
20 of the application.

21 MS. TIERNEY: We're doing something  
22 right is what you're saying.

23 MS. MASHLER: Oh of course. Absolutely.

24 MS. TIERNEY: Inadvertently.

25 MS. MASHLER: You have a great outfit.

1 MS. TIERNEY: We need some love every  
2 now and then.

3 MS. BISHOP: Okay. We were also asked a  
4 question about whether -- sorry. I had a question  
5 about My Existing Cases. If you subscribe to a case,  
6 will that show up under My Existing Cases? No.

7 MS. MOORE: So I understand this, as a  
8 support staff person then I would go into the My  
9 Organization Tab and that's where I would be able to  
10 find everything?

11 MS. BISHOP: Yes. Also if you're  
12 looking for a particular case, you can type in the  
13 case number and you can see the case. My Existing  
14 Cases and the My Organization Cases are really -- for  
15 our purposes they are kind of shortcuts to things.  
16 It's really more in the court world where it's more  
17 restrictive in terms of who can file in a case and  
18 who can see things in a case that they have -- they  
19 are a more significant role, but for us we can just  
20 type in a case number and then see it.

21 Also with respect to My Existing Cases  
22 we were asked whether files in the My Existing Cases  
23 account can be deleted upon completion of the matter,  
24 and that was a very good question and I actually  
25 don't know the answer to it. I'm not sure how things

1 get removed from My Existing Cases so I have to talk  
2 to our vendor about that. Anything else in Section  
3 4?

4 MS. ELIAS: It's not really in Section  
5 4, but you kind of alluded to it and that is case  
6 numbering. I've noticed that the Board has now got  
7 case numbering for net metering and net metering  
8 petitions that are identical.

9 MS. BISHOP: That will not happen in  
10 ePSB.

11 MS. ELIAS: Thank you.

12 MS. BISHOP: In ePSB we are changing our  
13 numbering system. We are unifying all the numbering  
14 systems that the Board currently has. The first two  
15 digits will be the last two digits of the year 16  
16 dash. There will be a four digit consecutive number  
17 all cases whenever they are filed, the numbers just  
18 keep going up, and then there will be a couple of  
19 letters at the end. The letters give you some kind  
20 of a clue as to what kind of a case it is. If it's a  
21 net metering application case, it will say NM. If  
22 it's a tariff case, it will say TF. If it's a  
23 petition, it will say PET. That's just intended to  
24 be a little bit of a help to people in remembering  
25 the numbers. So you will not have confusion about

1 the same -- in the same year the same number.

2 MS. ELIAS: 16-0043, for example.

3 MS. BISHOP: Yes. You could have  
4 16-0043 and 17-0043 in different years.

5 MS. ELIAS: That's okay.

6 MS. BISHOP: Anything else in Section 4?  
7 Okay. Moving on to Section 5 official  
8 representatives. I think we already mentioned this,  
9 but just to make sure just to clarify for people  
10 there can be more than one official representative  
11 for a docket. If you have two different attorneys  
12 who are filing notices of appearance in a case, they  
13 would both be considered official representatives and  
14 they would both appear on the service list. We had  
15 another question about is the service list going to  
16 show who is participating electronically and who is  
17 participating in paper. Basically the service list  
18 is going to show you the person's address and their  
19 e-mail address if they have given it to us. If they  
20 have given us an e-mail address, they are  
21 participating in ePSB. If they haven't given us an  
22 e-mail address and there's no e-mail on the service  
23 list, then you have got to provide paper to them.  
24 Yes.

25 MS. BEAL: Here's a question. If I'm

1 doing the service list and I provide the Board with  
2 the e-mail address for the town counsel or the  
3 selectboard, will that automatically get them  
4 electronic service?

5 MS. BISHOP: No. So when you're  
6 providing us with the service list you are telling us  
7 who you have served. In our system that's going to  
8 just be a document; who did you serve, is this a  
9 document that you have uploaded. The service list in  
10 our system is where we actually are keeping track of  
11 who are the parties in the case. Board staff will  
12 actually have to go in and say the regional planning  
13 commission and the town and enter in information for  
14 them. We are not going to enter in e-mail addresses  
15 unless someone -- that person has authorized us to  
16 enter an e-mail addresses.

17 MR. WHITAKER: Can I ask a question on  
18 that? So any filing that included an e-mail address  
19 potentially would act as a waiver of paper service?

20 MS. BISHOP: I'm not sure I understood  
21 your question.

22 MR. WHITAKER: Okay. I mean you just  
23 said I gave you my e-mail address I'm participating  
24 in ePSB which means parties who intervene  
25 automatically don't have to send me paper copies?

1 MS. BISHOP: If you are giving us your  
2 e-mail address, say you file a motion to intervene in  
3 the case --

4 MR. WHITAKER: No. What if I file the  
5 petition.

6 MS. BISHOP: You file the petition and  
7 did you file it in ePSB or not?

8 MR. WHITAKER: No.

9 MS. BISHOP: Then you haven't given us  
10 your e-mail address.

11 MR. WHITAKER: Okay. So as long as just  
12 because you have my e-mail address on a pleading  
13 doesn't mean I've waived paper service.

14 MS. BISHOP: If you gave us your e-mail  
15 address five years ago and it's in the clerk's  
16 Outlook e-mail somewhere, that does not mean that we  
17 are saying oh we know your e-mail address and you've  
18 waived service.

19 MR. WHITAKER: Thank you.

20 MS. BISHOP: There's a place -- when you  
21 actually file your petition there's a place for you  
22 to give us the information that you would need, and  
23 if you're filing in paper to start your petition,  
24 we're not putting -- we're not saying that you have  
25 now said you want to be served by ePSB.

1 MR. WHITAKER: Thank you.

2 MS. BISHOP: Anything else in Section 4?  
3 Okay. I'm sorry. We were already in Section 5.  
4 Official representatives. Anything else in Section  
5 5? How about Section 6? Yes.

6 MR. HAND: Mine is Section 7. Sorry.

7 MS. BISHOP: We're moving really quickly  
8 now. Yes.

9 MS. BEAL: I'm a little paranoid asking  
10 this question, but in filed public comments in any  
11 Board proceeding that means anybody can come and  
12 enter comments. Are those going to be curated by the  
13 Board staff? I mean if you have ever looked at  
14 comments --

15 MS. TIERNEY: What do you mean?

16 MS. BEAL: Are people going to go  
17 through and take out crazy stuff that comes in? It's  
18 just all going to be there.

19 MS. TIERNEY: No. These are public  
20 documents and that's how people need to think about  
21 the system. It's a public document and we don't  
22 curate. There's one limited category in consumer  
23 complaints but that's a different story, but if it's  
24 a public comment it's a free country.

25 MS. BEAL: So anything that comes in

1 that might be -- I don't know.

2 MS. TIERNEY: Scandalous. Lurid.

3 MS. BEAL: It's going to be there.

4 MS. TIERNEY: And it's going to be owned  
5 by the person who filed it.

6 MS. BEAL: So they can't file  
7 anonymously?

8 MS. BISHOP: They have to give us a  
9 name. They have to give us a name. If you're filing  
10 a public comment, you have to put in a name. Now  
11 that doesn't necessarily mean we don't know that the  
12 name that somebody gives us is their true name. The  
13 system will require people to -- you know that CAPTA  
14 software where you have to put in the letters and  
15 numbers that you see, the system will have that  
16 function. So for public comments so that the people  
17 -- it gets rid of the machines that are filing stuff,  
18 but aside from that once it's submitted to us it's a  
19 public document.

20 MS. TIERNEY: Can I ask a different  
21 question, though, and I appreciate the paranoia. If  
22 you were in charge of the world, how would you do it?  
23 Do you think we should be curating these comments?

24 MS. BEAL: Well you might want to like  
25 -- just I don't know. People get -- if they can do

1 it anonymously people behave badly, and I don't know  
2 how you screen for people who are saying, you know,  
3 you're just a bunch of dumb stupid whatever  
4 profanity. It's free speech.

5 MS. TIERNEY: Which they do all the time  
6 by the way.

7 MS. BEAL: All right. Maybe I'm looking  
8 out for you and I don't need to. I don't know how  
9 you can screen without -- I mean it's the issue you  
10 have, how do you screen it without limiting people's  
11 free speech.

12 MS. TIERNEY: Your point is well taken.  
13 We're creating a tool that in some respects can act  
14 like a megaphone. So a comment that might otherwise  
15 be made on paper and placed in a file and seen by a  
16 few people potentially will be seen by many more  
17 people should many more people look at our electronic  
18 comments, and I think you're putting your finger on  
19 one of those sort of meta issues, life in social  
20 media and electronic existence that we have given a  
21 lot of thought to, but here's where we are so far.

22 MS. BEAL: Thank you.

23 MS. BISHOP: Anything else in Section 6?  
24 Okay. Moving on to Section 7.

25 MR. HAND: I have a question about F

1 which relates to rejecting a filing. The concept of  
2 sort of a future rejection without an accompanying  
3 acceptance, you know, this has been accepted now is a  
4 little disconcerting to me. In other words, at some  
5 point in the future we don't know if -- when a filing  
6 might be rejected, and if that filing was important  
7 for preserving a certain right under a deadline and  
8 the corrected copy is only accepted as dated on that  
9 new date, have you given any thought to having an  
10 affirmative statement that this has been accepted?  
11 In other words, it seems like the way it's written  
12 you file, it's accepted, and then it might get  
13 rejected in the future. You don't know.

14 MS. BISHOP: So one of the things that  
15 the Board has talked about is for those kinds of  
16 filings that have specific requirements that for  
17 completeness, things that have been set out in Board  
18 rules or, you know, there's an application form you  
19 have to fill out, provide all the information and it  
20 says you have to provide a site plan with the  
21 following information, et cetera, the Board intends  
22 to have an initial review for administrative  
23 completeness done within, for most types of filings,  
24 five business days, and when that review for  
25 completeness is done the parties to the case will get

1 an e-mail notification from ePSB that says it's done  
2 or it's going to say it was not complete, and there  
3 will be that -- the response they would get would  
4 explain why it's not complete, what was missing.

5 I want to emphasize this is a review for  
6 administrative completeness. It's not any sort of  
7 substantive review where you're looking at the merits  
8 of the arguments or the information that was  
9 presented. It's just was this -- did this satisfy  
10 the filing requirements.

11 MR. HAND: So you would know then, if  
12 you're after that period, you would get a notice that  
13 you have met the administrative completeness so  
14 there's not a risk of it being rejected from the  
15 system for administrative completeness under F --

16 MS. BISHOP: Correct.

17 MR. HAND: -- at some point in the  
18 future. I can tell a client it has been filed and  
19 accepted and there's not a risk that you didn't meet  
20 that deadline for administrative completeness?

21 MS. BISHOP: I'm looking to the fellow  
22 lawyers here.

23 MS. TIERNEY: I think, Geoff, the best  
24 we can tell you today is we have thought about this  
25 issue and I think what you're putting your finger on

1 is the concern people want to file something so they  
2 vest in the state of the law, right, and then it gets  
3 turned back because it was so substantially deficient  
4 as a filing that you never even made it past the gate  
5 to actually be vested in the law; is that right?

6 MR. HAND: Correct. That's not the only  
7 instance, but that's a good example we have seen come  
8 up in the past. We need to vest. We need to do this  
9 before X.

10 MS. TIERNEY: You would like to --  
11 perhaps your case isn't sufficiently thought through  
12 to do so.

13 MR. HAND: That never happens.

14 MS. TIERNEY: We're here to preserve  
15 options and we're not here to --

16 MR. HAND: I appreciate the answer and I  
17 think that answers the concern of the future  
18 rejection that you don't know about.

19 MS. BISHOP: One of the other things  
20 that I would point out to people generally is in the  
21 system cases are going to have case status. When  
22 that case first comes in it's under review. After  
23 it's been determined to be administratively complete  
24 enough to process it's now open. If it is determined  
25 that additional information needs to be provided in

1 order for it to be considered complete, it's going to  
2 have a status of pending completion. So members of  
3 the public will be able to -- anybody, not just  
4 parties to the case, but anybody will be able to see  
5 what the status is of the case, and similarly when a  
6 case is closed it's going to have a status of closed.  
7 Yes.

8 MS. METCALF: Annika Metcalf, State of  
9 Vermont. I think this falls into Section D. So  
10 search for all public documents. So are you going to  
11 put all of the previous years' documents into this  
12 ePSB to be searchable or --

13 MS. BISHOP: So we are not putting all  
14 public documents in all cases that have been filed  
15 with the Board ever into the system. Just the  
16 resource constraints are just overwhelming.

17 What will be in the system from before  
18 we go live, if we decide that there's a pending case  
19 that we bring into the system, we will take the  
20 public documents in that case that were filed before  
21 we went live and bring those in. We are also going  
22 to be putting in Board orders going back --  
23 eventually we're going to put all Board orders in  
24 going back to the very founding of the Board, but  
25 it's going to take us a while to get that far back.

1 One of the things that people may or may not be aware  
2 of is that the state is changing its web site  
3 software and so the Board also has to modify its  
4 current web site to use the new web site software.

5 As part of that system what we are  
6 intending to do is all those pages right now where  
7 you have -- we have I think eight years worth of  
8 Board orders that are just listed on pages, our plan  
9 is to put all of those into ePSB because the search  
10 functions in ePSB are much better than the search  
11 functions on our current web site, and then our plan  
12 is we're going to keep going backward in time with  
13 Board orders. It's going to take us a little while  
14 to get there. That's -- I mean we only have them  
15 electronically to a certain point. Beyond that they  
16 have to be scanned in. So please be understanding as  
17 we continue to expand the number of orders that are  
18 in our system, but our goal is to make it much easier  
19 for people to search those. Yes.

20 MR. LACKEY: Maybe it's getting covered  
21 in the next section, but regarding those searchable  
22 documents will there be a function in ePSB for  
23 searching the library for certain terms, say used and  
24 useful? I want to type that in and find every  
25 document that uses that phrase.

1 MS. BISHOP: Yes. There will be a full  
2 text search capability for members of the public to  
3 use. I would hope, however, that you're not just  
4 going to say please search every document in the  
5 system for the words used and useful because that  
6 would very quickly be a tremendous resource --  
7 research issue for the system; that you could narrow  
8 it down into I'm looking in these kind of cases or  
9 I'm looking at these kind of documents for -- I'm  
10 looking for Board orders for used and useful or I'm  
11 looking for prefiled testimony used and useful and  
12 not every single document.

13 So I think you'll see that ePSB has some  
14 very robust search capabilities, but I would ask  
15 people to be a little bit careful how they use the  
16 used and useful or, sorry, the search -- the full  
17 text search capabilities. It's not as big an issue  
18 initially, but as the number of documents keeps  
19 growing in the system to do a search of every single  
20 document in the system could become a pretty  
21 significant resource issue.

22 MR. LACKEY: I can understand how I  
23 might not want to sort through 12,000 hits on a  
24 particular search term. Are you saying it would  
25 somehow overburden the PSB system to have people do

1 searches like that?

2 MS. BISHOP: The system is actually not  
3 going to return you 12,000 hits. It's going to  
4 actually -- and I don't recall what the number is,  
5 but there is a point at which it's only going to  
6 return you the first certain number of hits and I can  
7 get the number. I just don't have it off the top of  
8 my head.

9 MS. TIERNEY: And I thought I heard in  
10 Larry's question do people have to govern themselves  
11 because we ask them to or is the system going to cut  
12 them off. Are we depending on goodwill or is there a  
13 self defense mechanism in the system.

14 MS. RICHARDS: Wouldn't the system  
15 basically sit there and spool?

16 MS. BISHOP: Yes.

17 MS. RICHARDS: Invariably you're going  
18 to hit cancel because you don't want to sit 20  
19 minutes and wait. I would think that's the feedback  
20 from the system.

21 MS. BISHOP: I think you're probably  
22 right. I can follow up with our vendor and say what  
23 happens if someone tries to do full text search on  
24 every document in the system.

25 MR. LACKEY: I would understand if it

1 just didn't work well for me, but it would be  
2 unfortunate if the system was set up in a way where  
3 people could essentially bog down or crash your  
4 system that were doing searches that were too broad.

5 MS. BISHOP: Let me make a note of this.

6 MR. LACKEY: Can I just say thank you  
7 for including that feature in the system because that  
8 will be immensely helpful for researching history on  
9 certain issues.

10 MS. BEAL: Just maybe there's a way to  
11 have a pop-up that says your search is too broad,  
12 return 400,000 hits, please narrow your search terms,  
13 and sends it back to the user to say be a little more  
14 specific.

15 MS. BISHOP: Okay. Yes.

16 MR. LEWIS: At the risk of getting  
17 technical does the software that you're using have a  
18 API or a RSS functionality along the lines of Pacer?

19 MS. BISHOP: I don't know about Pacer.  
20 I'm not familiar with that concept. The system does  
21 have an API functionality that is being utilized so  
22 that when a case is filed with us the information is  
23 pushed by the API to the Department. I have had  
24 other requests for people to use an API, and first I  
25 would say that our vendor has said if there's going

1 to be an API connection used, there's actually work  
2 that has to be done on an individual basis for each  
3 API that's not part of our current scope of work.  
4 The only one that was in our current scope of work  
5 with our vendor is the connection with the Department  
6 because they are a party in all the cases and they  
7 are getting their own system. So if there's  
8 something that you're particularly interested in, I'm  
9 happy to make a note of it, but any discussions about  
10 using API's are down the road after we're fully live  
11 with ePSB. Is there something in particular? I  
12 don't know what Pacer is so --

13 MR. LEWIS: Pacer is the public access  
14 to federal court records system. It's very similar  
15 to their ECF system, but it's for people who are not  
16 necessarily making filings. They have a RSS  
17 functionality which is at times useful for getting  
18 alerts, but I have no immediate concern about it.

19 MS. BISHOP: Okay. Thanks. Yes.

20 MS. DENT: I just wanted to clarify --  
21 quickly going back to question six about the  
22 subscription function, I just want to clarify that an  
23 appropriate use of that would be to notify support  
24 staff who are not on -- who are not the attorneys  
25 following the case?

1 MS. BISHOP: You can certainly use it  
2 that way.

3 MS. DENT: So we would see everything  
4 the attorney would see if I was subscribing to that  
5 case?

6 MS. BISHOP: Yes. Anything else in  
7 Section 7? Yes.

8 MS. METCALF: I don't know if you're  
9 taking requests at all, but I know they are very  
10 minuscule in the whole scope of things, but the  
11 previous net metering forms for 15 kW or less  
12 currently it's set up that you have to go into the  
13 year that you filed it and then there's this 50,  
14 however, page long document and you need to sift  
15 through it until you find -- unless you know the  
16 exact date you filed and then you can kind of scroll  
17 through. Is there any way that those could become  
18 searchable?

19 MS. BISHOP: I have two parts to that.  
20 One is in order to put orders in cases -- in ePSB you  
21 have to actually create a case. So there will be  
22 limited case information about these legacy cases  
23 that we have to enter. We have to enter in things  
24 like a case number and the Petitioner and we'll have  
25 some kind of a case -- probably case caption.

1 There's minimal information about these historic  
2 cases that will be in there in order for us to have a  
3 home to put these -- the historic Board orders. So  
4 in that sense once those cases are in ePSB they would  
5 be searchable the same way as something else.

6 That doesn't get you to the registration  
7 form in net metering registration form cases where  
8 the Board hasn't issued any orders, but I will make a  
9 note of the fact that you would like to have those  
10 input into the system as well as legacy cases.

11 MS. METCALF: Mostly because you might  
12 not typically know what the net metering number is,  
13 but if you need to make an amendment years later, you  
14 have to search for their name to find the number  
15 because you're not notified oh this was passed here's  
16 the number.

17 MS. BISHOP: Yes.

18 MS. MOORE: Is the service list going to  
19 be published on the case page by the PSB so you don't  
20 need to go to Judy Whitney any more to get copies of  
21 it?

22 MS. BISHOP: You won't need to go to  
23 Judy Whitney any more to get copies of it if it's an  
24 ePSB case, but it's not published in quite the way  
25 you're thinking of. It's not per se a specific

1 document. They are a page that shows you all the  
2 parties in the case.

3 In addition, the Board is going to be  
4 adopting a practice of whenever we issue a document  
5 we will attach as the last page of that document the  
6 service list that we use or that the system sent the  
7 information out to, but what you would want to make  
8 sure that you did was looked at the list of parties  
9 in ePSB because that's going to show you the most  
10 recent list. Someone may have filed a motion to  
11 intervene since the last document that the Board  
12 issued or someone may have changed who is  
13 representing them or something like that.

14 MS. MOORE: And so if someone files a  
15 motion to intervene electronically, then they will  
16 necessarily be in the ePSB or does it take someone  
17 going in and typing in their information? I'm just  
18 thinking someone files at 3 o'clock and then we file  
19 a motion at 3:15, can we count on ePSB spitting it  
20 out to everybody who has filed a motion to intervene?

21 MS. BISHOP: If they filed it  
22 electronically, it will be in ePSB right away. There  
23 will be a party status next to them of pending and  
24 that indicates that there's a pending motion to  
25 intervene. You actually raised a good point, though,

1 that I didn't fully think about in my earlier answer  
2 to you about you don't need to call Judy Whitney any  
3 more, and that is what happens if someone has filed a  
4 paper motion to intervene, and so that gets back to  
5 the earlier question of if someone has filed  
6 something in paper, it's not an instantaneous process  
7 where we're going to scan it in. We're planning to  
8 scan things in promptly, but that -- but if we got  
9 something in the mail that afternoon and you're  
10 trying to do an electronic filing two hours later, we  
11 might not have it in the system yet. That's probably  
12 primarily an issue on when you're getting close to  
13 the deadline for filing motions to intervene. I will  
14 just make a note of this and we'll -- something we  
15 need to talk more about how to handle.

16 MS. MOORE: Thank you.

17 MS. BISHOP: Other questions on Section  
18 7? Okay. Section 8, any questions? And by the way  
19 I should say I realize this is noon. We seem to be  
20 moving much quicker now so I'm thinking we can just  
21 keep pushing through until we finish. Does that seem  
22 reasonable to folks?

23 MR. LEWIS: Sorry. Yes. I do have a  
24 question about Section 7 if I may. On page 4 where  
25 it says that a memorandum of law has to be filed as a

1 separate document to a motion, in my experience  
2 attorneys very rarely separate motions and memoranda  
3 of law any more. They tend to just file a motion  
4 supported by argument. I just want to clarify this  
5 isn't requiring us to file --

6 MS. TIERNEY: That may be true of your  
7 experience. That's not true from where we sit.

8 MR. LEWIS: So you want a motion and a  
9 separate memorandum of law in each instance. Got it.

10 MS. TIERNEY: Practitioners have  
11 different practices. Your experience reflects  
12 something that's true for you, but that's not true  
13 across the board.

14 MR. LEWIS: Sure and I have no  
15 preference on it. I just wanted to clarify it.

16 MS. DENT: Can you point to where you  
17 are?

18 MR. LEWIS: That Section 7(h)(4).

19 MS. BISHOP: Okay. Moving back to  
20 Section 8 any questions there? There are a couple of  
21 things -- a couple questions we received about  
22 segmented filings and we really talked a little bit  
23 about that, that we're not looking for people to  
24 create one massive PDF with all their filings in the  
25 case. They really -- it may mean that if you're

1 uploading a large case that there's 50 documents that  
2 you're attaching, then it's 50 documents that you're  
3 attaching because in order for people to be able to  
4 use those documents and find what they are looking  
5 for they have to be uploaded separately. If you have  
6 a document that is bigger than 50 megabytes, you will  
7 need to split it up in say part one and part two.  
8 That 50 megabytes is a system limitation, a technical  
9 built into the system. It's not something we  
10 randomly chose, and just I mean there is a practical  
11 side too which is downloading something that's 50  
12 megabytes it could take you a while.

13 And related to this also we had a  
14 question about discovery, and it was noted that a lot  
15 of discovery responses often include materials that  
16 are larger than 50 megabytes as attachments, and so  
17 it was asked whether the system -- whether ePSB  
18 includes the capability of allowing people to use  
19 file sharing technology like Dropbox or Share File or  
20 something like that and ePSB does not.

21 Related to that was a question about  
22 whether the Board would consider changing the  
23 requirement that one copy of all discovery be filed  
24 with the Board, and in particular the suggestion was  
25 continue to file questions and continue to file

1 written responses, but just don't provide any  
2 attachments. That was an interesting idea that we  
3 have not talked about, but we're -- we'll be bringing  
4 all these suggestions back to the Board and that's  
5 one of the things we'll be mentioning. I'm curious  
6 to know if people here have any reactions to that  
7 idea?

8 MR. HAND: I guess from my perspective  
9 it would be easier if the approach were discovery was  
10 closer to what you do in, for example, federal court  
11 which is just filing a notice that you have served or  
12 answered discovery and then you're not going through  
13 the process of trying to attach all the documents. I  
14 suspect you will encounter more confidential  
15 information problems in terms of what goes up on the  
16 system if you want people to continue filing all  
17 their discovery potentially, and it seems like it's  
18 going to be a lot more tedious, in my experience at  
19 least, and other practitioners may have different  
20 experience. I have never seen that file, the  
21 discovery file, used actively in a case by sort of  
22 behind the scenes by the Board looking through it or  
23 someone else referencing that because they didn't  
24 have a copy. I'm just not sure why you would  
25 continue to have --

1 MS. TIERNEY: You have never seen that,  
2 Geoff, but you would expect to see it in --

3 MR. HAND: Well I guess I would want to  
4 understand from the Board the value to them of having  
5 the full discovery file on file.

6 MS. TIERNEY: It's often used to keep  
7 you guys honest. Seriously. I mean it's used to see  
8 whether the right questions are being asked, whether  
9 the probing is deep enough, to see where the parties  
10 are going and then decide not to go, and it also  
11 creates a record for other people to see all the  
12 ingredients that go into the case even if they don't  
13 all go into the evidentiary record in the end. So  
14 there's a public notice function that's served by  
15 that practice as well that may not exist in private  
16 litigation in federal court.

17 MR. HAND: Those are all valid points.

18 MS. TIERNEY: We also have a  
19 quasi-legislative function not just a quasi-judicial  
20 one.

21 MR. HAND: It is simply much more  
22 tedious and I think it will be much more tedious in  
23 the electronic system to be doing this, particularly  
24 with a 50 megabyte limit. I mean we have had  
25 discovery requests that require filing --

1 MS. MALMQUIST: Geoff, I'm having  
2 trouble hearing you.

3 MR. HAND: We have had discovery  
4 requests that require sending massive amounts of  
5 electronic data that -- gigabytes worth of data,  
6 hundreds of gigabytes worth of data, and in file  
7 formats that would not be accepted in the system, and  
8 so --

9 MS. TIERNEY: And do you send those in  
10 CD form, for instance?

11 MR. HAND: Typically a hard drive at  
12 this point.

13 MS. TIERNEY: We may need to think about  
14 that. Nancy, are you having any trouble hearing me?

15 MS. MALMQUIST: No.

16 MS. TIERNEY: JoAnn, did you note that?  
17 I always get rapped for being a soft spoken one.

18 MR. SILVER: On this point I understand  
19 you want the attachments and exhibits, everything  
20 separate, but discovery question, for example, to  
21 elicit hundreds of e-mails. Are you going to have to  
22 individually upload each e-mail in that discovery  
23 response or can you combine them into attachment one  
24 to question one?

25 MS. BISHOP: I think we were not

1 expecting that if you had hundreds of e-mails in  
2 response to a discovery response they would be  
3 individual files. I think we were thinking it would  
4 be this is the response to question set one question  
5 three.

6 MR. SILVER: Well that would simplify a  
7 lot, but I agree that you end up with, you know, data  
8 sets that can be enormous, you know, looking at  
9 things that are not in the format that you're talking  
10 about, and even if you try to -- that can't even be  
11 put into a PDF and that's going to be an issue in  
12 some cases.

13 MS. BISHOP: Okay. Yes.

14 MS. SCOTT: I'm Rachel Scott with Downs  
15 Rachlin and also in working primarily in the  
16 discovery arena we use an electronic discovery system  
17 in which, you know, sometimes you're asked for things  
18 in native, but you also have to provide it in a PDF  
19 and what could be literally gigs of stuff, and with  
20 having CAD and jpegs and videos I mean, plus also  
21 providing these things to the people via our share  
22 file technology or using diskS and then doing a  
23 completely separate thing where we're uploading it  
24 into ePSB, I mean it could potentially be three  
25 separate processes going on at the same time to make

1 a deadline instead of providing our responses, and  
2 just saying if there is something that is required or  
3 asked of, then we could then provide that, but I just  
4 think that it will eventually -- 50 megabytes is  
5 sometimes the smallest thing we provide. So it would  
6 just end up being so much volume.

7 MS. TIERNEY: Can I follow up on that  
8 for a second? Are you suggesting what could happen  
9 is the discovery question is filed with us, the  
10 response -- per se the response indicates voluminous  
11 attachment, massive attachment, please call us Downs  
12 Rachlin to get a copy?

13 MS. SCOTT: That's what I'm saying. The  
14 Board would say we really would like to see this  
15 attachment. It would be easier to provide you that  
16 one set of huge attachments than provide you a bunch  
17 of things that you may not even necessarily need at  
18 that time instead of providing you gigs of stuff that  
19 may eventually crash your system depending on the  
20 size.

21 MS. TIERNEY: It would be helpful, this  
22 the kind of comment you provided, in follow up to  
23 today to give us a better road map as to what you're  
24 describing.

25 MS. SCOTT: Sure.

1 MS. TIERNEY: Thank you.

2 MS. BISHOP: Yes.

3 MR. WHITAKER: I would ask you all to  
4 consider revisiting whether the file share technology  
5 might have a role in these limited circumstances. I  
6 do support the purpose of there being a copy. I mean  
7 I've been unable to get copies of key documents from  
8 the Department that I have to go to the Board to get  
9 and so having all the discovery filed. Similarly you  
10 need to address the issue of links, live links in  
11 pleadings, because some of those might lead to  
12 malicious sites and either you're going to prohibit  
13 live links or you're going to allow them or have some  
14 way to check them or warn people about them. You may  
15 want to insist on live links in certain pleadings as  
16 well.

17 MS. BISHOP: Yes.

18 MR. LEWIS: And not to pile on, but it's  
19 also worth being mindful of the obligation under the  
20 discovery rules to produce things in the form in  
21 which they are maintained, and so to the extent the  
22 short list of file formats in the draft procedures  
23 that could potentially set up a conflict with the  
24 discovery obligations and create kind of duplicative  
25 work that the lady mentioned earlier in terms of

1 converting say Outlook message files into PDF solely  
2 for purposes of ePSB.

3 MS. SCOTT: And well especially for  
4 Bates number purposes as well to keep a record.

5 MS. TIERNEY: I want to make sure what  
6 you mean by conflict.

7 MR. LEWIS: Well so if we have an  
8 obligation to produce e-mail messages --

9 MS. TIERNEY: From one party to another?

10 MR. LEWIS: MSG files. If the software  
11 doesn't allow us to upload those because it's not on  
12 the list of approved file extensions or file formats,  
13 parties could easily find themselves in a position of  
14 doing a lot of work to convert e-mail messages into  
15 PDFs for the sole -- for purposes of uploading them  
16 into ePSB, whereas, all the other parties would be  
17 expecting to receive them in the native format in  
18 which they are kept.

19 MS. TIERNEY: Okay. So it would create  
20 a logistical problem.

21 MR. LEWIS: Exactly.

22 MS. TIERNEY: I wouldn't call it a  
23 conflict necessarily.

24 MR. LEWIS: Sure.

25 MS. TIERNEY: There's a solution to be

1 found. I know what Bates systems are, but what is  
2 the point you were making?

3 MS. SCOTT: So, for instance, if we have  
4 an ongoing case that has, you know, five to ten  
5 thousand documents, the only way I'm going to be able  
6 to actually keep track of everything is through the  
7 Bates number system on the bottom in which my program  
8 allows me to then generate an index. So I can easily  
9 search that index for my own attorneys in their  
10 support, but it also allows me to provide an index to  
11 the party that's requested it to make it easier for  
12 them to search as well. So native -- I can't put a  
13 Bates number on a native document. It's a PDF. So  
14 I'm then taking a native document and making a PDF or  
15 it's a page that employs a Bates number so that I can  
16 keep track.

17 MS. TIERNEY: It seems to me from the  
18 discussion we have had so far the concerns that have  
19 been identified are what I would consider to be large  
20 scale litigation, complex litigation issues, as  
21 opposed to the overwhelming rest of the work the  
22 Board does which is far smaller and the discovery is  
23 not quite as complicated shall we say. So your  
24 comments are helping me understand perhaps we need to  
25 give some thought to what we do in a complex case.

1 For instance, having a requirement that this be an  
2 issue that is discussed at the prehearing conference  
3 to work out what the protocol is going to be for that  
4 particular case as opposed to designing the entire  
5 system around accommodating these concerns.

6 MS. AZARIA: I think this actually  
7 follows on that because one thing I'm not clear on in  
8 this whole conversation is if filing the response to  
9 discovery on ePSB becomes a substitute for directly  
10 serving that information to the other parties because  
11 with other filings we're putting it on ePSB instead  
12 of sending it directly to the other parties, but does  
13 that apply for these discovery responses?

14 MS. BISHOP: If they are public  
15 documents and they are taking service electronically,  
16 yes, for putting them into ePSB would be the  
17 equivalent of providing them with service.

18 MS. AZARIA: But then that reflects on  
19 the question of the format in which the information  
20 is supposed to be produced. If the discovery  
21 requirement is that it be the native format and the  
22 ePSB requirement is that it be these specific file  
23 forms, then there is actually a conflict.

24 MS. TIERNEY: There's an impediment. A  
25 difficulty to be resolved. No conflict.

1 MR. WHITAKER: An opportunity.

2 MS. TIERNEY: Dale, in all seriousness  
3 because the discovery obligation arises from the  
4 rules of discovery and what that intimates then is  
5 that the Board's particular rule vis-a-vis discovery  
6 needs to be amended accordingly. That's not a  
7 conflict. It's something that needs to be addressed.

8 MS. AZARIA: Conflicting directives at  
9 this time.

10 MS. TIERNEY: Indeed at this time --  
11 actually not because at this time we don't have ePSB.

12 MR. WHITAKER: May I suggest a couple of  
13 formats you consider expanding your portfolio to  
14 include MSG for Microsoft for Outlook messages, PST  
15 for Outlook mailboxes, CAD files, GIS files or  
16 databases. I think the Board is going to get more  
17 and more into infrastructure using computer generated  
18 technology so you're going to need to accommodate  
19 some of those files.

20 MS. BISHOP: We've made a note.

21 MR. WHITAKER: Thanks.

22 MS. BISHOP: Anything else in Section 8?  
23 Moving on to Section 9? How about Section 10? Okay.  
24 Section 11? Yes.

25 MS. AZARIA: I would appreciate a

1 clarification of what the expectation is in terms of  
2 documents that have multiple signatures, specifically  
3 stipulations or something like that. I would just  
4 like to hear what you would expect to be getting.

5 MS. TIERNEY: So you're talking about  
6 the stipulation five different signature pages one  
7 signature from a different party on each page; is  
8 that correct?

9 MS. AZARIA: Yes.

10 MS. TIERNEY: It would seem to me if the  
11 document is not being filed in toto as one document,  
12 you are looking at a stipulation and five signature  
13 pages being individually filed.

14 MS. AZARIA: So the signature pages can  
15 be uploaded separately?

16 MS. TIERNEY: Yes. So if you're sitting  
17 in Burlington and somebody else is in Brattleboro and  
18 you guys are signing off on the same stip, one person  
19 is entering the stip and their signature page and  
20 then the person in Burlington is entering their  
21 signature page into the ePSB. That would be right.

22 MS. AZARIA: Great.

23 MS. BISHOP: Anything else in Section  
24 11? Section 12? Section 13? Now let me make sure I  
25 have gotten through all the questions that were filed

1 with us.

2 MR. HAND: Section 13. I'm sorry to  
3 delay this. That means you're not reading the  
4 prefiled testimony into the transcript, but are we  
5 still doing the same process at the hearing, the  
6 technical hearing, of formally admitting the official  
7 copy in the record?

8 MS. BISHOP: Yes. Yes. Section 13 is  
9 really about the practical problem of binding the  
10 paper version of the prefiled testimony into the  
11 paper version of the transcript. That's what occurs  
12 right now. So our official version of the transcript  
13 has -- can be sometimes voluminous because you have  
14 the prefiled testimony bound in. The electronic  
15 versions, which you all have seen posted on our web  
16 site, do not have the prefiled testimony bound in  
17 because it doesn't work to do that. So we have  
18 actually talked with our court reporters about this  
19 and there is the ability to basically be able to put  
20 in links to the prefiled testimony that's up on the  
21 Board's web site that's been admitted. So that's  
22 what you would find in the actual transcript  
23 document.

24 MS. ELIAS: Can I ask a question about  
25 something that's not in any of these sections?

1 MS. BISHOP: Yes.

2 MS. TIERNEY: Wait. It's 12:23. Go  
3 ahead.

4 MS. ELIAS: Deadlines. We talked about  
5 how the Board is going to communicate when deadlines  
6 are set and established and how that's going to --  
7 are they just going to be listed in an order? Is  
8 there not going to be sort of a notification of  
9 deadline or anything else around that?

10 MS. BISHOP: Can you help me understand  
11 what kind of deadlines you're thinking about?

12 MS. ELIAS: Deadlines. Response  
13 deadline. So something -- the Board issues an order  
14 requiring petitioner x to file something and then  
15 parties are required to comment, and one of my  
16 particular concerns is the practice where my deadline  
17 is dependent upon somebody else's whim because they  
18 have got a window of time for when they have to file  
19 no later than September 27th, but if they file on the  
20 1st, my deadline is 21 days later. So I'm trying to  
21 figure out how that is going to work and whether ePSB  
22 will have any kind of calendaring assistance in there  
23 that shows that?

24 MS. BISHOP: EPSB will have a schedule  
25 tab for each case so that you will be able to see

1 what filing deadlines have been established, what  
2 hearing dates have been established. We have not  
3 specifically talked about the issue you have just  
4 raised and I'm going to make a note of that. We will  
5 talk further about it. When deadlines are set in an  
6 order Board staff will be putting them into ePSB so  
7 that if someone looks at the calendar for a case you  
8 will see the deadlines that have been put out in  
9 orders.

10 MS. ELIAS: So just a little pet peeve.  
11 30 days from the date of this order I would love it  
12 if the Board would calculate that and give me a date  
13 on the calendar instead of me then going to the  
14 calendar and say okay what was the date of this  
15 order, let me count 30 days, let me see if it's a  
16 Sunday or holiday or whatever. You know it's typical  
17 in proceedings to use that, but it's hard from a  
18 calendaring perspective because you're always running  
19 to the calendar and hoping you have gotten it right  
20 when you do this in establishing your own calendar  
21 rather than reading the deadline is September 30th  
22 and somebody has already thought through that's not a  
23 Saturday or Sunday, but the other one I mentioned is  
24 trickier in terms of when a party has a deadline that  
25 is any date up until x date and then my comment

1 response deadline is triggered by their filing not by  
2 the last day they were entitled to file but by the  
3 day they did in fact file because I have to track  
4 those things regularly; see when they filed, then do  
5 my calculation, and I thought ePSB was going to have  
6 some sort of automatic calendaring functions where  
7 you would get notice or you would get sort of  
8 deadlines from a case that you're involved with that  
9 you could import to your own calendar. I guess  
10 that's not --

11 MS. TIERNEY: Sounds like that's what  
12 you would like.

13 MS. ELIAS: Sure, but I don't run the  
14 world.

15 MS. TIERNEY: I don't either. A lot of  
16 things I would like too.

17 MS. BISHOP: I think I understand what  
18 you're asking and we'll take that back.

19 MS. ELIAS: Thank you.

20 MS. BISHOP: Let me make sure I have  
21 gone through these questions here. Certificates of  
22 service.

23 MR. COTTER: There was a question about  
24 certificates of service whether they would still be  
25 necessary, and this is again something we need to

1 talk to the Board about, but obviously if somebody is  
2 -- you know if there's a case that is in ePSB but  
3 there is a party to that case that is participating  
4 in hard copy, we're going to need a certificate of  
5 service that the hard copies were served on that  
6 person or entity because we have no other way of  
7 knowing that it occurred. So we would continue to  
8 need that kind of representation from the attorney or  
9 the pro se party.

10 With respect to the people that are  
11 participating electronically we would -- we'll  
12 definitely have a chat with the Board about it  
13 because we will have a record of who the notification  
14 was sent to. ePSB will keep track of that and that's  
15 how service is going to be effected electronically,  
16 so it's possible that the Board might not want that  
17 but we don't know at this point, but with respect to  
18 the hard copy participants absolutely that practice  
19 needs to continue.

20 MR. WHITAKER: Can I ask for a  
21 clarification on that? So certificate of service  
22 cannot assume that the fact that the e-mail address  
23 is in the ePSB means that all of those parties have  
24 consented to being served via e-mail.

25 MR. COTTER: I have no idea what you

1 just asked me.

2 MR. WHITAKER: My understanding is that  
3 only by prior agreement with each party can someone  
4 accept an e-mail as service.

5 MR. COTTER: No. When somebody chooses  
6 to participate via ePSB they have consented to  
7 receive service through ePSB.

8 MR. WHITAKER: Okay. So this gets -- so  
9 it supersedes -- your procedure is superseding that  
10 prior requirement.

11 MS. BISHOP: You earlier said if you  
12 filed a document in paper but it included your e-mail  
13 address does that mean that you are now consenting to  
14 receive service through ePSB and I said no. In ePSB  
15 your e-mail address would not be in the system. It  
16 may be on that document, but it is not going to  
17 appear in the list of parties that you have provided  
18 us with an e-mail address. You have only given us a  
19 paper address for -- to provide you with service.

20 MR. COTTER: You provide your e-mail for  
21 purposes of ePSB by logging into ePSB and entering a  
22 bunch of information. You are participating using  
23 ePSB and part of that would be providing us with the  
24 e-mail address, and if you did that, then you've  
25 consented to be served by receiving these electronic

1 notifications, but if you started by participating in  
2 hard copy and you don't subsequently elect to  
3 participate in ePSB, you're still a hard copy  
4 participant, and so when somebody sends you a  
5 document in hard copy they have to send a certificate  
6 of service to the Board certifying that I sent Mr.  
7 Whitaker this thing in hard copy.

8 MR. WHITAKER: But what I'm trying to  
9 tease apart is can one participate in certain actions  
10 or proceedings via paper and other actions via  
11 electronic?

12 MS. BISHOP: Yes.

13 MS. TIERNEY: Let's be clear. Are you  
14 talking about different dockets or within one docket?

15 MR. WHITAKER: Different dockets.

16 MS. TIERNEY: Yes. You can do that.  
17 You can be an electronic person in some dockets paper  
18 in others. What you cannot do is be electronic and  
19 paper in one docket, and I get the sense from the  
20 questions you have been asking, Mr. Whitaker, that  
21 you're concerned about slipping into a consent to  
22 electronic participation that you in fact have not  
23 given.

24 MR. WHITAKER: Right.

25 MS. TIERNEY: And I think the answer to

1 that is no that cannot happen, and if it did happen,  
2 contacting the clerk to let the clerk know that you  
3 do not intend to be an electronic person would be  
4 adequate to get you where you want to go.

5 MR. WHITAKER: But my certificate of  
6 service is sufficient is for every party -- am I even  
7 going to be able to see all the parties who have  
8 given an e-mail address if I'm not participating  
9 electronically so that I'll know whether to serve on  
10 paper or e-mail?

11 MS. BISHOP: If you are not  
12 participating electronically, then you need to  
13 provide paper to everybody regardless of whether they  
14 are participating electronically or not because you  
15 are paper.

16 MS. TIERNEY: Along that line you also  
17 retain the responsibility to develop a current  
18 service list.

19 MR. WHITAKER: And I can do that  
20 individually with agreement for electronic service.  
21 I would have to contact each party and get them.

22 MS. TIERNEY: Here's how it works right  
23 now. Right now in order to -- right now the  
24 responsibility to maintain a current service list  
25 rests with the individual participants in the case.

1 That's always the party's responsibility and they  
2 meet that by contacting Ms. Whitney and saying who do  
3 you have on the service list and then whoever else  
4 they know should be served they ought to be putting  
5 on their service list too. That's how it works  
6 fundamentally.

7 ePSB will certainly make that easier for  
8 people to achieve. If you choose not to be  
9 participating in ePSB, you will still have to do what  
10 you have to do today to have a current service list.

11 MR. WHITAKER: Might I suggest you give  
12 some thought to allowing, despite the inefficiency,  
13 allow there to be a parallel -- I would still like to  
14 receive paper copies because we absorb things  
15 differently, we keep track of things differently, our  
16 minds work differently in paper, in disappearing  
17 e-mail and --

18 MS. TIERNEY: Let me ask you something  
19 as opposed to you're getting it electronically and  
20 printing it out yourself?

21 MR. WHITAKER: Correct.

22 MS. TIERNEY: It's a fair question. I  
23 think a policy judgment has to be made about where  
24 the cost and the burden of paper filings will reside,  
25 and one of the gains and ease of access for the

1 public through ePSB is removing that burden. So I  
2 understand completely because I'm sure it's evident  
3 by now I'm a paper person. That burden and that  
4 shifts to me to generate the paper as opposed to  
5 participants who are trying to realize the efficiency  
6 of the electronic system.

7 MR. WHITAKER: Again I'll repeat if you  
8 give some thought to allowing there to be both  
9 electronic and paper.

10 MS. TIERNEY: Let me put it to you this  
11 way. A lot of thought has gone into that question  
12 and you're asking us to reconsider and I think at  
13 12:33 we understand where you're coming from.

14 MS. BISHOP: So that's -- I think we  
15 have gone through all the questions we got in  
16 advance. Does anyone have anything -- any other  
17 questions or comments they wanted to ask or say now?

18 MS. BEAL: I may have missed this in the  
19 very beginning. It's possible for the 248(a) 60-day  
20 notices that are required -- will they be part of  
21 this first effort to file electronically?

22 MS. BISHOP: Yes.

23 MS. BEAL: Okay. That's what I thought.

24 MS. BISHOP: And then I guess I would  
25 say we would welcome any followup comments that you

1           might have in writing or via e-mail. It would be  
2           helpful to us if you could get them to us in say two  
3           weeks. Does two weeks seem reasonable?

4                           MS. ELIAS: Yes.

5                           MS. BISHOP: Two weeks. That would be  
6           great. Thank you very much.

7                           (Whereupon, the proceeding was  
8           adjourned at 12:40 p.m.)

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C E R T I F I C A T E

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5 I, JoAnn Q. Carson, do hereby certify that  
6 I recorded by stenographic means the workshop re: EPSB at  
7 the Susan M. Hudson Hearing Room of the Public Service  
8 Board, 112 State Street, Montpelier, Vermont, on September  
9 15, 2016, beginning at 9:30 a.m.

10 I further certify that the foregoing  
11 testimony was taken by me stenographically and thereafter  
12 reduced to typewriting, and the foregoing 124 pages are a  
13 transcript of the stenograph notes taken by me of the  
14 evidence and the proceedings, to the best of my ability.

15 I further certify that I am not related to  
16 any of the parties thereto or their Counsel, and I am in  
17 no way interested in the outcome of said cause.

18 Dated at Burlington, Vermont, this 19th day  
19 of September, 2016.  
20

21 \_\_\_\_\_  
22  
23 JoAnn Q. Carson

24 Registered Merit Reporter

25 Certified Real Time Reporter