APPOINTMENT OF PROXY

THE UNDERSIGNED, S. Anthony Long, a member of the Indiana Election Commission, ("Commission") hereby appoints Mike Claytor as his Proxy of Record, pursuant to Indiana Code IC 3-6-4.1-8, to act on his behalf as follows:

1. To attend the public meeting of the Indiana Election Commission on February 10, 2017.

2. To serve as a full voting member of the Commission on that date during the Commission’s consideration of any matter.

This Appointment of Proxy expires at the adjournment of the February, 10, 2017, Commission meeting.

Date: February 2, 2017

S. Anthony Long
Member, Indiana Election Commission
INDIANA ELECTION COMMISSION
PUBLIC SESSION NOTICE

Indiana Election Commission
Indiana Government Conference Center South
402 West Washington Street
Conference Center Room 2
Indianapolis, Indiana 46204
Friday, February 10, 2017, 1:00 p.m. EST

The Indiana Election Commission will convene a public meeting at 1:00 p.m. EST on Friday, February 10, 2017, at Indiana Government Center South Conference Center Room 2, 402 West Washington Street, pursuant to Indiana Code 5-14-1.5-5.

For more information contact:
Angie Nussmeyer, Co-Director, Indiana Election Division, (317) 232-3939
Dale R. Simmons, Co-General Counsel, Indiana Election Division (317) 232-3939

Notice posted in accordance with IC 5-14-1.5 on January 27, 2017
INDIANA ELECTION COMMISSION
PUBLIC SESSION AGENDA

Indiana Government Conference Center South
402 West Washington Street
Conference Center Room 2
Indianapolis, Indiana 46204
Friday, February 10, 2017, 1:00 p.m. EST

1. Call to order and determination of quorum;
   Introduction of members and staff (Chairman Bennett)

2. Documentation of compliance with Open Door Law (Ms. Nussmeyer and Mr. Simmons)

3. Campaign finance settlement agreements (Ms. Thompson and Ms. Taylor)

4. Voting System Technical Oversight Program recommendation regarding
   Election Systems & Software, LLC engineering change orders

5. Voting System Technical Oversight Program report and recommendation
   regarding Hart InterCivic, Inc. testing plan pursuant to Resolution 2016-3

6. Voting System Technical Oversight Program progress report regarding
   Dominion Voting Systems, Inc. under Resolution 2016-1

7. Adjournment
Indiana Election Commission
Minutes
February 10, 2017

Members Present: Bryce H. Bennett, Jr., Chairman of the Indiana Election Commission (the Commission); Michael A. Claytor, as proxy for Vice Chairman of the Commission S. Anthony Long; Suzannah Wilson Overholt, member; Zachary E. Klutz, member

Members Absent: S. Anthony Long, Vice Chairman of the Commission

Staff Attending: Angela Nussmeyer, Co-Director of the Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Dale Simmons, Co-General Counsel of the Election Division; Matthew Kochevar, Co-General Counsel of the Election Division; Patrick Becker, Special Projects.

Also Attending: Dr. Jay Bagga; Dr. Bryan Byers; Aniketh Ramname; Ian Piper, Dominion Voting Systems; Kyle Conrad, GBS; Paula Lantz, White County Clerk; Laura Cosgray; Wendy Hudson, Elkhart County Clerk; Christopher Anderson; Christa Coffey, Tippecanoe County Clerk.

1. Call To Order

The Chairman called the February 10, 2017 meeting of the Commission to order at 1:00 p.m. in the Indiana Government Center South, Conference Center Room 2, at 402 West Washington Street, Indianapolis, Indiana.

2. Transaction of Business

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for the meeting prepared by Lisa C. Pierce of Connor Reporting. This document is incorporated by reference into these minutes, with the following corrections.

Page 7, Line 12, replace “3410” with “3.4.1.0”
Page 9, Line 20, replace “IDC” with “IED”
Page 10, Line 24, replace “3rd” with “30th”
Page 12, Line 11, replace “ECUs” with “ECOs”
Page 13, Line 24, replace “State” with “straight”
Page 13, Line 25, replace “State” with “straight”
Page 14, Line 9, replace “State” with “straight”
Page 14, Line 20, replace “off” with “op”
Page 17, Line 9, replace “then tech” with “they intend”
Page 35, Line 4, replace “GPS” with “GBS”
Page 37, Line 22, replace “VREs” with “DREs”
Page 37, Line 23, replace “ob” with “op”
Page 37, Line 25, replace “DR” with “DRE”
Page 41, Line 25, replace “Lance” with “Lantz”
Page 42, Line 2, replace “Lance” with “Lantz”
Page 42, Line 12, replace “Lance” with “Lantz”
Page 43, Line 3, replace “Lance” with “Lantz”
Page 43, Line 6, replace “Lance” with “Lantz”
Page 43, Line 8, replace “Lance” with “Lantz”
Page 43, Line 13, replace “Lance” with “Lantz”
Page 43, Line 17, replace “Lance” with “Lantz”
Page 43, Line 21, replace “Lance” with “Lantz”

Respectfully Submitted,

[Signature]
J. Bradley King
Co-Director

[Signature]
Angela M. Nussmeyer
Co-Director

APPROVED:
[Signature]
Bryce H. Bennett, Jr.
Chairman
In the Matter Of:

INDIANA ELECTION COMMISSION HEARING

TRANSCRIPT OF HEARING

February 10, 2017
INDIANA ELECTION COMMISSION
PUBLIC SESSION AGENDA

Conducted on: February 10, 2017

Conducted at: Indiana Governmental Center
402 West Washington Street
Conference Room 2
Indianapolis, Indiana 46204
APPEARANCES

INDIANA ELECTION COMMISSION:

Mr. Bryce Bennett - Chairman
Mr. Michael Claytor - Proxy for Vice Chairman
    S. Anthony Long
Mr. Zachary Klutz - Member
Ms. Suzannah Overholt - Member

INDIANA ELECTION DIVISION STAFF:

Ms. Angie Nussmeyer - Co-Director
Mr. Dale Simmons - Co-Legal Counsel
Mr. Matthew Kochevar - Co-Legal Counsel
CHAIRMAN BENNETT: At this time I'd like to call to order the meeting of the Indiana Election Commission for Friday, February 10th, 2017. And the time is 1:00 p.m. At this time we will call to order the meeting. And then in terms of a determination of the quorum, I would introduce myself, Bryce Bennett, Chairman of the Indiana Election Commission. We have Mike Claytor as proxy for Vice Chairman Anthony Long. We have member Suzannah Wilson Overholt with us. And we have member Zachary Klutz.

The Indiana Election Division staff is our Co-Director Angela Nussmeyer. And Brad King Co-Director is absent due to illness.

Co-General Counsels, we have Matthew Kochevar and Dale Simmons. The court reporter today is Lisa Pierce of Connor & Associates.

Before we begin I want to remind everyone, on behalf of the court reporter, to identify yourself when you begin to speak; spell your name. And when you identify yourself, speak clearly. And do not speak at the same time as others. I would like a Documentation of Compliance with the Open Door Laws and I call upon Miss Nussmeyer and Mr. Simmons for that.
MR. SIMMONS: Yes. Mr. Chairman, we have
complied with the Open Door Law and notice had
been posted outside our offices as well as on the
internet. So we would -- we've complied with the
-- with the law.

CHAIRMAN BENNETT: Very well, thank you.
With that we will proceed to ratification of
campaign finance settlements. We will consider
ratification of those settlement agreements, and I
would ask for a presentation by Miss Nussmeyer and
Mr. Simmons regarding these agreements.

MS. NUSSMEYER: Okay. Thank you,
Mr. Chairman. If you look under your tab, under
the pink tab for the CPA settlements, you'll
notice there are a number of committees who have
now paid their fines for campaign finance reasons.
And we would recommend the Commission approve of
those agreements.

CHAIRMAN BENNETT: Is there a motion to
ratify the settlement agreements as presented?

VICE CHAIRMAN PROXY CLAYTOR: Mr. Chairman, I
am embarrassed to say that, once again, I am one
of the miscreants listed on the settlement
agreements, by way of disclosure. But that will
not stop me from voting or making a motion to
approve this settlement agreement.

CHAIRMAN BENNETT: Which one is --

VICE CHAIRMAN PROXY CLAYTOR: The Gregg for Indiana. Way down by the bottom.

CHAIRMAN BENNETT: And do you have -- move to ratify these settlement agreements?

VICE CHAIRMAN PROXY CLAYTOR: I have.

CHAIRMAN BENNETT: Is there a second?

COMMISSION MEMBER KLUTZ: Second.

CHAIRMAN BENNETT: Motion is seconded. Any discussion?

(No response.)

CHAIRMAN BENNETT: Hearing none, all in favor say "Aye."

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say, "Nay."

(No response.)

CHAIRMAN BENNETT: Ayes have it. The ratification of the settlement agreements is approved.

Everyone who is present today that plans to testify before the Election Commission regarding any matter, please stand now for the administration of the oath. And I recognize Dale Simmons to administer the oath.
MR. SIMMONS: Please stand, raise your right hand. Say "I do" after administering of the oath.

Do you solemnly swear or affirm, under the penalties of perjury, the testimony you're about to give the Commission, Indiana Election Committee is the truth, the whole truth and nothing but the truth? Say "I do."

(Consent by all.)

CHAIRMAN BENNETT: Thank you. We will now begin consideration on several voting system matters on our agenda. Recognize Jay Bagga and -- as far as presentation and recognition to election system and software change orders. Dr. Bagga.

DR. BAGGA: Thank you, Mr. Chairman. I'm Jay Bagga, B-a-g-g-a, a Co-Director for VSTOP. And before we present our formal report, I'm pleased to introduce two other VSTOP members that are present here: Dr. Bryan Byers. He's a professor of criminal justice and criminology. He's a new VSTOP Co-Director. Dr. Joe Losco had retired at the end of December last year.

Then we also have with us Mr. Aniketh Ramname who is a project manager for VSTOP.

So the first report we would like to present
is an ECO report from ES&S. Election Systems & Software has formally requested approval of ECOs, Engineering Change Orders, to their certified voting systems in Indiana. Each of the ECOs in the list that we have presented to you has been evaluated by VSTOP team according to the protocol approved by the Indiana Election Commission.

Members of VSTOP team have researched these ECOs and the corresponding VSTL report, and we find them in compliance with requirement for de minimis changes to hardware components that are compatible with Unity 3410 and EVS 5200 voting systems certified for use in Indiana as listed below. We recommend approval by the Indiana Election Commission.

CHAIRMAN BENNETT: Is there a motion to approve the election system software change orders as presented and recommended by VSTOP?

VICE CHAIRMAN PROXY CLAYTOR: I so move.

CHAIRMAN BENNETT: We have a motion. Is there a second?

COMMISSION MEMBER KLUTZ: Second.

CHAIRMAN BENNETT: Motion and a second. Any discussion?

(No response.)
CHAIRMAN BENNETT: Hearing none, all in favor say "Aye."

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say "Nay."

(No response.)

CHAIRMAN BENNETT: Ayes have it. Motion is approved.

I will now recognize Jay Bagga for a presentation and recommendation with respect to a test plan to comply with the Commission's Resolution 2016-3 and Senate Bill 61 enacted in 2016.

DR. BAGGA: Thank you, Mr. Chairman. I next present a report which is an update on Resolution 2016-3, Hart InterCivic. In that resolution there are two sections that we've been following.

Section 2A was a section that applied to manual procedures being applied for elections in 2016. Hart did comply with all the deadlines. They submitted to VSTOP documentation by August 26th of 2016 that they had notified all the counties of the manual procedures. These manual procedures were also tested by labs and were found to -- in compliance and were approved by VSTOP.

And we reported this in an earlier meeting of IC
on September 23rd, 2016.

On December 2nd VSTOP asked Hart for an assessment of how the manual procedures were carried out, and we did receive -- receive a report from Hart. And they pointed out to us that only one county, Monroe, had one paper ballot that was an over-voted ballot, according to 3-12-1-7 Section F of IC Code. And that ballot was properly handled according to the manual procedures that were tested.

I'll next move on to our report on Section 2B of the Resolution 2016-3. That section was concerned with a -- a manual -- a -- a plan for product enhancement. Hart did comply with that deadline, namely September 30, 2016. And they submitted to VSTOP a product enhancement plan. VSTOP requested some clarification on some parts of the plan. And Hart did supply that clarification which was subsequently approved by VSTOP for recommendation to IDC. And VSTOP did send a -- a communication to Indiana Election Division recommending that the plan be approved.

Subsequently Hart also submitted a test plan and a script at the beginning of January, on January 10th, 2017. Should the Commission approve
the product enhancement plan, then this test plan, which is also a part of that plan, will be carried out, and the testing will be done at the lab.

Subsequently that plan was revised. On January 31st we received a revised plan, and we have included the plan with the report that we are presenting to the Commission. We are prepared to recommend that that test plan be carried out, should the Commission approve the product enhancement plan and the test plan.

CHAIRMAN BENNETT: Is there a motion to approve the test plan presented by VSTOP for Hart InterCivic?

VICE CHAIRMAN PROXY CLAYTOR: So moved.

CHAIRMAN BENNETT: We have a motion. Is there a second?

COMMISSION MEMBER KLUTZ: Second.

CHAIRMAN BENNETT: Motion and a second. I have one question. Materials that we have states that if Indiana approves the final test report by January 30th, 2000 -- 2017, Hart InterCivic plans to complete the task during the first two weeks of February. And we have -- we are beyond January 3rd of 2017. Is this going to present any problem?
DR. BAGGA: That's right. So we have a -- an e-mail from Hart that came yesterday to the Indiana Election Commission Co-Directors. And that e-mail asserts, and I'll report that as part of our report, that should the test be carried out and be approved by VSTOP a -- a week from today, then Hart intends to meet the -- meet the March 1st deadline but would like to request March 3 be the day. And they are saying that they can meet the deadline of implementation in the counties by March 3rd.

MR. SIMMONS: Mr. Chairman.

CHAIRMAN BENNETT: Yes.

MR. SIMMONS: One of the issues that staff has -- has discussed with respect to implementation, when we were reviewing the materials, it mentioned software modification. Some of the other vendors had programming modifications. If this is a software modification, that would require a application, payment of a fee and approval certification process.

So it might be good to try to clarify, before we discuss any implementation, whether we have a programming change or an actual software
modification. And -- and that's something maybe
VSTOP can address.

DR. BAGGA: This -- this indeed is a software
modification in V -- in Hart's systems.

MR. SIMMONS: Okay.

DR. BAGGA: So -- so we intend to go through
dealing with it as a software modification.

MR. SIMMONS: Have they applied?

DR. BAGGA: They have not applied for new
certification. Software modification can be
handled through ECUs as a non de minimis
modification.

CHAIRMAN BENNETT: Is that --

MR. SIMMONS: Mr. Chairman, we have a
de minimis statute that defines de minimis,
3-5-2-6-16.3 that says, The following are not
de minimis changes: Software and firmware
modifications. So that's -- that's what sort of
raised the question with staff. We have a legal
definition that says a de minimis change does not
include a software modification.

DR. BAGGA: That -- if I may. This would not
be a de minimis change; it will be a non
de minimis change which requires the software
modification. And since this software
modification is being made, or has been made as Hart asserts, it doesn't have to be tested at the VSTL, at the lab. And that testing will be carried out once the Commission approves.

MR. SIMMONS: Mr. Chairman, can I ask a follow-up question?

CHAIRMAN BENNETT: Yes.

MR. SIMMONS: So is -- is approval of a -- a non de minimis software change through an ECO, is that part of the ECO protocol the Commission has approved?

DR. BAGGA: It is. It is, sir, yes.

MR. SIMMONS: Okay.

DR. BAGGA: And I have a copy here of that Commission -- of the -- the protocol. So the ECO protocol handles both de minimis as well as non de minimis changes.

CHAIRMAN BENNETT: Given the discussion that we've had, can you summarize the test plan that we're being asked to vote on at this point?

DR. BAGGA: Certainly. The test plan that we'll be testing in the lab, after it's been approved, would test the Section 3-12-1-7(f) of Indiana Code which relates to over-votes for State party. So if a voter votes two State parties, for
example, then the entire ballot is considered to be void except for questions and school board candidates. All the parties and candidates, the voting becomes void, even if the voter has marked some of those.

So according to the SEA-61 changes in Indiana law, this process should be automatic; that is, if a ballot is fed through the voting system with an over-voted State party ballot, then all of the partisan votes have to be voided. And this software change will make that happen and still needs to be tested.

COMMISSION MEMBER KLUTZ: Automatically.
DR. BAGGA: Automatically.
DR. BAGGA: Automatically. Yes. So the manual procedures that were in place for the 2016 election went as follows: If there is an over-voted paper ballot -- now, this only applies to off scan machines and paper ballots. DRE don't have to -- they're already satisfied 'cause they don't allow over-votes.

So for a paper ballot, if a paper ballot is fed through the system, it is not accepted because it's over-voted, then there are a couple of
choices a voter has. Either the voter can correct
the ballot, that over-voted ballot, and -- and --
and submit a corrected ballot, which will then be
received and submitted. If the voter decides not
to correct the ballot, the manual procedures
require a poll worker to segregate that ballot to
be adjudicated later on. That's -- that's the
manual procedure that was followed in the 2016
election.

But Indiana law requires that -- that it not
be manual, that it be automatic. So if the voter
decides to feed that ballot anyway, it will be fed
through the machine and then to the voting system.
And then only the school board candidates and
questions will be counted. It will void all the
other ballots. So that's the automatic part of
the process, yes.

CHAIRMAN BENNETT: And this test plan
includes the understanding that the system will be
tested and a determination whether it's in
compliance with -- with the Election Code and the
Senate Bill 61 and will be completed by March 3rd
of 2017; is that correct?

DR. BAGGA: Yes, Mr. Chairman. The -- the
test plan that's included in the report that VSTOP
submitted to the Commission has the details of how
the test plan will be carried out at the lab.
Subsequent -- subsequently to that the -- the --
the test report will come to VSTOP. And VSTOP
will review the report. And then we'll make a
determination whether it met -- whether it
complies with the law.
And at that point we, VSTOP, will -- if it
does comply, then VSTOP will submit a report to
the Indiana Election Commission and to the
Commission stating that the -- the test was
successful. And at that point we will recommend
that this be approved. And subsequent to that
this will then be implemented in the field, in all
of the jurisdictions where Hart's voting systems
are.
CHAIRMAN BENNETT: If it's approved by the
Commission.
DR. BAGGA: If it's approved by the
Commission.
CHAIRMAN BENNETT: Okay.
COMMISSION MEMBER KLUTZ: From the time the
March 3rd test takes place, how long till you get
your report to review do you anticipate?
DR. BAGGA: So according to this e-mail that
Eddie Perez sent yesterday to the Division -- and we have a copy here, and I -- I believe that's a copy that you -- you -- you will have -- his timeline or Hart's timeline is that if the Commission were to approve the -- the test plan today, they -- they will have it tested early next week in the lab.

In fact, the lab already has a copy and the test plan. And then tech to send the test reports to us by the middle of next week. And they're asking VSTOP to review the test reports by a week from today, February 17th. And they are saying that if that happens, then they'll have time to meet the implementation deadline by March 3rd instead of by March 1st.

CHAIRMAN BENNETT: Any other questions?

MS. NUSSMEYER: Mr. Chairman, if I may, though. The Commission would have to meet to approve that final plan from you before Hart could actually roll the new software to the equipment in the counties.

DR. BAGGA: Essentially, yes. Because VSTOP will only make a recommendation to the Division and the Commission.

MS. NUSSMEYER: Okay.
DR. BAGGA: It will be up to the Commission
to -- to accept that.

MS. NUSSMEYER: So that would mean we would
need to meet in the near future or be amenable to
delaying the full implementation to the counties
if we were to meet after February 17th, is the way
I understand the timeline to be. I don't know if
Mr. Simmons agrees.

MR. SIMMONS: Yeah. That's the way --
Mr. Chairman, that's the way I understand it too.

DR. BAGGA: Yes.

MR. SIMMONS: We -- we -- we get a test
recommendation and then final approval for
implementation from the Commission.

CHAIRMAN BENNETT: And that implementation --
MR. SIMMONS: Install it, I think is what
they're --

CHAIRMAN BENNETT: Yeah. That comes from the
Commission. And that has to be before February
17th?

MR. SIMMONS: Well, no. To meet the
Commission's deadline you have to come sometime
before March 1st --

DR. BAGGA: March 1st.

MR. SIMMONS: -- according to the resolution
or March 3rd according to what they're saying they
can do.

MS. NUSSMEYER: But March 3rd is when they
believe they will have it fully implemented at the
county, in other words installed.

MR. SIMMONS: They can start --

MS. NUSSMEYER: They could -- right. So if
we -- if we don't meet in the next few weeks, then
they are delayed in rolling out the new product to
their counties. Because they couldn't deploy the
new coding to the equipment until the Commission
agrees that their test plan -- their final product
meets our criteria.

VICE CHAIRMAN PROXY CLAYTOR: But in their
e-mail they're saying we would have to meet and
approve it February 17th.

MS. NUSSMEYER: Right. In order for them to
meet --

VICE CHAIRMAN PROXY CLAYTOR: In order for
them to start rolling it out.

MS. NUSSMEYER: Correct, Mr. Claytor. And
part of that too is they came to the Division in
January to try to -- to get the test plan and
didn't realize they needed the Commission's
approval of their test plan in order to move
forward with rolling out the new product. So there was a bit of a delay on our end, I believe, because they were --

DR. BAGGA: Yes.

MS. NUSSMEYER: -- ready to -- to move forward.

CHAIRMAN BENNETT: So we either have to meet by the 17th or extend the deadline imposed by the -- the order -- order.

MS. NUSSMEYER: That's how -- that's how I understand it.

VICE CHAIRMAN PROXY CLAYTOR: But then we'd have to extend the deadline anyway if we're going to let them go to March 3rd. Because I think their deadline is March 1st.

COMMISSION MEMBER KLUTZ: Do they need up until the 17th? I mean, are they being -- are they -- are they trying to get away with one date because they need up until the 17th? Or could we meet before the 17th?

DR. BAGGA: Our understanding is that they -- they need some time after the Commission has approved the report to go implement it in the counties. And that to us seems like a period of about two weeks roughly.
MS. NUSSMEYER: Uh-huh.

DR. BAGGA: So --

MS. NUSSMEYER: Uh-huh. In -- in the e-mail, if I may, Mr. Chairman, it says if VSTOP and/or the IEC is able to issue final approval of the test report by Friday, February 17th. So, Commissioner Klutz, to your question, if we met before the 17th, then it appears that they would be able to roll it out by the March 1st deadline, assuming that the VSTL report comes back by February 10th. Which -- well, it comes back in the early part of next week.

DR. BAGGA: Right. So it's also -- if -- if I may -- sorry.

CHAIRMAN BENNETT: How likely is that assumption?

DR. BAGGA: If I may, Mr. Chairman. This would be contingent upon the lab completing its test and sending VSTOP the report in time for VSTOP to review the report and go back to the lab in case there are any questions and then bring the report and our recommendation back to the Commission. So we would say at least a week for that, starting from the day the tests begin.

MS. NUSSMEYER: And, Mr. Chairman, if I may,
for the record, I know that Mr. Perez from Hart
was intending to be here today. But with all of
the snow he was concerned about -- 'cause he would
have to fly into Chicago -- that he would not be
able to be down here today. So that's why he
e-mailed Dale and I and also then spoke to the two
of us yesterday. And we knew that he would not be
here today.

CHAIRMAN BENNETT: Well, if we have to end up
modifying our resolution anyway because all these
pieces of the puzzle don't fall into place, it
seems to me that it might be less disruptive for
the Division and the Commission to extend our
resolution deadline as opposed to trying to fit
this meeting into the existing resolution.
Discussion on that?

COMMISSION MEMBER KLUTZ: I have no issue
with that.

MR. KOCHEVAR: Mr. Chairman.

CHAIRMAN BENNETT: Yes.

MR. KOCHEVAR: If I may, 'cause I'm actually
looking at that part of the resolution under
Section 2. And that's in Paragraph B.

COMMISSION MEMBER OVERHOLT: There are two
Paragraph Bs.
MR. KOCHEVAR: Yeah. It's supposed to be the actual Paragraph B that has the --

COMMISSION MEMBER KLUTZ: You know, the other resolutions aren't like that. I wonder what happened.

MR. KOCHEVAR: The part I'm referring to, it says, The plan must, one, provide for all necessary testing and implementation of necessary modifications no later than March 1, 2017. And, two, be reviewed by VSTOP and submitted to the Indiana Election Commission for approval.

I think there are two ways of looking at that part of the resolution and -- and interpreting it. One is I think the -- the way that Hart's looking and it and what we discussed, is it's saying that their -- their changes must be implemented by March 1, 2017. I think another way of looking at it is saying that the plan that Hart had submit had to -- they had to build a plan where -- where essentially everything that was under their control, all of their -- their testing, what they could implement could be done on March 1, 2017, if the Indiana Election Commission was able to meet at various amounts of time to -- to approve what -- what you need to approve to have that
change implemented.

So taking that reading, essentially you can view it as, well, they come to us with their test plan, assuming that you approve it today, it would appear that they have met -- they have met the -- the requirements under this section. They are prepared with everything that's under their control to make an implementation by March 1st.

But for the Commission having to meet and to make that final -- to review the final test results and make the approval of the modification, they -- they can't implement them on March 1.

I hope that made sense. I -- I -- I think I -- I lost -- I lost a little bit towards the end, sorry. But -- and I'll -- I'll defer to Mr. Simmons if he gets what I'm saying. I know we discussed this a little bit outside of -- as we were prepping for the meeting.

MR. SIMMONS: Mr. Chairman, and -- and I think that this sum total of what I think we're all saying is: Our understanding of the assumptions in their plan, that the Commission could be very flexible and meet on -- very quickly to approve at different stages of the process, you know, test plan, implementation or reviewing after
the test and saying, Yes, implement.

So I think they built that into their assumptions. And so they're kind of looking at us saying, Well, we're -- we're sorry we didn't know the Commission was not that flexible, but we're hoping you don't hold that -- that against us.

Because we -- we -- according to our benchmarks, if they had been available to meet and approve of at every point according to the plan, we would have made the deadline. So they're -- they're sort of -- that's sort of where they are.

CHAIRMAN BENNETT: This appears to me to be a situation where Hart is working in good faith and trying to get this done according to the resolution. I'm trying to figure out the best way to reward that diligence without disrupting the Commission or the Division in -- inordinately.

Couldn't it all be solved if we were to amend our resolution to extend that March 1st deadline by some reasonable period of time?

MR. SIMMONS: Sure.

VICE CHAIRMAN PROXY CLAYTOR: I -- I don't know, Mr. Chairman. I -- that certainly makes sense. I don't know if we need to do that on this resolution. We can certainly. And then that
1 makes the most sense and gives them some comfort.
2 But I don't think the resolution approving them
3 going forward is determinative of giving them more
4 time in going forward with --
5 CHAIRMAN BENNETT: On the test plan you mean?
6 VICE CHAIRMAN PROXY CLAYTOR: On the -- on
7 the -- right. Approving the -- the test plan. We
8 don't necessarily have to go to March 3rd. I
9 think the problem is, if we can't meet on the 17th
10 and something happens and then they need to extend
11 it to March 5th or some crazy time, we could have
12 gone ahead with just approving the plan today.
13 And then at our next meeting, when we have to
14 approve their implementation, we could change the
15 target date. And I don't --
16 CHAIRMAN BENNETT: Even if that -- even if
17 that occurred after March 1st?
18 VICE CHAIRMAN PROXY CLAYTOR: Even if that
19 occurred after March 1st. I'm certainly willing
20 to go either way.
21 CHAIRMAN BENNETT: Well, I think we take a
22 two-step process. I mean, there is a motion on
23 the -- on the table that has been seconded and
24 we've had a lot of discussion about the test plan.
25 So we can resolve that at this point in time.
Unless there's any further discussion on that.

COMMISION MEMBER KLUTZ: No.

CHAIRMAN BENNET: So we have a motion and a second to approve the test plan. All in favor say "Aye."

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say "Nay."
   (No response.)

CHAIRMAN BENNETT: The ayes have it. The test plan is approved.
   And I understand there's a suggestion that we just go about our business and take this up at our next meeting. And that sort of leaves open the question, I suppose, of whether the resolution was complied with because it probably won't be done by March 1st.

COMMISION MEMBER KLUTZ: I would think Hart would want some assurances that -- or an acknowledgement by the Commission that we are extending this deadline stated in the resolution.

CHAIRMAN BENNETT: Can we do that informally by stating it on the record without a -- a formal amendment of our resolution? Or do we need to formally --

MR. SIMMONS: Yeah. Mr. Chairman, yeah,
certainly we'd be willing to communicate that.
I -- I think their -- their major concern is that
they don't miss that deadline under the current
status that they not be punished for that. And I
think that's been the will of the Commission as
expressed by the Commission here today. And I'd
be willing to communicate that to Hart.

CHAIRMAN BENNETT: Do we want to phrase that
or frame that in terms of a -- an extension of two
weeks? Or do we just give them an open-ended
pass?

MR. SIMMONS: Or at least until they can --
at least as long as they continue to diligently
pursue their implementation that --

MS. NUSSMEYER: Because they would be before
the Commission by October 1st, correct, to
recertify their systems for the next period of
time as well. So --

COMMISSION MEMBER KLUTZ: I don't want to
lose any momentum here. I mean, I'd -- I'd like
to have it -- something on the books so that
there's this -- not this October 1 outside date,
and reports get put on a shelf and people forget
about this. I -- my preference would be to say
that we acknowledge their good faith efforts in
attempting to comply with this resolution. We --
we realize that the March 1st deadline, that their
planning was based upon the assumption that we
could meet quickly. And while we can, seven days
with multiple schedules is difficult.

So I guess I would say that -- that -- make a
motion that we extend the March 1, 2017 deadline
as provided in Section B1 to March 15th, on or
before March 15th. And we would agree to meet by
then. That would be my motion.

VICE CHAIRMAN PROXY CLAYTOR: I would second.

CHAIRMAN BENNETT: The motion is seconded.

Discussion? Any further discussion?

(No response.)

CHAIRMAN BENNETT: Anything from the floor
with regard to the ability to comply with the
March 15th deadline if it is extended?

DR. BAGGA: Mr. Chairman, we would like to
recommend that the Commission not have a date for
next meeting until we've seen the report and
reviewed it, and then we can send to the
Commission for approval. We expect that to happen
within the next week. But when tests are done and
if things are not the way they are and we want
more information from the lab on the tests, then
we -- that may take a little bit longer time,
although we don't expect that. The tests are
straightforward and they should go through. But
we won't be able to make a recommendation until we
have reviewed the test report. Which, again, is
expected to happen next week.

COMMISSION MEMBER KLUTZ: And my -- and my
motion wasn't intended to schedule a meeting for
March 15th. It was just that we --

DR. BAGGA: Oh.

COMMISSION MEMBER KLUTZ: -- would like to
meet on or before March 15th as soon as we hear
back from you.

DR. BAGGA: Yes, that's good. I'm happy with
that.

CHAIRMAN BENNETT: My question is: Can we
expect to hear become from you before March 15?

DR. BAGGA: Almost certainly, yes.

CHAIRMAN BENNETT: Okay. And all in favor of
the motion presented by Commissioner Klutz say
"Aye."

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say "Nay."

(No response.)

CHAIRMAN BENNETT: Ayes have it. Motion
carries. Thank you.

At this point I'd like to call on Dr. Bagga again to provide a report and recommendations with regard to Dominion Voting Systems.

DR. BAGGA: Thank you, Mr. Chairman. This next report is an update on Resolution 2016-1 on Dominion's compliance with Indiana Code Section 3-12-1-7(f). Dominion has AccuVote/GEMS voting systems in twenty counties in Indiana.

And, again, we will address Section 2A and Section 2B of the resolution independently. We'll begin with Section 2A.

We have reported to the Commission in its September 23rd, 2016 meeting that Dominion complied with the manual procedures process for Section 2A of the resolution. On December 2nd VSTOP asked Dominion to provide to us an assessment of how the manual procedures worked in the 2016 election, November 2016 election.

And on January 26th we were told that -- in an e-mail that GBS, Governmental Business Systems, which is a service provider to Dominion in Indiana, did do a survey of the twenty counties regarding how the manual procedures worked. Seven ballots were found in three counties which were