

# An Introduction to New Hampshire Energy Siting Considerations

Presented to:

***VT Energy Generation  
Siting Policy Commission***

Meeting #2 – Learning from Other States  
(Nov 14, 2012)

# General Description & Context for NH Energy Generation Siting Process

- What is threshold for review (size/type of projects)?
  - Electric generation – 30 MW or more (NHRSA 162-H:2, VII (b))
  - Transmission line – 100 kV or more associated with a generator and traversing an unoccupied route (NHRSA 162-H:2, VII (c))
  - Transmission line – 100 kV or more in excess of 10 miles and traversing an unoccupied route (NHRSA 162-H:2, VII (d))
  - Transmission line – new and in excess of 200 kV (NHRSA 162-H:2, VII (e))
  - Storage, manufacture, refinery and transportation facilities. Include but not limited to facilities designed to use natural gas , propane, LNG storing on site a quantity that provides 7 days of continuous operation at a rate equivalent to a 30 MW generating facility. Includes pipelines, loading and unloading facilities That are not part of a local distribution network. (NHRSA 162-H:2, VII (a))

# General Description & Context for NH Energy Generation Siting Process (2)

Primary authority: state or local?

The NH Site Evaluation Committee is the primary authority for the regulation of siting construction and operation of energy facilities. NHSEC authority pre-empts local authorities.

*PSNH v. Hampton*, 120 NH 68 (1980)

# General Description & Context for NH Energy Generation Siting Process (3)

Are there opt-in options?

There are no opt in options but there is discretionary jurisdiction:

- Projects that are determined by the SEC to require a Certificate consistent with the statutory purpose
- Renewable energy projects between 5 and 30 MW that are determined by the SEC to require a Certificate consistent with the statutory purpose
- Petition process

# General Description & Context for NH Energy Generation Siting Process (4)

Total # Energy Generation projects/applications considered (average/year or most recent year)

- 10 applications since 1998 (average less than one per year.)
- 2012 – 1 application

(Does not include amendments, exemptions and jurisdictional inquiries.)

- NHSEC has never denied an application but has made substantial use of conditions.

# Siting Approval Practices #1

- Authorizing agency/members/staff
  - Enabling statute: Site Evaluation Committee  
NHRSA 162-H
  - Membership: Commissioners and Directors of various state agencies and divisions.
  - Staffing of siting process: No permanent staff; no budget line; may hire staff on case by case basis and charge the applicant.

# Siting Approval Practices #1-A

Coordination of state-level permit issuance with other agencies:

State agency permitting process is folded into the NHSEC process.

Applicant must file for individual state agency permits through the SEC process and must pay fees to individual agencies.

Agencies subject to deadlines for reports and final determinations.

Event	Timeframe
Application filed	
Chair forwards to Agencies with jurisdiction	Expediently
Preliminary review by Chair	Expediently
Chair's determination if application is complete and acceptance if complete.	Within 30 days of filing
Designation of a subcommittee	Upon acceptance of application
One public hearing in each county	After acceptance; promptly; upon 30 days notice
Agency preliminary reports with draft conditions	Within 90 days of acceptance of application
Agency final decisions	Within 180 days of acceptance of application
Adjudicative proceedings on the merits	Within 30 days of Agency final decisions (Renewables)
Decision granting or denying Certificate	Within 240 days of acceptance of the application for Renewable Energy Facility Within 9 months of acceptance of application for traditional facility.

# Siting Approval Practices #2: Substantive Criteria & Standards Overview

- NHSEC Considerations  
RSA 12-H:16, IV
  - Consider available alternatives
  - Fully review environmental impacts of the site or route
  - Consider other relevant factors bearing on the objectives of R.S.A. 162-H

# Siting Approval Practices #2:

## Substantive Criteria & Standards Overview (cont.)

- NHSEC Findings Re: Proposed Site and Facility, RSA 12-H:16, IV (a)-(c)
  - Applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.
  - Will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies
  - Will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety.

# Siting Approval Practices #2: Are there General Siting Guidelines?

- Setback, sound, etc - None
- For any technology/size? – None
- Voluntary wind turbine standards:  
[http://www.nhsec.nh.gov/documents/siting\\_guidelines.pdf](http://www.nhsec.nh.gov/documents/siting_guidelines.pdf)

# Siting Approval Practices #2:

## Appeals Process/Authority & Expedited Processes

- Appeals process/authority
  - Appeal to the New Hampshire Supreme Court in after denial of reconsideration.
  - NH Supreme Court Rule 10 discretionary appeal.
- Any expedited processes for certain projects?
  - Renewable projects – 240 days rather than 9 months.

# Public Participation/Representation mechanism (1)

- How do you capture public opinion/evidence as part of the deliberative process?
- Public information hearings – at least one in each county where project is proposed.
- Intervention in adjudicative hearings
  - Demonstrated right or interest
  - May be combined for efficiency
- Counsel for the Public – appointed by the Attorney General – full party to the proceedings.
  - From filing of the application through conclusion

# Public Participation/Representation mechanism (2)

What support is provided? (financial, legal, other)

- The SEC may hire counsel and consultants and charge the cost of such services to the developer.
- Counsel for the Public with Committee approval may hire consultants at the expense of the developer.
- There is no express provision for funding of intervenor experts or consultants.
- The SEC is required to consider the views of municipal and regional planning commissions and municipal governing agencies.

Effectively automatic parties if desired.

# Alternative Dispute Mechanism

- Does it exist? *Only informally.*
- Who is responsible? *Parties.*
- At what point in the process is it available?  
*Usually regarding conditions of a certificate.*
- Who pays? *The developer.*
- If yes, how often utilized? *Randomly – usually in the context of conditions such as historic preservation mitigation.*
- Does it work? (pros & cons). *Usually.*

# Adequate protection of lands, environmental & cultural resources

- Which environmental permits are required?
  - Who issues them? The Committee (but the Committee cannot issue a permit that the agency denies.)
  - All permits that would otherwise be required from any state or federal agency.
- Are they a pre-requisite or subsequent condition to granting of overall siting approval? Determined on a case by case basis.
- How is cumulative impact of multiple projects measured? Case by case basis – no formal method of measurement.
- Do permits adequately address all environmental concerns? (pros & cons): HOPEFULLY!

# Monitoring Compliance

- What is the system for monitoring compliance with permit conditions?
  - Including impacts of approved and built facilities
    - Conditions of a certificate
    - Post construction studies reports and technical committees.
  - During construction as well as post construction?
    - Conditions
    - Environmental monitor
    - Ombudsman
  - For what time period? It depends – case by case.
  - Staffing or budget? Usually funded by developer.

# Strengths and Weaknesses

- Strengths
  - One-stop shopping model.
  - Definitive time frames
  - Flexibility
- Weaknesses
  - No permanent staff or budget
  - Cumulative impacts analysis
  - Logistics of bringing varied state officials together
- If there were anything you would change, what would it be?
  - Establish a substantive state agency with staff and budget