



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 12, 2013

The Honorable David Borden, Chairman
House Science, Technology and Energy Committee
Legislative Office Building, Room 304
Concord, NH 03301

RE: HB 449 relative to the application process for a certificate for an energy facility

Dear Chairman Borden and Members of the Committee:

Thank you for the opportunity to comment on HB 449 which would amend RSA 162-H, Energy Facility Evaluation, Siting, Construction and Operation. Pursuant to RSA 162-H:3, the Commissioner of the Department of Environmental Services serves as the statutory Chairperson of the Site Evaluation Committee (Committee or SEC). Based on my experiences in serving on the Site Evaluation Committee, I am concerned that the bill would substantially expand the criteria or findings the Committee would need to make in order to grant a certificate but gives little guidance as to how that new authority would be exercised.

HB 449 would among other things, require the Committee to consider the economic impact of a proposed facility, in addition to the environmental impact that the Committee is currently charged with considering. Requiring the Committee to predict the economic impact of a particular facility would effectively place the Committee in the role of determining the energy and economic policy for the state. Traditionally, however, significant decisions about energy and economic policy in New Hampshire are made through the legislative process with input from a broad range of stakeholders and interested parties, not through permitting decisions made by the executive branch on individual projects. Furthermore, the potential economic effects of a proposed energy project are often a matter of significant dispute. Most projects come with both economic advantages and disadvantages. The resolution or determination of a "net effect" of those impacts would be extremely subjective and oftentimes would not be amenable to ready measurement. The Committee, although comprised of agency commissioners and directors, has no staff, budget or facilities to undertake the greatly expanded role envisioned by this legislation, nor does it possess the expertise to fully assess competing economic evaluations. Rather, as provided in RSA 162-H, the Committee comes together on an "as needed" basis and fills the dual roles of a siting board and a "one stop" permitting authority.

Finally, it should be noted that there are a number of pending bills that relate in some manner to the site evaluation process set forth in RSA 162-H, including HB 449. It is certainly possible that some changes could be made that would improve the site evaluation process currently specified in RSA 162-H. However, this is a complex statute, and any potential amendments to the law should be considered in the light of a full understanding of the law's purpose, the history of its implementation, and a thorough understanding of how matters are

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currently considered and decided by the Site Evaluation Committee. Accordingly, if the Legislature is interested in pursuing possible amendments to RSA 162-H, I would recommend forming a single study committee. A study committee would be able to comprehensively review and understand all aspects of RSA 162-H and the role of the Committee in the siting determination process. With that understanding in mind, it may be easier to posit reforms that would not have unintended consequences and that would have the potential for improving the current review process. Alternatively, I would be pleased to work with your committee to arrange for a comprehensive briefing for interested legislators on RSA 162-H and the work of the Site Evaluation Committee. Based on such a briefing, your committee could determine what further steps may be appropriate.

Thank you for allowing me the opportunity to explain my concerns. If you have any questions or require additional information, please contact me at 271-2958 or Thomas.burack@des.nh.gov.

Sincerely,



Thomas S. Burack
Commissioner

cc: Sponsors of HB 449