



February 19, 2014

The Honorable Russell Prescott, Chairman  
Committee on Energy & Natural Resources  
New Hampshire State Senate  
The State House  
Concord, NH 03301

Dear Chairman Prescott:

Our organizations support the amendment to SB 245 offered this morning by Senator Forrester. We believe New Hampshire citizens deserve an energy facility siting process that serves them more effectively than the process currently in place under RSA 162-H.

Many of us were present last year when the Chairman of the State's Site Evaluation Committee (SEC) stated to the House Science, Technology, and Energy Committee that New Hampshire's current siting process is at a breaking point. That this is the situation is of great concern, as our state has now, and will see in the future, many more complex energy facilities being proposed across the state. Each will have its own specific issues that will impact our state's environment and quality of life. Ensuring that our state's energy facility siting board is structured to make the best possible decisions should be a top priority. We believe that Senator Forrester's amendment is a giant step forward towards accomplishing this goal.

Last session the General Court enacted SB 99, mandating a stakeholder process to examine the Site Evaluation Committee (SEC) and the tools it has to serve the public and project developers as it goes about its work. The Office of Energy and Planning delivered their comprehensive report at the end of December, and it identified a number of concerns about the structure of the SEC and how it functions. As a result of the participation by the public, energy industry, state agencies, and the NGO community in the stakeholder process, the report also identifies a number of solutions to address these concerns that have significant support from a wide range of these participants. The report also contains a comprehensive review of how neighboring states manage the task of siting energy facilities. While there is clearly no right or wrong way for states to make these decisions, there is certainly room for improvement in the way New Hampshire presently does the job.

Many of the issues raised and solutions identified in the SB 99 report are addressed by Senator Forrester's amendment. Specifically, the amendment provides meaningful reforms to the SEC in four key areas:

First, the purpose of the state's current siting statute --- to balance environmental protection with the need for new energy --- would be better served if the SEC were required to make a determination that a proposed project serves the public interest. The SEC makes no such determination under current law; rather, the siting board is

only required to determine that there are no “unreasonable adverse effects” on such things as aesthetics and the environment.

Senator Forrester’s amendment requires that the SEC make a finding that a proposed project results in net public benefits, after considering all environmental, social, and economic cost and benefits. This is a workable, common-sense requirement that recognizes that, even in a restructured energy market, all major energy projects should provide a strong package of public benefits – whether for our natural resources, for ratepayers and businesses, for public health, or for the state’s economy, or for all of the above – and that these benefits outweigh a project’s potential adverse impacts. Other states, including Maine and Vermont, have such a requirement, ensuring that the greater good of the state and its communities is weighed as part of every siting decision.

Second, the current structure and membership of the SEC is cumbersome and a burden to the 15 key state officials who presently serve on the SEC, as well as to applicants and other participants trying to navigate through the process. One SEC application can consume 10% of each current SEC member’s total work per year. The trend and expectation is that there will be more applications moving forward in the future, exacerbating a situation that takes these important agency personnel away from their core responsibilities. Even when the SEC appoints a subcommittee of seven to manage a siting application, the opportunity cost to the state and affected agencies is simply too high.

Senator Forrester’s amendment proposes to reduce the size of the SEC to a manageable five, and the number of state officials serving on the committee to just three of the five. At the same time, all of our state agencies will continue to play important roles as they will still be charged with providing input and expertise to SEC decision-makers, but without the awkward constraints and extraordinary time commitments that now apply.

Third, the current law fails to fully engage the public in the SEC process, a concern that was front and center throughout the SB 99 stakeholder process. This is true in two key respects. One is that the public – those who are most directly affected by any outcome - do not have a seat at the decision-making table. RSA 162-H is designed to provide the state primacy in making decisions about the siting of energy facilities under SEC jurisdiction; this is appropriate to the extent that one municipality should not have veto power over a proposed project that may serve the greater good. But while we agree that state agencies have a critical role to play in the siting process, the public also has a responsibility to ensure that projects are properly sited in our communities. Senator Forrester’s amendment addresses this by requiring that two of the five members of the SEC be appointed public members, one of whom comes from the region where the proposed project is located.

We believe that New Hampshire citizens deserve to know as much as possible about a project before they are expected to weigh in with comments. Under current law, the SEC must hold one public hearing in each county where the proposed project will be located. We do not feel that this requirement is adequate to ensure that the public is well-informed, and able to provide effective feedback to best inform the process. Under current statute, the public hearing may be the public’s first opportunity to learn the details of the proposed project. In many cases, this public hearing is the primary opportunity for those directly impacted by the project to offer comments.

We all know that well-informed public comments require a well-informed public, and a well-informed public simply requires more information in a more timely manner than current law provides. The amendment addresses this issue by providing a logical schedule that ensures project developers inform the public of the details of a project both before and after a proposed project’s voluminous application is filed at the SEC, providing a more meaningful opportunity for well-informed public comment on the specifics of an application.

Finally, it is unrealistic for the State of New Hampshire to expect these important and long lasting energy siting decisions to be made when the SEC itself has no permanent staff or financial resources to do its work. Senator Forrester's amendment provides resources that the SEC desperately needs to make prompt, well-informed decisions, and to make sure that the conditions placed on permits are met and adequately enforced.

The Forrester amendment is designed to improve the SEC process for both project applicants and New Hampshire citizens. It makes fulfilling the **public** interest the paramount priority of the energy facility siting process. It makes the project review process more user friendly for the public. It reduces the burden on state agency heads. It provides financial resources for the siting committee to conduct its work. And it retains the process's essential features: efficient one-stop shopping and a fair and rigorous adjudicative process.

In short, this amendment will help the SEC move away from the "breaking point" that it is heading towards if the Legislature fails to address these issues.

As energy markets change and mature, and as the market-based development of energy generation and transmission facilities provide the opportunity to meet our energy needs with innovative and cleaner resources, the process by which New Hampshire makes the critical decisions about the siting of such facilities must also change with the times. Public trust and confidence in the SEC and its decisions will be well served by adopting the changes proposed in Senator Forrester's amendment to SB 245.

Sincerely,

Will Abbott, Society for the Protection of NH Forests  
[wabbott@forestsoociety.org](mailto:wabbott@forestsoociety.org), 224-9945, Ext 327

Susan Arnold, Appalachian Mountain Club  
[sarnold@outdoors.org](mailto:sarnold@outdoors.org), 664-2050

Christophe Courchesne, Conservation Law Foundation  
[ccourchesne@clf.org](mailto:ccourchesne@clf.org), 225-3060, Ext 3017

Jim O'Brien, The Nature Conservancy  
[jim\\_obrien@tnc.org](mailto:jim_obrien@tnc.org), 224-5853, Ext 28