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New Hampshire Site Evaluation Committee Meeting Regarding Rule-Making

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Iberdrola Renewables owns and operates two wind farms in New Hampshire, the Lempster Wind Farm and the Groton Wind Farm. Iberdrola's cumulative investment in NH is nearly $200 million, and we have a long-term commitment to operating our wind farms in this state, and long-term commitments to the communities where we work.

We have been through the Site Evaluation Committee (SEC) process twice, including for the first wind farm to be reviewed by the SEC. The NH SEC process is, in our view, the most comprehensive, lengthy, and expensive state siting review process in the US.

The Committee is considering whether to commence a rule-making proceeding, per a request from the NH House Science, Technology, and Energy Committee.

Iberdrola takes no formal position on whether the Committee should or should not commence such a proceeding.

There appears to be a number of legislative initiatives related to energy projects, renewable energy projects, and specifically wind power projects. These include possible legislative and executive branch studies that would presumably review the current SEC process and RSA 162-H provisions. In light of these as-yet undetermined studies, perhaps there is reason to await legislative and executive direction to the Committee.

If the Committee chooses to commence a rule-making proceeding, Iberdrola offers the following broad suggestions for improving the fairness, efficiency, and transparency of the SEC process.

It is first worth noting that In-state renewable energy proposals are unique: they are expressly promoted and supported by state policy (i.e. the renewable portfolio standard and other policies). This is presumably the rationale for a separate "track" in the SEC process for renewable energy proposals. By policy and legislation, these types of projects are encouraged, while state policy is neutral on fossil fuel proposals and transmission line proposals.

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Recommendations

1. Where possible, apply clear and fair standards, consistent with existing review standards applied through the state. Rules should be based on established review thresholds, fairly applied and administered, and consistent. As a past Applicant before the SEC, a key challenge has been to identify with some certainty what standards of review the SEC is using.
2. The SEC should endeavor to adhere to statutory and legal requirements in terms of timeliness. We are concerned that the review timelines contained in RSA-162H are rarely if ever met. This creates uncertainty for all participants, makes scheduling difficult, and elongates the SEC process.
3. The SEC should establish reasonable thresholds for determining interveners, based on existing legal and regulatory standards. In our experience, the Committee has in the past appeared to employ an "all comers" approach to potential interveners. This makes the SEC process repetitive and inefficient.
4. The current SEC process is repetitive of some existing state agency reviews, such as the Alteration of Terrain (AoT) and Wetlands Bureau processes. Applicants effectively have to permit twice: once thru consultations with state agencies outside of the SEC process and again via SEC process where regulations and standards used by state agencies are no longer binding. As an Applicant, we go through an extensive review and consultative process with state agencies (NH DES, NH F&G, NH DHR, etc.) *prior* to SEC review. But essentially the SEC performs a second review of the same issues, and sometimes imposes conditions that are at variance with state regulations or agency recommendations. A second point in this vein is the Committee's review of Federal or other permits and approvals that are outside the Committee's jurisdiction. For example US Army Corps of Engineers (USACE), which reviews and issues permits related to wetlands and historic resources; Independent System Operator-New England (ISO-NE), which reviews energy projects for grid interconnection; and the Federal Aviation Administration (FAA), which reviews projects and issues permits related to aviation safety and lighting requirements.
5. SEC should consistently adhere to administrative rules and precedents. All participants in the SEC process should be able to expect that precedents in terms of review of previous projects should be honored or at least strongly considered in future dockets.
6. The role of the Counsel For The Public in the SEC process is opaque and inconsistent. At times the Counsel has served as an advisor to advocacy organizations that are interveners. Clarity of the Counsel For The Public's role would be welcomed.
7. The 2007 draft guidelines were not completed nor reviewed by a wide audience. We believe that any detailed siting guidelines, if contemplated, should be developed anew, starting with assumptions and purposes, and moving forward to details.

One final suggestion – at a broad level rather than specifically related to a rule-making: There has been some discussion of the possibility or need for the SEC to become a standing committee with consistent membership and staff. We think this would be an improvement for all parties, as it would help to reduce the significant burden on Committee members who currently serve in addition to their existing full-time job responsibilities. A standing committee or office could serve to improve the expertise and efficiency of the Committee by building on institutional memory and experience.