

State of New Hampshire  
**Site Evaluation Committee**

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Thomas S. Burack, Esquire  
Chairman

Amy L. Ignatius, Esquire  
Vice-Chair

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April 3, 2013

Dear Representative Borden and Members of the Science Technology and Energy Committee:

The New Hampshire Site Evaluation Committee (Committee) has received and considered your letter requesting that the Committee commence a rulemaking proceeding to adopt rules establishing comprehensive procedures and siting criteria for applications for certificates for wind powered energy facilities. In your Petition you also requested that the Committee develop a stakeholder process for developing the rules. You asked that we use the document entitled "Wind Energy Facility Siting Guidelines Working Group Proposed Wind power Siting Guidelines – May 29, 2007 Forwarded to the NH Energy Policy Committee Wind Siting Subcommittee" as a starting point for the development of the rules. However, your Petition also recognizes that the Guidelines need updating in order to reflect technological advances and wind siting experience since 2007.

On March 29, 2013, the Committee held a public hearing and meeting on your Petition. The Committee heard public comment from a wide cross-section of interested parties. At the conclusion of the public hearing the Committee deliberated and unanimously voted to deny the Petition without prejudice. This letter contains the Committee's reasons for denial of the Petition without prejudice.

The Petition suggests that the Committee use the Guidelines as a "starting point" for the development of rules. The Petition does not present draft rules for our consideration. In fact, the Petition requests that a stakeholder process occur for the development of such rules. It is not feasible for the Committee to grant the Petition and undertake the stakeholder process envisioned in the Petition within the time frames required by RSA 541-A: 4. However, the Committee does agree that such a stakeholder process would be a necessary component in the development of substantive siting criteria as rules.

The adoption of substantive siting criteria for wind powered facilities would require an extensive and exhaustive multi-disciplinary survey of a broad array of impacts that may accompany the siting, development, construction and operation of a wind powered energy facility. At present the Committee considers applications of such facilities on a "case by case" basis using the criteria established in RSA 162-H and evidence generated through a public hearing and adjudicative process. Such applications generally take at least 240 days for consideration. It is not feasible for the Committee to draft rules extending to the entire industry under the time constraints of RSA 541-A. Moreover, the Committee has no staff or budget to support such an undertaking.

The Committee also recognizes that there is significant legislative activity surrounding the issues of siting wind powered energy and transmission facilities. There are several pending bills in the House of Representatives that have been retained for further study. In addition there is at least one Senate Bill, SB 99 , that would require an extensive study of these issues to be conducted by the Office of Energy and Planning. While none of these bills has yet become law, the Committee is concerned that the commencement of the requested rulemaking proceeding at this time may result in an expensive and duplicative process.

During the public comment session at the Committee hearing on March 29, 2013, the Committee heard from some stakeholders with regard to requests for rules that may be beyond the statutory authority of the Committee to adopt. For instance, several stakeholders argued that a “property value guarantee” should be included in any proposed rules. Another stakeholder requested that the rules contain provisions that will govern local school and property tax assessments on such projects. These public comments demonstrate the broad array of issues that would arise in the drafting of rules. The appropriate consideration of such rules would also require significant statutory interpretation to determine whether certain requested measures would fall within the Committee’s existing rulemaking authority, or whether legislative amendments would be necessary to authorize the inclusion of various topics or provisions in such a rulemaking proceeding.

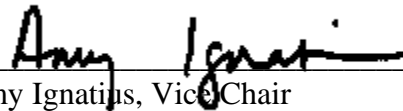
As you heard during the Committee’s deliberative process, we are not opposed to the concept of developing rules to address matters raised in the Petition. However, the mandatory time frames of the Administrative Procedures Act prohibit the process envisioned in the Petition. Meaningful stakeholder input is necessary to the development of a set of draft rules prior to the commencement of formal rulemaking under RSA 541-A. Additionally, the Committee does not wish to duplicate efforts that may be undertaken by the legislature in this arena. For these reasons, and others expressed on the record by individual members, the Committee voted to deny the Petition without prejudice.

Should you have any questions or need additional information regarding the Site Evaluation Committee please feel free to contact our Committee Chairman, Thomas S. Burack.

Sincerely,



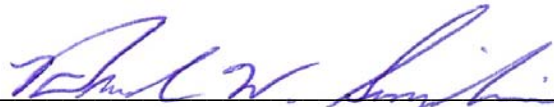
Thomas S. Burack, Chairman  
NH Site Evaluation Committee  
Department of Environmental Services



Amy Ignatius, Vice Chair  
NH Site Evaluation Committee  
Public Utilities Commission



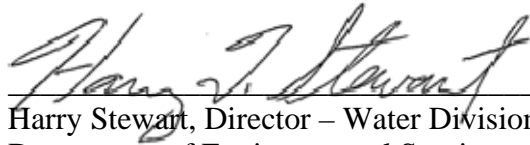
Meredith A. Hatfield, Director  
Office of Energy and Planning



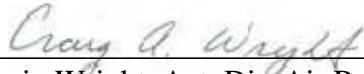
Brad Simpkins, Interim Director  
Division of Forests and Lands  
Dept. of Resources & Economic Dev.



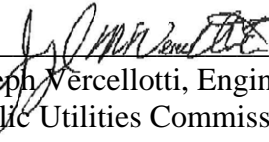
Robert Scott, Commissioner  
Public Utilities Commission



Harry Stewart, Director – Water Division  
Department of Environmental Services



Craig Wright, Act. Dir. Air Resources Div.  
Department of Environmental Services



Joseph Vercellotti, Engineer  
Public Utilities Commission