

Comments re: Wildlife and Natural Environment

For the record, I am Parker Griffin and I live in Hebron, NH.

My comments today will focus on issues relating to Wildlife and Natural Environment and the critical need for effective and transparent consultation with relevant agencies during the application process, and subsequent post construction oversight by those same agencies. Each is necessary in order to ensure that the Site Evaluation Committee can grant a Certificate based on expert data and information from reliable third party sources and, subsequently, be confident of the post construction integrity of operation with respect to issues relating to the Wildlife and Environment.

As currently drafted, the proposed rules require little, if any, pre-construction studies by third parties such as the Department of Environmental Services, the Department of Fish and Game, the Department of Resources and Economic Development, the Natural Heritage Bureau, and the division of Historical Resources.

There is also no requirement that the communication process between the applicant and such agencies be transparent.

Instead the draft document typically requires only that the applicant describe how they, unqualified as they are, have identified critical wildlife and environmental issues, with a passing reference to communications with relevant agencies.

For instance, in Site 301.03 (i) (5) a. Natural Environment, the current draft language reads as follows:

a. Describe how the applicant identified significant wildlife species, rare plants, rare natural communities, and other exemplary natural communities potentially affected by construction and operation of the proposed facility, including communications with and documentation received from the New Hampshire Department of Fish and Game, the New Hampshire Natural Heritage Bureau, the United States Fish and Wildlife Service, and any other federal or state agencies having permitting or other regulatory authority over fish, wildlife, and other natural resources;

It is not in the interest or the expertise of the applicant itself to identify wildlife species, rare plants etc. with any credibility.

Much more credible language, which I strongly suggest the SEC incorporate, can be found in the October 15, 2014 letter to David Wiesner from the AMC, NH Audubon, CLF, the Forest Society and the Nature Conservancy which requires the applicant to provide documentation summarizing all communications they have had with all

Comments re: Wildlife and Natural Environment

natural resource agencies, but also to rely on relevant agencies' expertise in identifying critical issues, as follows:

"m) In support of the information required in Site 301.03 (i) (5), the applicant shall:

(1) include documentation summarizing communications with natural resource agency personnel and other natural resource professionals.

(2) include a copy of an information request to the N.H. Natural Heritage Bureau regarding known or potential occurrences of rare, threatened, and endangered plants and exemplary natural communities in the project area; a list of rare, threatened, and endangered plants and exemplary natural communities potentially affected by the project; an assessment of potential effects on such plants and natural communities; and proposed best practical mitigation for any adverse effects.

(3) include copies of information requests to the New Hampshire Fish and Game Department, U.S. Fish and Wildlife Service, and N.H. Natural Heritage Bureau regarding known or potential occurrences of significant wildlife species in the project area; a list of significant wildlife species potentially affected by the project; an assessment of potential effects on such wildlife species; and proposed best practical mitigation for any adverse effects.

(4) include a report, prepared by a qualified professional, identifying and describing any critical wildlife habitat (as designated by the U.S. Fish and Wildlife Service) and any significant habitat resources within the project area; a list of critical wildlife habitat and significant habitat resources potentially affected by the project; an assessment of potential effects on such habitats and habitat resources; and proposed best practical mitigation for any adverse effects.

(5) conduct pre-application surveys for evidence of significant wildlife species following pertinent, available protocols recommended by state and federal wildlife agencies, unless waived in writing by state and federal wildlife agencies.

(6) prepare a cumulative impacts assessment, in consultation with state and federal wildlife agencies, addressing the scope and scale of potential effects of the facility, in combination with other existing or proposed energy development, on populations of significant wildlife species."

As concerns post construction monitoring and adaptive measures concerning the Wildlife and the Environment, the proposed rules require none.

Comments re: Wildlife and Natural Environment

Currently they read as follows:

(e) In determining whether construction and operation of a proposed energy facility will have an unreasonable adverse effect on the natural environment, including wildlife species, rare plants, rare natural communities, and other exemplary natural communities, the committee shall consider:

(7) Whether conditions should be included in the certificate for post-construction monitoring and reporting and for adaptive management to address potential adverse effects that cannot reliably be predicted at the time of application.

Reasonable monitoring and adaptive measures should be clearly outlined in the rules so that all parties know from the outset what might be required.

Suggested language adopted from the October 15 letter referenced above is as follows:

The site evaluation committee shall require, where necessary, as conditions of the certificate appropriate post-construction studies to

1) ensure compliance with required standards or 2) to evaluate and mitigate adverse impacts of a facility that cannot be reliably predicted prior to permitting ("adaptive management"). Such studies, if any, shall be conducted for a minimum of two years within the first five years of facility operation. The cost of such studies shall be borne by the applicant.

(2) Adaptive management recognizes that knowledge about natural resource systems is sometimes uncertain; it is the preferred method of management in these cases. Where sufficient knowledge exists, actual implementation of a solution should not be replaced by adaptive management. Adaptive management studies shall be designed in consultation with and approval of an adaptive management team established by the certificate, including representatives of appropriate state and federal agencies and at least one non-governmental professional with pertinent expertise. Results and recommendations to mitigate impacts identified from such studies shall be provided to the SEC and members of the adaptive management team within three months of the end of each field season or year of operation as appropriate. Subsequent to completion of such studies, or sooner if serious impacts are identified, the adaptive management team shall meet with representatives of the facility owner/operator and at least one member of the SEC to review results and identify satisfactory best practical mitigation strategies. Mitigation strategies so developed shall become amendments to the facility permit; and

Comments re: Wildlife and Natural Environment

(3) The site evaluation committee shall require, where necessary, as a condition of the certificate an appropriate protocol for ongoing monitoring, documentation and reporting of wildlife mortality or injury by facility staff. Any observed mortality or injury event involving an individual of a significant wildlife species shall be reported to NH Fish and Game Department (NHFG) and the US Fish and Wildlife Service within 24 hours of discovery. Other wildlife mortalities shall be reported monthly to NHFG by date, species, location, and circumstances. NHFG may recommend further study and/or adaptive management provisions based on observed mortality.

In conclusion, there currently exists an impression among members of the public – especially those who have participated in this now nearly year-long process - which had the explicit intention of seeking substantive public input - that the process has not been carried out in accordance with that original explicit intention.

None of the extensive work that was submitted to the PUC found its way into the proposed rules, which appear instead to be modeled after a document dated September 24, 2014 addressed to David Wiesner by various corporations, including:

Cate Street Capital
EDP Renewables North America
Iberdrola Renewables
Northeast Utilities
Public Service Company of NH
National Grid
Eolian Renewable Energy

In short, the clear current impression is that the rules governing the SEC process have been written - with some minor tinkering - by the industry itself, without any public input.

I understand that many of you are newly serving in your roles here today, and if so, you have a wonderful opportunity to disprove this impression, this suspicion – by actually adopting rules that incorporate substantive public comment so that the SEC process will be meaningful, rigorous and to the benefit of the State of New Hampshire.

Thank you very much for your time and attention.