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CHAPTER Site 100 ORGANIZATIONAL RULES

Adopt Site 101.01 through 104.01 to be cited and to read as follows:

PART Site 101 PURPOSE AND APPLICABILITY

Site 101.01 Purpose. The purpose of these rules is to:

(a) Describe the requirements and procedures of the site evaluation committee in reviewing and acting upon applications to construct energy facilities, renewable energy facilities, and bulk power supply facilities; and

(b) Describe the organization of the site evaluation committee and any designated subcommittee.

Site 101.02 Applicability. These rules shall apply to:

(a) Any person who constructs or operates, or proposes to construct or operate, an energy, renewable energy, or bulk power facility in New Hampshire; and

(b) Any person who participates in adjudicative or informational public hearings conducted by the committee, designated subcommittee, or commission concerning an energy, renewable energy, or bulk power supply facility.

PART Site 102 DEFINITIONS

Site 102.01 “Acceptance” means:

(a) A determination by the committee that it finds that an application is complete and ready for consideration; and

(b) For an application for a renewable energy facility, a determination by the chairperson or designee that the application is complete and ready for consideration.

Site 102.02 “Adjudicatory hearing” means “adjudicative proceeding” as defined in RSA 541-A:1, I, namely, “the procedure to be followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36.”

Site 102.03 “Applicant” means any person seeking to construct and operate any energy, renewable energy or bulk power supply facility within this state.

Site 102.04 “Application” means the written document filed with the committee seeking the issuance of a Certificate of Site and Facility.

Site 102.05 “Bulk power supply facilities” means “bulk power supply facilities” as defined in RSA 162-H:2, II, but, pursuant to RSA 162-H:5, IV, “bulk power supply facilities” does not include:

(a) Electric generation station equipment and associated facilities designed for, or capable of operation at a capacity of greater than 30 megawatts proposed and to be owned by entities not subject to rate regulation by the commission; or

(b) Transmission lines which are necessary to interconnect one electric generating facility or group of energy facilities to the transmission grid.

Site 102.06 “Certificate” or “certificate of site and facility” means “certificate” or “certificate of site and facility” as defined in RSA 162-H:2, II-a, namely “the document issued by the committee, containing such conditions as the committee deems appropriate, that authorizes the applicant to proceed with the proposed site and facility.” “Certificate” includes the document issued by a subcommittee, containing such conditions as the subcommittee deems appropriate, that authorizes the applicant to proceed with the proposed renewable energy facility.

Site 102.07 “Commission” means the New Hampshire public utilities commission.

Site 102.08 “Committee” means the site evaluation committee established under RSA 162-H and these rules.

Site 102.09 “Energy facility” means “energy facility” as defined in RSA 162-H:2,VII, namely “any industrial structure other than bulk power supply facilities that may be used substantially to extract, produce, manufacture, transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting, storing or otherwise providing for the raw materials or products of any such industrial structure. This shall include but not be limited to industrial structures such as oil refineries, gas plants, equipment and associated facilities designed to use any, or a combination of, natural gas, propane gas and liquefied natural gas, which store on site a quantity to provide 7 days of continuous operation at a rate equivalent to the energy requirements of a 30 megawatt electric generating station and its associated facilities, plants for coal conversion and onshore and offshore loading and unloading facilities for energy sources. Energy facility shall also include energy transmission pipelines, storage tanks, or any other facility which the applicant or 2 or more petition categories as defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines requires a certificate, consistent with the findings and purposes set forth in RSA 162-H:1.”

Site 102.10 “Motion” means a request made to the committee or the presiding officer after the commencement of a contested proceeding for an order or ruling directing some act to be done in favor of the party making the motion, including a statement of justification or reasons for the request.

Site 102.11 “Party” means “party” as defined by RSA 541-A:1, XII, namely, “each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party.” The term “party” includes all intervenors in a proceeding, subject to any limitations established pursuant to RSA 541-A:33,II.

Site 102.12 “Person” means “person” as defined by RSA 162-H:2, IX, namely, “any individual, group, firm, partnership, corporation, cooperative, municipality, political subdivision, government agency or other organization.”

Site 102.13 “Petition” means (a) “Petition” as defined in RSA 162-H:2, X-a, namely, “a request to the committee to rule on the applicability of this chapter to a particular proposed bulk power supply facility or energy facility;” or

(b) A petition for intervention made pursuant to RSA 541-A:32.

Site 102.14 “Petitioner” means:

(a) For a petition as defined in Site 102.13(a), “petitioner” as defined in RSA 162-H:2, XI, namely, “a person filing a petition meeting any of the following conditions:

- (1) A petition endorsed by 100 or more registered voters in the host community or host communities;
- (2) A petition endorsed by 100 or more registered voters from abutting communities;
- (3) A petition endorsed by the board of selectmen of the host community or 2 or more boards of selectmen of abutting communities; or
- (4) A petition filed by the potential applicant;” or

(b) For a petition as defined in Site 102.13(b), a person who files a petition for intervention pursuant to RSA 541-A:32.

Site 102.15 “Presiding officer” means “presiding officer” as defined in RSA 541-A:1, XIV, namely, “that individual to whom the agency has delegated the authority to preside over a proceeding, if any; otherwise, it shall mean the head of the agency.”

Site 102.16 “Proof by a preponderance of the evidence” means that what is sought to be proved is determined to be more probable than not.

Site 102.17 “Public information hearing” means a hearing scheduled pursuant to RSA 162-H:10, I where the applicant presents information to the site evaluation committee and other agencies that have jurisdiction over the subject matter and to the public about the proposed facilities.

Site 102.18 “Public utility” means any electric utility engaged in the production, distribution, sale, delivery or furnishing of electricity, including municipalities, cooperatives, regulated electric companies, agencies or any combination thereof.

Site 102.19 “Renewable energy facility” means “renewable energy facility” as defined in RSA 162-H:2,XII.

Site 102.20 “Service list” means a list maintained by the committee containing the names and addresses of all parties and intervenors to a proceeding and all other interested persons or groups who request to be included on the service list.

Site 102.21 “Subcommittee” means any subcommittee established under RSA 162-H:4,V (b) for the purpose of reviewing an application for a renewable energy facility.

Site 102.22 “Transmission line” means an electric transmission line as that term is used and described in RSA 162-H:2 II (b), (c), and (d).

PART Site 103 COMMITTEE DESCRIPTION

Site 103.01 Committee Membership and Responsibilities.

(a) The site evaluation committee consists of the following persons:

- (1) The commissioner of the department of environmental services or assistant commissioner as designee;
- (2) The director of the division of water of the department of environmental services;
- (3) The commissioner of the department of resources and economic development or the director of the division of economic development as designee;
- (4) The commissioner of the department of health and human services or one of the 2 most senior administrators within the department responsible for management of public health services as designee;
- (5) The executive director of the fish and game department;
- (6) The director of the office of energy and planning or deputy director as designee;
- (7) The director of the division of parks and recreation;
- (8) The director of the division of forests and lands;
- (9) The director of the division of air resources;
- (10) The commissioner of the department of transportation or assistant commissioner as designee;
- (11) The commissioners of the public utilities commission; and
- (12) A staff engineer designated by the commissioners of the public utilities commission.

(b) The committee shall be responsible for evaluating, siting, and monitoring the construction and operation of energy-related facilities as specified in RSA 162-H.

Site 103.02 Committee Chairperson and Vice-Chairperson.

(a) The commissioner of the department of environmental services shall be chairperson of the committee.

(b) The chairperson of the public utilities commission shall be the vice-chairperson of the committee.

Site 103.03 Renewable Energy Subcommittee.

(a) A subcommittee of no fewer than 7 members shall be created for each application accepted for a renewable energy facility pursuant to RSA 162-H:6-a,III.

(b) The subcommittee shall include the chairperson or vice-chairperson of the committee, and at least 3 members selected from the following:

- (1) The department of environmental services;
- (2) The department of resources and economic development; and

(3) The fish and game department.

Site 103.04 Quorum.

(a) For purposes of conducting a hearing and voting on motions, a quorum of the committee or a subcommittee shall be a majority of the members of the committee or subcommittee.

(b) If a quorum of the committee or a subcommittee is lacking, the members present shall adjourn until a quorum is present.

Site 103.05 Committee Staff.

(a) Staff support for the committee shall be provided by the administrative assistant to the commissioner of the department of environmental services.

(b) The committee shall retain additional administrative, technical and legal assistance as needed to fulfill its responsibilities.

(c) The committee shall appoint counsel to conduct all prehearing conferences if it promotes the orderly conduct of the proceeding.

Site 103.06 Counsel for the Public. Pursuant to RSA 162-H:9, the attorney general shall appoint an assistant attorney general as counsel for the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy.

PART Site 104 PUBLIC REQUESTS FOR INFORMATION

Site 104.01 Requests for Committee Public Records.

(a) Requests for access to the public files and records of the committee shall be directed to the chairperson of the committee as custodian of the records as follows:

Administrator
Public Information and Permitting Unit
New Hampshire Department of Environmental Services
29 Hazen Drive
Concord, NH 03302-0095
Tel. (603) 271-3306
Fax (603) 271-8013
TDD Access Relay N.H. 1 (800) 735-2964

(b) Any member of the public may request photocopies of minutes and records of the committee in any proceeding or in any other matter before the committee pursuant to (a) above upon a determination by the presiding officer, in the case of a proceeding, or the chairman, with respect to all other committee matters, that such requested documents are not exempt from disclosure pursuant to RSA 91-A:5.

(c) The committee shall provide the requested documents to the person requesting them upon payment of the cost of copying such documents pursuant to (b) above and (d) and (e) below.

(d) Copies shall be free for requests of 10 pages or less.

- (e) A charge of \$0.10 per page shall be assessed for every copy over the first 10 pages.
- (f) The committee shall post public information on its website at www.nhsec.state.nh.us.