

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE
SEC Docket No. 98-02

Application of AES Londonderry, LLC

Application of AES Londonderry L.L.C. for a Certificate of Site and Facility to construct and operate a 720 megawatt combined cycle natural gas fired power facility in the Town of Londonderry, Rockingham County known as the "AES Londonderry Cogeneration Facility or Project."

Order on Motion of AES Londonderry L.L.C.'s to Extend the Time for Completing Construction of the Fuel Oil Storage Tanks

On or about June 20, 2003, AES Londonderry L.L.C. d/b/a AES Granite Ridge (AES) filed a "Motion to Extend the Time for Completing Construction of the Fuel Storage Tanks," (Motion) in the above referenced docket. The Motion seeks an extension of the time frame in which AES may construct two above ground storage tanks designed for the storage of fuel oil to be used as "back up" fuel at AES's facility in Londonderry New Hampshire. Under the Certificate of Site and Facility (Certificate) previously issued in this docket, AES was to complete construction within forty-eight months. AES now seeks to extend that time frame, as it pertains to the storage tanks, until April 1, 2008.¹

On July 16, 2003, by letter, the Town of Londonderry, through its attorney Robert Upton, II, Esq., advised the Site Evaluation Committee (Committee) that it did not object to the extension sought by AES as long as that extension was subject to the existing conditions contained in Attachments F and G of the Certificate.

Marguerite L. Wageling, Assistant Attorney General, served as Public Counsel in this docket. Public Counsel engaged in a course of informal discovery regarding the extension request. At a public meeting of the Committee on December 1, 2003, Public Counsel advised the Committee that she had no objection to the relief sought by AES subject to certain conditions. AES indicated that it agreed to the conditions required by Public Counsel. Those conditions were reduced to writing by AES's counsel and filed with the Committee by letter on December 8, 2003.

No other parties responded to the Motion nor sought to participate at the Public Meeting on December 1, 2003. The Committee considered the Motion at a duly noticed Public Meeting on December 1, 2003. At the Public Meeting the Committee heard from AES and Public Counsel. The Committee deliberated and voted to grant the Motion. This Order encapsulates the reasons for our action.

¹ In various filings with the Committee and through statements by AES's counsel it appears that AES may be considering the elimination of the distillate fuel storage tanks altogether.

R.S.A. 162-H: 5, I, requires AES to construct, operate and maintain its facility in accordance with the terms of the Certificate. The Certificate, in this case, specified that construction must be completed within 48 months of commencement. See, Certificate, Attachment A (3.) AES asserts that it has negotiated contracts for a firm supply and the transportation of uninterrupted gas for a period of at least five years. Public Counsel has reviewed redacted copies of those contracts. The gas contracts, according to AES, will obviate the need for the use of "back-up" fuel at the facility. AES asserts that delayed construction of the tanks will result in a net reduction of the annual emissions of Nitrous Oxide (NO_x), Sulfur Dioxide (SO₂), Carbon Monoxide (CO), Particulate Matter (PM) and Volatile Organic Compounds (VOCs) because distillate "back-up" fuel cannot be used in the absence of the storage tanks.

AES also asserts that delaying construction of the storage tanks will enhance its ability to generate economically competitive power during the early years of the plant's operation. Finally, AES states that the delay in construction will not have any unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment or the health and safety of the public.

The original Certificate that sited the facility in this Docket contained numerous conditions that were imposed after lengthy public hearings and the adversarial process outlined in R.S.A. 162-H: 6 through 11. The conditions were determined to be necessary to protect the public and ensure that there were not unreasonable adverse consequences to aesthetics, historic sites, air and water quality, the natural environment. The conditions were also necessary to ensure that construction would not unduly interfere with the orderly development of the region. After hearing from AES, Public Counsel, and the Town of Londonderry (by letter) the Committee is convinced that the existing conditions of the Certificate, as well as certain additional conditions to which the parties have stipulated, will continue to achieve these goals throughout a five year extension of the construction completion timeframe.

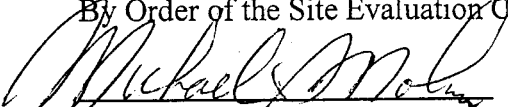
The Committee also finds that the extension of the construction completion timeframe condition will result in the probability of fewer harmful air emissions. Additionally, the Committee recognizes that the extension of the construction timeframe condition will permit AES to operate the facility in a more economically competitive manner in the short term.

Thus, the Motion to Extend the Time for Completing the Fuel Oil Storage Tanks is hereby granted. AES shall complete construction of the fuel oil storage tanks by April 1, 2008, subject to the following conditions:

1. AES shall comply with all terms and conditions of the Certificate issued by the Committee on May 25, 1999, in connection with the construction of the distillate fuel oil storage tanks, including but not limited to local impacts, noise, traffic, wetlands and blasting, except as amended by this order.

2. If and when the distillate fuel storage tanks are constructed, operation of the power plant will not be interrupted as a result of actual construction. Once tank construction is complete, and AES is commissioning the combustion turbines to burn distillate fuel, AES will make every reasonable effort to commission each combustion turbine separately so that the other combustion turbine will continue to operate. AES will also make every reasonable effort to commission both turbines for distillate fuel burning at times when the turbines would not have been operating anyway due to normal shutdowns.
3. If and when the distillate fuel storage tanks are constructed, AES shall maintain a hotline during construction to address complaints from members of the community. AES shall establish the hotline, if one does not already exist, at least ten days prior to the start of actual construction. AES will advertise the existence of the hotline in two papers of local circulation within a reasonable period prior to commencement of construction. AES shall also provide written notification of the contact information for the hotline to Counsel for the Public, the local police and fire departments and town government. AES shall respond to each inquiry made to the hotline within thirty (30) days. AES shall make a written record of each complaint received and AES's response to the complaint.
4. If and when the distillate fuel storage tanks are constructed, blasting is not anticipated. However, should blasting be required, AES shall follow the provisions of the current Certificate.
5. If and when the distillate fuel storage tanks are constructed, impacts to wetlands are not anticipated. However, should wetlands impacts be required, AES shall follow the provisions of the current Certificate.
6. If and when the distillate fuel storage tanks are constructed, AES will provide notice to the Committee and the Town of Londonderry thirty (30) days prior to the date construction commences.
7. AES shall consult with the Town of Londonderry prior to the commencement of construction of the fuel oil storage tanks.
8. In the event AES decides that it will not construct the fuel storage tanks it shall immediately notify the Committee through the office of the Chairperson.

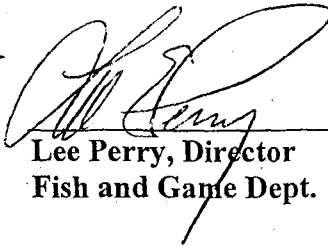
By Order of the Site Evaluation Committee this 23rd day of January, 2004:


Michael P. Nolin, Chairman
Commissioner, Dept. of
Environmental Services

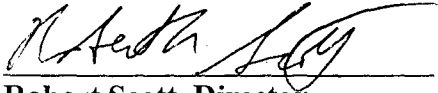
Thomas Getz, Vice Chairman
Chairman, Public Utilities Commission



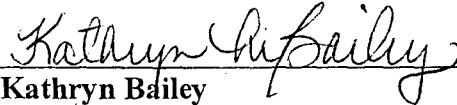
Harry Stewart, Director
Water Division, Dept. of
Environmental Services



Lee Perry, Director
Fish and Game Dept.




Robert Scott, Director
Air Resources Division, Dept.
of Environmental Services



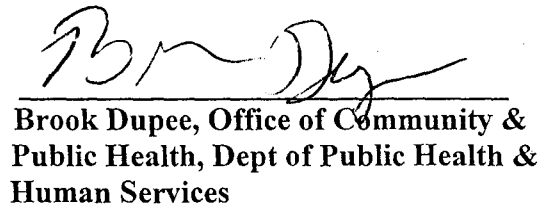
Kathryn Bailey
Chief Engineer
Public Utilities Commission

MaryAnn Manoogian, Director
State Planning & Energy
Programs

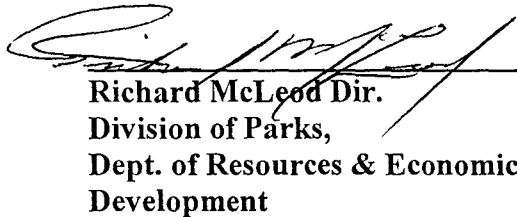


Philip Bryce, Director
Division of Forest & Lands, Dept. of
Resources & Economic Development

Carol Murray
Commissioner
Dept. of Transportation

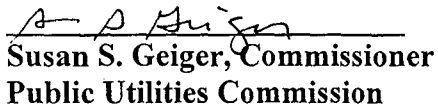


Brook Dupee, Office of Community &
Public Health, Dept of Public Health &
Human Services



Richard McLeod Dir.
Division of Parks,
Dept. of Resources & Economic
Development

George Bald, Commissioner
Dept. of Resources & Economic
Development



Susan S. Geiger, Commissioner
Public Utilities Commission

Graham Morrison, Commissioner
Public Utilities Commission