

SITE EVALUATION COMMITTEE

DOCKET No. 2012-01

REFERENCE: APPLICATION OF ANTRIM WIND LLC FOR A CERTIFICATE OF SITE AND FACILITY

Dissent of Johanna Lyons, Craig Green and Harry Stewart

This dissenting opinion is based on our understanding of the application of RSA 162-H:16, IV(c) specifically concerning the “unreasonable adverse effect on aesthetics.” As discussed below, in rendering this opinion, we have considered the precedent set by previous decisions of the Energy Facilities Site Evaluation Committee (EFSEC) or EFSEC Subcommittees as well as the range of possible mitigation measures discussed by experts during the hearings on the Antrim Wind LLC Application. EFSEC has no existing objective criteria to evaluate projects for unreasonable adverse aesthetic effects or to evaluate mitigation requirements for any project impacts. Consequently, Subcommittee determinations on aesthetic effects and mitigation requirements are very subjective based on the judgments of Subcommittee members.

Under RSA 162-H, to approve a renewable energy project, the Subcommittee must find that the requirements of RSA 162-H:16, IV will be met. Specific to this dissent, RSA 162-H requires that the Committee find that the site and facility “*will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety*” See RSA 162-H:16, IV(c).

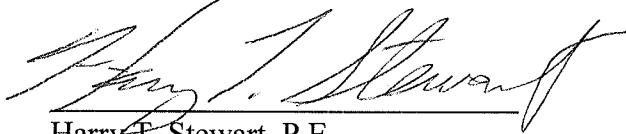
In this case, relative to the RSA 162-H:16, IV (c) criteria, the entire Subcommittee found that the Antrim Wind LLC project would not have unreasonable adverse effects on the natural environment, historic sites, air and water quality or public health and safety. The majority then found that the site and facility would have an unreasonable adverse effect on aesthetics and that mitigation measures for the aesthetic impacts would not be appropriate: “*The Subcommittee simply could not structure appropriate mitigation measures for adverse visual effects of the magnitude presented by the Applicant without substantially affecting other important factors that must be considered by the Applicant in the planning, siting and construction of a wind-powered facility.*” See Page 55, Decision and Order on the Application of Antrim Wind Energy, LLC for a Certificate of Site and Facility for a Renewable Energy Facility Proposed to be Located in Antrim, Hillsborough County, New Hampshire.

EFSEC has previously approved three other wind energy projects that were discussed to various degrees during the Antrim Wind, LLC hearings and that could have served as precedent for this decision. There are inherent differences among these projects with respect to the exact wind turbine locations, visibility, tower heights and other factors that create differences in aesthetic effects. However, these projects also have many things in common. All have very tall wind turbines located on ridge lines that are visible from many different locations. Also, while specific impacts vary, the projects are collectively visible from vantage points that include residences, towns and villages, lakes, valleys, other ridge lines, and natural resource areas. No “bright lines” are evident that can be used to objectively distinguish the actual aesthetic effects of these approved projects from those of the proposed Antrim Wind project. Therefore, considering these precedents, we cannot conclude that this project should be denied outright based on adverse

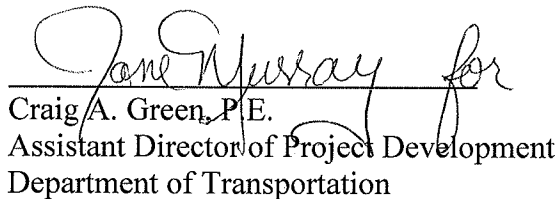
aesthetic effects or without further consideration of the possibility of mitigation for aesthetic effects.

During the hearings, two experts testified on aesthetic effects. First, Mr. John W. Guariglia of Saratoga Associates testified as an expert witness for the applicant. He concluded that there would be no adverse effects from the project if mitigation as proposed in the application were to be implemented. On the other hand, Ms. Jean Vissering, an expert witness retained by Counsel for the Public, concluded that the project would have adverse effects on aesthetics. However, she also concluded that these effects could be mitigated by significant project modifications. We believe that these professional opinions served to "bracket" the possible range of mitigation measures for aesthetic effects that could have been deemed acceptable to the Subcommittee without project denial.

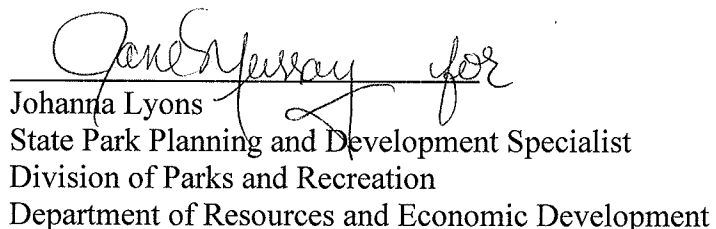
On the basis of precedent and expert testimony, and absent objective criteria for decisions on aesthetic effects and mitigation requirements, we conclude that the preferred decision for the Subcommittee would have been that the project, with appropriate mitigation, would not have unreasonable adverse effects on aesthetics.



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