

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**STATE OF NEW HAMPSHIRE**

**SITE EVALUATION COMMITTEE**

**December 7, 2015** - 9:07 a.m.  
Public Utilities Commission  
21 South Fruit Street Suite 10  
Concord, New Hampshire

**IN RE: SEC DOCKET NO. 2015-06**  
**JOINT APPLICATION OF NORTHERN**  
**PASS TRANSMISSION, LLC, AND**  
**PUBLIC SERVICE COMPANY OF**  
**NEW HAMPSHIRE d/b/a EVERSOURCE**  
**ENERGY FOR A CERTIFICATE OF**  
**SITE AND FACILITY.**  
*(Meeting of Subcommittee members*  
*to determine whether the*  
*Application as filed contains*  
*sufficient information to carry*  
*out the purposes of RSA 162-H.)*

<b>PRESENT FOR SUBCOMMITTEE:</b>	<b>SITE EVALUATION COMMITTEE:</b>
Chairman Martin P. Honigberg <i>(Presiding as Presiding Officer)</i>	Public Utilities Commission
Cmsr. Kathryn M. Bailey	Public Utilities Commission
Craig Wright, Designee	Dept. of Environmental Serv.
Christopher Way, Designee	Dept. of Resources & Economic Development
William Oldenburg, Designee	Dept. of Transportation
Patricia Weathersby	Public Member

**ALSO PRESENT FOR THE SEC:** Michael J. Iacopino, Esq.  
(Brennan Lenehan)  
Pamela G. Monroe, Administrator

COURT REPORTER: Steven E. Patnaude, LCR No. 052

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**OTHER APPEARANCES NOTED:**

***Counsel for the Applicants:*** Barry Needleman, Esq.  
(McLane Middleton)

Elizabeth Maldonado, Esq.  
(Eversource Energy)

Thomas B. Getz, Esq.  
(Devine Millimet)

Adam Dumville, Esq.  
(McLane Middleton)

**Counsel for the Public:** Peter C. L. Roth, Esq.  
Senior Asst. Atty. General  
N.H. Department of Justice

Elijah D. Emerson, Esq.  
(Primmer Piper)

Thomas Pappas, Esq.  
(Primmer Piper)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**I N D E X**

**PAGE NO.**

**QUESTIONS TO COUNSEL TO THE COMMITTEE BY:**

Chairman Honigberg	10
Commissioner Bailey	18, 26
Ms. Weathersby	21
Mr. Way	23
Mr. Wright	24

**STATEMENTS FROM SUBCOMMITTEE MEMBERS BY:**

Commissioner Bailey	27
Ms. Weathersby	28

<b>MOTION BY MR. WRIGHT</b> to accept the Application as complete and to authorize counsel to prepare a written order to proceed <b>SECOND BY MR. WAY</b>	28    29
--	----------------------

**DISCUSSION ON THE MOTION BY:**

Chairman Honigberg	29
--------------------	----

<b><u>VOTE ON THE MOTION</u></b>	30
----------------------------------	----

<b>MOTION BY COMMISSIONER BAILEY</b> to adjourn <b>SECOND BY MS. WEATHERSBY</b>	33 33
<b><u>VOTE ON THE MOTION</u></b>	34

**P R O C E E D I N G**

1  
2 CHAIRMAN HONIGBERG: Good morning,  
3 everyone. We're here this morning in the SEC Docket  
4 2015-06, which is the Joint Application of Northern Pass  
5 Transmission, LLC, and Public Service Company of New  
6 Hampshire d/b/a Eversource Energy, for a Certificate of  
7 Site and Facility for construction and operation of a new  
8 electric transmission line, with a 1,090 megawatt transfer  
9 rating, extending approximately 192 miles from the  
10 Canadian border in Pittsburg, New Hampshire to a  
11 substation in Deerfield, New Hampshire.

12 The purpose of today's meeting is for  
13 the Subcommittee that was appointed under RSA 162-H to  
14 consider the status of the application and whether to  
15 accept it as sufficient for the Committee to fulfill its  
16 purposes.

17 Before we go any further, I'm going to  
18 ask the members of the Subcommittee, who have been  
19 appointed and/or designated by appointees, to introduce  
20 themselves.

21 MS. WEATHERSBY: Patricia Weathersby,  
22 public member.

23 CHAIRMAN HONIGBERG: Martin Honigberg.  
24 I'm the Chair of the Public Utilities Commission and, by

1 statute, that makes me the Chair of the Site Evaluation  
2 Committee as well.

3 COMMISSIONER BAILEY: Kathryn Bailey,  
4 Public Utilities Commission.

5 MR. WAY: Christopher Way, Department of  
6 Resources & Economic Development.

7 MR. WRIGHT: Craig Wright, Department of  
8 Environmental Services.

9 MR. OLDENBURG: William Oldenburg,  
10 Department of Transportation.

11 CHAIRMAN HONIGBERG: Sitting immediately  
12 to my right is Mike Iacopino, who's an attorney, who has  
13 been appointed by the Attorney General's Office at our  
14 request to represent the SEC in this proceeding. Under  
15 the law, we are allowed to have a lawyer advise us, and we  
16 are able to confer with him in accordance with state law.

17 There are two parties, if you will, to  
18 this proceeding at this time, maybe three, if you want to  
19 count the Applicants as two. Northern Pass Transmission  
20 and PSNH, who filed the Joint Application, and Public  
21 Counsel, who has been appointed by the Attorney General to  
22 represent the interests that Public Counsel represents. I  
23 will now ask them to enter their appearances for today's  
24 proceeding.

1 MR. NEEDLEMAN: Good morning, Mr.  
2 Chairman. Barry Needleman, from McLane Middleton,  
3 representing the Joint Applicants. And, to my right --  
4 actually, I'll let them introduce themselves.

5 MS. MALDONADO: Elizabeth Maldonado,  
6 from Eversource Energy.

7 MR. GETZ: Good morning, Mr. Chairman,  
8 members of the Committee. Tom Getz, from Devine, Millimet  
9 & Branch.

10 MR. DUMVILLE: Good morning. Adam  
11 Dumville, representing the Joint Applicants, from McLane  
12 Middleton.

13 MR. ROTH: Good morning, Mr. Chairman,  
14 members of the Committee. I'm Peter Roth, with the New  
15 Hampshire Department of Justice. And, I serve as Counsel  
16 for the Public. And, with me today, to my left, are  
17 Elijah Emerson and Thomas Pappas, who are with the Primmer  
18 law firm, and who have been selected by me to serve as  
19 counsel for Counsel for the Public, subject to a motion  
20 pending now before the committee under 162-H:10.

21 CHAIRMAN HONIGBERG: In a few minutes,  
22 the Subcommittee is going to break and confer with its  
23 lawyer. Under RSA 91-A, the Right-to-Know law, that is  
24 not a meeting, it is not, therefore, covered by the

1 provisions of RSA 91-A. We're going to be doing that in  
2 another room here in this building. I don't think we'll  
3 be gone for long, but that's what's going to be  
4 happening in a few minutes, after I do a few other  
5 pleasantries.

6 I'll note for the record that we've  
7 received numerous comments from individuals and groups, as  
8 well as correspondence directed specifically at the  
9 decision we're going to be discussing today regarding  
10 acceptance of the Application. I'm going to go through  
11 them briefly.

12 We heard from a number of state agencies  
13 that have various levels of responsibility for aspects of  
14 the proposed project. They include: The Department of  
15 Resources and Economic Development, Division of Forests  
16 and Land, and the New Hampshire Natural Heritage Bureau,  
17 the Department of Environmental Services' Water Division,  
18 the Division of Historic Resources, the Public Utilities  
19 Commission, the Department of Transportation, the Fish &  
20 Game Department, the Department of Safety, the Division of  
21 Fire Safety and the Office of Fire Marshal, and the Office  
22 of Energy Planning.

23 We also received comments from Counsel  
24 for the Public, which we received in the middle of last

1 week and was distributed to everyone on the Subcommittee,  
2 the New England Power Generators Association, the Society  
3 for the Protection of New Hampshire Forests, and The  
4 Dupont Group.

5 They all shared their views on, if they  
6 were state agencies, on aspects that are relevant to their  
7 oversight of aspects of the Committee, the other entities,  
8 Public Counsel, New England Power Generators, and groups  
9 like that, and many of the individuals, shared their views  
10 as to whether the Subcommittee should accept the  
11 Application at this time.

12 I will tell everyone who is out there  
13 that, at this point, this is solely a decision for the  
14 Subcommittee. It is really between the Subcommittee and  
15 the Applicant. Others' views, while worthy of  
16 consideration, are not directly -- do not directly affect  
17 how the Committee or the Subcommittee makes its decision  
18 today. But all of the comments have been reviewed. There  
19 is a lot of information, some of it only came in at the  
20 end of this week. And, one of the reasons we want to have  
21 an opportunity to meet with counsel is that some of the  
22 documentation really did only arrive in people's inboxes  
23 on Friday afternoon. So, it's important to give people a  
24 bit of time to process that.



1                   One other thing I want to make clear for  
2 people is that, unlike some state agencies that can do  
3 things in conference rooms, private meetings, when there's  
4 one person in charge of an agency and a decision needs to  
5 be made, this group can only act when it is meeting in  
6 public. Even, as I said, if we -- if we confer with our  
7 counsel, but we can't make decisions that are binding on  
8 anyone when we're meeting with counsel. All that has to  
9 be done in public, all of the deliberations will have to  
10 take place in public. Whatever public processes go on  
11 will be in a room like this or a room someplace else where  
12 people can see and hear what's going on.

13                   Does anyone on the Subcommittee have any  
14 questions or comments at this time?

15                   *[No verbal response]*

16                   CHAIRMAN HONIGBERG: Seeing none.  
17 Mr. Needleman, or anyone else from the Applicants, do you  
18 have anything you want to add at this time?

19                   MR. NEEDLEMAN: I don't think so. Thank  
20 you.

21                   CHAIRMAN HONIGBERG: Mr. Roth, do you  
22 have anything?

23                   MR. ROTH: No, sir.

24                   CHAIRMAN HONIGBERG: All right. We are

1 going to break then. I don't know exactly how long it  
2 will be, but I don't think it will be long. Thank you.

3 ***(Recess taken at 9:14 a.m. for Committee***  
4 ***members to confer with Counsel to the***  
5 ***Committee, and the meeting resumed at***  
6 ***9:50 a.m.)***

7 CHAIRMAN HONIGBERG: All right. Thank  
8 you all for your patience. It was helpful for the  
9 Subcommittee members to get a chance to review some of the  
10 documentation that came from attorney Iacopino, and to  
11 have a conversation with him about some of those issues  
12 and the legal issues.

13 I'm going to open it up to discussion.  
14 A number of the questions that I have, I think others  
15 have, are really for Attorney Iacopino, to help us  
16 understand and, in some ways, help members of the public  
17 understand what's happening now and what will happen going  
18 forward. And, I'm going to start.

19 Really has to do with the standard that  
20 we are supposed to apply today in answering the question  
21 "should this application be accepted?" At least one of  
22 the commenters made an argument that this is like a court  
23 pleading. And, if you look at it, and it has everything  
24 in it, if you knew nothing else, that you would be

1 granting it. Is that what we're doing here or are we  
2 doing something else.

3 MR. IACOPINO: No, that's not the case,  
4 Mr. Chairman. The statute requires you to determine  
5 expeditiously whether or not the application contains  
6 sufficient information to carry out the purposes of the  
7 chapter, and that chapter is RSA 162-H. It is not  
8 necessary that what is filed would be enough for the  
9 granting of a certificate, if there were no other  
10 evidence.

11 Basically, what the purpose of this  
12 decision is is to determine whether or not there is  
13 sufficient information for this Committee to proceed with  
14 the process laid out in RSA 162-H. And, it's not whether  
15 or not you would grant it based on this particular  
16 Application as it presently exists.

17 CHAIRMAN HONIGBERG: If we accept today,  
18 what happens next? Is this the last opportunity that we  
19 have to get information? Will agencies that are working  
20 on aspects of this, will they be able to continue to get  
21 information that they need to fulfill their obligations?

22 MR. IACOPINO: Yes. There will be  
23 plenty of options for information trading and obtaining on  
24 many different levels. I'll start with the state

1 agencies. The statute envisions that the state agencies  
2 will continue to process the various permits that have  
3 been requested at those state agencies. There is a  
4 150-day deadline for state agencies to either request  
5 additional information or to propose draft conditions or  
6 permits.

7 CHAIRMAN HONIGBERG: When does that 150  
8 days start?

9 MR. IACOPINO: It starts upon the  
10 issuance of a decision accepting the Application for  
11 review, which would be the issuance of a written decision  
12 on whatever your vote -- if you vote to accept the  
13 Application today, when that written decision comes out,  
14 it will be 150 days from then.

15 In addition, the state agencies have 240  
16 days from that same date to issue what we call "final  
17 permits" or "final conditions".

18 In addition, the Committee can, at any  
19 time, hire its own experts. The Committee can, at any  
20 time, make data requests of the parties, not just the  
21 Applicant, but any party, and that can be done. That can  
22 be done in the course of a hearing, it can be done through  
23 counsel, it can be done in a number of ways.

24 And, finally, any parties to this

1 particular -- to this particular docket, the Applicant,  
2 Counsel for the Public, and any intervenors, are going to  
3 go through a process where they will trade information.  
4 Generally, that's done by issuing interrogatories to each  
5 other, sometimes called "data requests", going through a  
6 series of what we call technical sessions, where expert  
7 witnesses meet and are permitted to ask each other  
8 questions in preparation for what eventually will be an  
9 adjudicative hearing before the Committee.

10 And, at that adjudicative hearing,  
11 that's when evidence will be taken by the Committee. And,  
12 ultimately, at the end of the adjudicative hearing, the  
13 Committee will deliberate to determine whether or not to  
14 grant the certificate.

15 But the short answer to your question is  
16 that, on every level, there is significant opportunities  
17 for the Committee to obtain additional information, for  
18 the state agencies to obtain additional information, and  
19 for the parties to obtain additional information.

20 CHAIRMAN HONIGBERG: There's a lot of  
21 people, some are in this room, who want to participate in  
22 this docket, in one way or another. Can you outline  
23 what's going to happen with respect to what are -- what  
24 the law would call "intervenors" and others who want to

1 monitor the progress of this and provide comments?

2 MR. IACOPINO: Sure. If the Committee  
3 accepts the Application, 45 days after the date of the  
4 written acceptance, or within 45 days, there will be a  
5 public information session conducted by the Applicant, but  
6 with the participation of the Committee, through either  
7 the Administrator or a designee that you designate. And,  
8 at those public information sessions, it has been our  
9 tradition to both take questions from the public, and also  
10 to take public comment from the public.

11 Ninety (90) days, within 90 days after  
12 an application is accepted, we have a joint public hearing  
13 with all of the state agencies. There will be one in each  
14 county. And, again, at that proceeding, generally, we  
15 take questions from the public, submit them to the  
16 Applicant, and we also take public statements and public  
17 comments there.

18 In addition, a party who believes that  
19 they meet the standards for intervention, which  
20 essentially means that you have to demonstrate that you  
21 have a right, claim, title or interest that may be  
22 affected by this project, they can file a motion to  
23 intervene as a party. And, I suspect that, if the  
24 Application is accepted by this Committee, that there will

1 be a procedural order that will contain a deadline for the  
2 filing of those petitions to intervene, and that will be  
3 published. And, there will be an opportunity for them, if  
4 they establish that they have such a right, to intervene  
5 as parties and participate, not only in the public  
6 hearings and public information sessions, but also through  
7 the adjudicative process, which is similar to a trial in  
8 court that will occur either in this room or in some other  
9 room that may be larger.

10 CHAIRMAN HONIGBERG: Related to that, we  
11 get a lot of letters and e-mails from people directed to  
12 us. I know I get a number, pretty much on a daily basis,  
13 directly into one of my e-mail addresses. Can you talk  
14 briefly about what my obligations are in responding or not  
15 responding to the inquiries that I get, which would also  
16 apply to the other members of the Subcommittee?

17 MR. IACOPINO: I will. Mr. Chairman, in  
18 addition to what I just explained for opportunities for  
19 the public to participate, the Committee is also required  
20 to take written comment right up through the date that we  
21 issue a final decision on an application. And, we do do  
22 that. Unfortunately, many times those public comments are  
23 directed to individual members of the Committee. In  
24 reality, they should not be. They should be sent to the

1 Administrator of the Committee.

2 We do maintain them all, all the public  
3 comments. They are maintained, at this point, both on the  
4 website and in a hard format in the docket room. The  
5 Committee is required to review those and consider those  
6 during the course of your deliberations.

7 But you have an obligation, as does  
8 every member of this Committee, not to engage in *ex parte*  
9 communications with individuals who may have an interest  
10 in this proceeding, and also you have an obligation not to  
11 prejudge the -- not to prejudge this docket. And, what  
12 that means is that you can't respond, you can't write back  
13 to folks and say "oh, you're right" or "you're wrong", or  
14 something like that, because you can't prejudge the  
15 issues. Because we're going to go through a very  
16 extensive process, that's going to consider pretty much  
17 every aspect of this proposed project, if you accept the  
18 Application. And, due process requires, for the  
19 Applicant's purposes, as well as everybody else, that no  
20 member of the Committee makes a prejudgment on the issues  
21 involved in the case.

22 Therefore, we usually request that the  
23 public, when they send in public statements, in writing or  
24 in e-mail, that they send them to the Administrator of the



1 Committee. And, they will be distributed to all of the  
2 members of the Committee, and they will be reviewed by all  
3 the members of the Committee and considered in the course  
4 of their deliberation.

5 CHAIRMAN HONIGBERG: Two things about  
6 that. You made a reference to the "Administrator". And,  
7 I was remiss in not introducing the Administrator, who is  
8 sitting two seats to my left, Pam Monroe, who is the SEC's  
9 Administrator, the SEC's only employee. And, so, she is  
10 here, and she's helping us in that capacity.

11 The other follow-up on what you just  
12 said is you used the phrase "*ex parte*". And, there's a  
13 lot of non-Latin speakers in the room. What does "*ex*  
14 *parte*" mean? Not literally, but what does it mean for  
15 these purposes?

16 MR. IACOPINO: "Ex parte" means  
17 "private", in other words, trying to have a private  
18 conversation or a private -- or try to persuade somebody  
19 on the Committee of your views. That's improper. They're  
20 all instructed that they're not to engage in *ex parte*  
21 communications, in other words, in private communications  
22 with people who have an interest in or a viewpoint on this  
23 particular -- on any particular project.

24 CHAIRMAN HONIGBERG: I know others have

1 questions on some other topics, but I have one more topic  
2 I wanted to ask you about. I've read that there is a  
3 lawsuit going on in one of the superior courts somewhere  
4 in this state that is related to this project. What, if  
5 any, effect does that have on us?

6 MR. IACOPINO: That lawsuit has no  
7 effect on the Site Evaluation Committee carrying out its  
8 duties. And, you know, it may affect the rights between  
9 the parties who are involved in that lawsuit, I understand  
10 I understand it's the Forest Society and the Applicant.  
11 But it does not have any bearing on the Site Evaluation  
12 Committee, at least at this point.

13 If, at some point, some court tells us  
14 we have to stop what we're doing, that's something that  
15 will be dealt with in due course.

16 But, at this point in time, the Site  
17 Evaluation Committee is not a party to any lawsuit. And,  
18 the lawsuits that are pending really don't have any impact  
19 on the obligation to proceed of the Committee.

20 CHAIRMAN HONIGBERG: I know a number of  
21 people wanted to ask you about the public interest  
22 standard. Commissioner Bailey, I think you were one of  
23 those people. Do you want to take this?

24 COMMISSIONER BAILEY: Thank you. And,

1 an argument was made -- well, first of all, let me ask a  
2 setup question. We have a couple petitions to intervene.  
3 We aren't going to deal with those until some other time  
4 right now, right? Right?

5 MR. IACOPINO: Correct. It's been the  
6 practice of the Committee that we deal with intervention  
7 issues after an application is accepted. If an  
8 application is not accepted, obviously, those issues  
9 become pointless or moot.

10 COMMISSIONER BAILEY: Okay. All right.  
11 So, I won't call them a "party", but somebody made an  
12 argument that the Application isn't complete because the  
13 Applicant makes a statement that part of the public --  
14 it's in the public interest -- or, the Northern Pass  
15 Project is in the public interest because it's going to  
16 reduce energy rates, and it's going to do that because  
17 PSNH is going to enter into a purchase power agreement, a  
18 power purchase agreement with Hydro-Quebec, and I think  
19 sell the power into the market. And, if it makes a  
20 profit, it's going to use that to reduce default service  
21 rates. And, so, therefore, New Hampshire customers'  
22 energy rates will be lower, and that makes this project in  
23 the Public Service.

24 But the PUC hasn't seen the power

1 purchase agreement yet. And, the person making -- or, the  
2 party making the argument said that it's really not --  
3 it's not fair to the public that they don't have all the  
4 information at this time to consider whether this project  
5 is in the public interest.

6 And, my understanding is that we do need  
7 to make a public interest determination in this case,  
8 because that's a new provision under the statute. But the  
9 Applicant has also made other assertions about the project  
10 being in the public interest. So, for instance, creation  
11 of jobs and lower carbon emissions in the region, and a  
12 number of other factors.

13 So, is that, is the fact that we don't  
14 have the PPA, a legitimate reason to find that the  
15 Application is not complete?

16 MR. IACOPINO: That's an individual  
17 determination that each of you, as members of this  
18 Committee, will have to make. The statute requires that  
19 you ascertain if the Application contains sufficient  
20 information to carry out the purposes of this chapter.

21 That, as you indicate, there are  
22 sections of the Application itself which point to public  
23 interest benefits that the project will bring. And,  
24 whether or not there is sufficient information for you to

1 determine if that -- if the Application is complete with  
2 respect to those issues is an individual determination  
3 that each of you must make as a Committee member.

4 And, you know, is there a application  
5 requirement in our rules that says "there must be a power  
6 purchase agreement submitted"? No, there is not. But, if  
7 you believe that the Application, as a whole, is  
8 insufficient for you to carry out your purposes, which are  
9 to weigh the impacts and benefits, which are to provide a  
10 public forum, which are to provide a process to -- that  
11 considers energy facilities in a integrated and land-use  
12 fashion, then you should find the Application to be  
13 complete.

14 If you don't -- if you believe that the  
15 absence of that power purchase agreement does not allow  
16 you to do that, then you should vote to find the  
17 application incomplete.

18 COMMISSIONER BAILEY: Thank you.

19 CHAIRMAN HONIGBERG: Attorney  
20 Weathersby.

21 MS. WEATHERSBY: Yes. Attorney  
22 Iacopino, as you know, we've been working long and hard to  
23 adopt new administrative rules for the Committee, and  
24 hoping that that will conclude soon. What effect will

1 that have on this Application?

2 MR. IACOPINO: The statute actually  
3 required -- the Legislature actually required the  
4 Committee to go through that rulemaking process, which has  
5 been going on since, well, since 2014 at least now. And,  
6 my understanding of what the statute requires is that, if  
7 the new rules go into effect, and any proceeding, this  
8 proceeding or any other proceeding, has not yet reached an  
9 adjudicatory hearing, that the applicant in those  
10 proceedings will then have to comply with the new rules,  
11 to the extent that they are different than the old rules.  
12 And, that the Committee must give them an ample  
13 opportunity to supplement their Application and filing in  
14 order to do that.

15 CHAIRMAN HONIGBERG: Attorney  
16 Weathersby.

17 MS. WEATHERSBY: So, the fact that there  
18 may be additional application requirements or site control  
19 elements, they would have to meet those down the road?

20 MR. IACOPINO: If the new rules contain  
21 those elements, and if the new rules go into effect, yes.

22 CHAIRMAN HONIGBERG: And, if the  
23 Application doesn't already comply with them.

24 MR. IACOPINO: Doesn't already include

1       them, right.

2                       MS. WEATHERSBY:   Correct.

3                       MR. IACOPINO:   Correct.

4                       CHAIRMAN HONIGBERG:   I think I can  
5       report that the Joint Legislative Committee on  
6       Administrative Rules approved the rules with no objection  
7       last week.  And, the full SEC will be meeting either this  
8       Friday or next Tuesday to take what we believe will be  
9       final action on that.  For those who have been attending  
10      those hearings, meetings, comment periods, that is  
11      expected to be a very short meeting, largely proforma, to  
12      take care of that last piece of administrative business  
13      necessary for those rules to take effect.

14                      Are there other questions for Attorney  
15      Iacopino or other kind of scene-setting types of issues?

16                      Mr. Way, and then Mr. Wright.

17                      MR. WAY:   Thank you, Mr. Chair.

18      Michael, in terms of state agencies, just to clarify, are  
19      there any state agencies that have not responded with  
20      completeness letters?  And, for those who have done  
21      completeness letters, are there any outstanding issues?

22                      MR. IACOPINO:   There are none that have  
23      not responded.  We have had some that have responded and  
24      didn't need to.  There is -- there are no completeness

1 issues as of Friday afternoon. The last thing that came  
2 in was a signed memorandum of understanding between the  
3 Applicant and the Division of Historical Resources,  
4 indicating that they had reached an agreement, and that  
5 the Division of Historical Resources then found the  
6 Application to be complete for that state agency's  
7 purposes.

8 MR. WAY: Thank you.

9 CHAIRMAN HONIGBERG: Mr. Wright.

10 MR. WRIGHT: Thank you, Mr. Chairman.  
11 Mike, how does the current rule address the issue of site  
12 control, in terms of our standard of review?

13 MR. IACOPINO: The current rule  
14 essentially -- in terms of your standard of review?

15 MR. WRIGHT: In terms of acceptance.

16 MR. IACOPINO: Okay. In terms of  
17 acceptance, the present existing rule requires the  
18 applicant to identify its relationship to the site. And,  
19 it talks about a business relationship to the site, so  
20 that the application requirement is that the applicant lay  
21 out for the site what its business relationship is with  
22 respect to each part of the site.

23 In this particular case, and you have  
24 all reviewed the Application as well, so, if I missed some



1 of it, my understanding is that there are some portions of  
2 this site which are in existing right-of-way owned by one  
3 of the Applicants and will be leased to the other. There  
4 are portions of this site that are owned by another  
5 subsidiary of Eversource, I believe, which will -- there's  
6 an option to lease involved in this.

7 And, there are some areas where the  
8 Applicant has asserted that they intend to underground the  
9 facility under either state or public roadways. And, they  
10 rely upon RSA 271, Section 160, for their right to do  
11 that.

12 Obviously, there are some disputes about  
13 that. The Chairman mentioned the lawsuit in -- I believe  
14 it's in Coos County, there are some disputes about their  
15 right to do that going on outside of this Committee at  
16 this point in time. But those are the -- as I understand  
17 it, essentially, the ways in which the Applicants have  
18 addressed that issue in this present Application. And,  
19 there may be other ways, if you all remember something  
20 different from the Application, take your own memory, not  
21 mine, because you're the decision-makers.

22 MR. WRIGHT: Thank you.

23 CHAIRMAN HONIGBERG: Commissioner  
24 Bailey.

1 COMMISSIONER BAILEY: Can you explain to  
2 me what "option to lease" means?

3 MR. IACOPINO: Sure. An "option to  
4 lease" is the right to enter into a lease agreement. It's  
5 a binding contract to go into a lease agreement upon  
6 certain conditions being met.

7 COMMISSIONER BAILEY: So, like, if the  
8 Site Evaluation Committee granted the Certificate, then  
9 they would -- then whoever they have the option with would  
10 be required to lease the land?

11 MR. IACOPINO: Correct.

12 COMMISSIONER BAILEY: So, that  
13 demonstrates that they have --

14 MR. IACOPINO: A business relationship.

15 COMMISSIONER BAILEY: Okay. Thank you.

16 MR. IACOPINO: It's one type of business  
17 relationship.

18 CHAIRMAN HONIGBERG: Other questions or  
19 comments from members of the Subcommittee that Attorney  
20 Iacopino might be able to respond to right now? And, this  
21 will not be your last chance to do so.

22 *[No verbal response]*

23 CHAIRMAN HONIGBERG: All right. Seeing  
24 none, does anyone want to start the discussion or to make

1 a motion regarding acceptance or not of the Application?

2 (Short pause.)

3 CHAIRMAN HONIGBERG: Don't all jump at  
4 once. Commissioner Bailey.

5 COMMISSIONER BAILEY: I've looked at the  
6 Application. I note that all the state agencies with  
7 permitting authority have said that the Application is  
8 complete. I have a ton of questions about the  
9 Application. But I'll start the discussion by saying that  
10 I think that what they're required to provide, in order  
11 for us to proceed, is complete.

12 CHAIRMAN HONIGBERG: I note that that  
13 was not in the form of a motion, but -- and we don't have  
14 to make it in the form of a motion at this point, if you  
15 want to start the discussion that way.

16 Does anyone have any similar thoughts or  
17 contradictory thoughts? I'm sure you do.

18 Attorney Weathersby. Oh, I'm --

19 MS. WEATHERSBY: Putting me on the spot?

20 CHAIRMAN HONIGBERG: Well, you inhaled,  
21 and that indicated to me that you were ready to speak.

22 *[Laughter.]*

23 MS. WEATHERSBY: No, it was just --

24 CHAIRMAN HONIGBERG: That will teach

1 you.

2 MS. WEATHERSBY: I would say I think I  
3 agree with Commissioner Bailey. I have a number of  
4 concerns, and would like more information about this  
5 Application going forward. But, I think, for the standard  
6 that needs to be met today for completion, I'm comfortable  
7 with that, because I think we can flesh out these other  
8 issues during the process.

9 So, it does seem, based on the review by  
10 the state agencies, my review, the review of everyone else  
11 here, that the Application does contain, at least in my  
12 opinion, sufficient information to carry out the purposes  
13 of the statute.

14 CHAIRMAN HONIGBERG: We're going to go  
15 off the record for a minute.

16 *[Brief off-the-record discussion*  
17 *ensued.]*

18 CHAIRMAN HONIGBERG: Back on the record.  
19 Any other thoughts or comments? Would anybody like to  
20 make a motion?

21 (Short pause.)

22 CHAIRMAN HONIGBERG: Anybody? Anybody  
23 at all? Mr. Wright.

24 MR. WRIGHT: Thank you, Mr. -- sorry.

1 Thank you, Mr. Chairman. In light of what Ms. Bailey has  
2 brought up, and the fact that we have heard from the state  
3 agencies that have the regulatory authority that they have  
4 the information they need in order to proceed with their  
5 technical reviews, in addition we've heard from other  
6 state agencies that don't have regulatory reviews, but  
7 they have weighed in that they are able to proceed and  
8 participate in the process, based on my own independent  
9 review of the Application, I believe that it comports with  
10 all the requirements of RSA 162-H. And, I would make a  
11 motion that we accept the Application, and that we  
12 authorize counsel to prepare a written order to proceed.

13 CHAIRMAN HONIGBERG: Is there a second  
14 for that motion?

15 MR. WAY: I'll second that motion.

16 CHAIRMAN HONIGBERG: Seconded by  
17 Mr. Way. Further discussion?

18 *[No verbal response]*

19 CHAIRMAN HONIGBERG: I'm going to agree  
20 with those who have spoken, that, for purposes of this  
21 stage of the proceeding, the Application contains enough  
22 for us to fulfill the objectives of RSA 162-H. My  
23 perception, and it is still preliminary, based on the  
24 extensive information that was submitted, is that there's

1 going to be a heavy lift by every member of this  
2 Subcommittee, by the Applicant, by Public Counsel, by  
3 anybody who wants to come into this proceeding to  
4 participate in any meaningful way, to become educated  
5 about all of the issues that are out there, and all of the  
6 possible ways that this can get resolved. People are  
7 going to have to do a lot of reading, not just the things  
8 that they think they agree with, in order to understand  
9 all the positions being taken.

10 But that doesn't mean that it's not  
11 complete enough for us to accept it and direct counsel to  
12 prepare an appropriate order. Those are my thoughts on  
13 this right now.

14 Anybody else want to weigh in, before we  
15 vote?

16 *[No verbal response]*

17 CHAIRMAN HONIGBERG: All right. Seeing  
18 no further discussion, are you ready for the motion?

19 *[Multiple members nodding in the*  
20 *affirmative.]*

21 CHAIRMAN HONIGBERG: All those in favor,  
22 please say "aye"?

23 *[Multiple members indicating "aye".]*

24 CHAIRMAN HONIGBERG: Are there any

1       opposed?

2                               *[No verbal response]*

3                       CHAIRMAN HONIGBERG: All right. The  
4 "ayes" have it unanimously. The Committee has voted to  
5 accept the Joint Application and directed counsel to  
6 prepare an appropriate order.

7                       Is there any other business we need to  
8 transact today, Attorney Iacopino, that you're aware of?

9                       MR. IACOPINO: Not that I'm aware of. I  
10 assume we'll also issue a procedural order?

11                      CHAIRMAN HONIGBERG: Yes. We will be  
12 issuing a procedural order that will have a time for  
13 people who want to intervene to file appropriate motions  
14 to intervene. There will be a -- what's called -- I think  
15 we call it a "prehearing conference", and then a technical  
16 session, usually.

17                      MR. IACOPINO: Yes. There will also be  
18 a deadline for motions to intervene contained in that  
19 procedural order, and we will be asking the Applicants to  
20 publish that in the newspaper.

21                      CHAIRMAN HONIGBERG: Right. I think I  
22 said that.

23                      MR. IACOPINO: Oh, did you? I'm sorry.

24                      CHAIRMAN HONIGBERG: I didn't talk about

1 "publishing in the paper", but I think I did say that, or  
2 something along those lines. It sounded brilliant when  
3 you said it, though.

4 Ms. Monroe, is there anything else we  
5 need to do?

6 MS. MONROE: No.

7 CHAIRMAN HONIGBERG: Mr. Needleman, is  
8 there anything that we need to do, from your perspective?

9 MR. NEEDLEMAN: I don't think so. Thank  
10 you. I just want to say that we recognize that this is  
11 going to be a very substantial undertaking, and that  
12 people will be looking for additional information, and  
13 we're going to do everything we can to help to provide  
14 that in the most timely way possible.

15 CHAIRMAN HONIGBERG: Mr. Roth, you're  
16 the only other one who has standing to speak right now.  
17 Do you have anything you need us to do?

18 MR. ROTH: Yes, Mr. Chairman.

19 CHAIRMAN HONIGBERG: Ooh.

20 MR. ROTH: I would like the Committee to  
21 rule on the motion of Counsel for the Public to retain  
22 counsel and pay him.

23 CHAIRMAN HONIGBERG: That motion is  
24 decidable by the Chair, the Presiding Officer. The motion



1 will be granted. There's an order, it being drafted right  
2 now. So, the lawyers from Primmer can now exhale.

3 *[Laughter.]*

4 CHAIRMAN HONIGBERG: The payment, I  
5 expect, is going to be coming from the Applicant, not from  
6 the SEC fund. I think the better reading of the statute,  
7 the better reading of how this is supposed to go, is that  
8 it's not -- that is not an appropriate use of the SEC  
9 fund. If that turns out to be something that is  
10 unacceptable, then there's going to be satellite  
11 litigation regarding that.

12 I know there are terms that have been  
13 proposed by the parties regarding review. That's really  
14 the -- we're incorporating some of that stuff into the  
15 order, and that order will come out I would expect in the  
16 next few days.

17 MR. ROTH: Thank you. That's great.

18 CHAIRMAN HONIGBERG: Anything else,  
19 Mr. Roth?

20 MS. WEATHERSBY: No, sir. That's all.

21 CHAIRMAN HONIGBERG: All right. All  
22 right, seeing no other business to transact today, I will  
23 entertain a motion to adjourn?

24 Commissioner Bailey moves we adjourn.

1 Ms. Weathersby seconds.

2 All in favor, say "aye"?

3 *[Multiple members indicating "aye".]*

4 CHAIRMAN HONIGBERG: Any opposed?

5 *[No verbal response]*

6 CHAIRMAN HONIGBERG: We are adjourned.

7 ***(Whereupon the meeting was adjourned at***  
8 ***10:19 a.m.)***

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24