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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.)

PRESENT FOR SUBCOMMITTEE:	SITE EVALUATION COMMITTEE:
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

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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)

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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 "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.)***

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