

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2019-02

Application of Chinook Solar, LLC for a Certificate of Site and Facility

September 3, 2020

REPORT OF FINAL PREHEARING CONFERENCE

I. Background

On August 26, 2020, a Notice of Final Prehearing Conference Agenda and Designation of Hearing Officers (Notice) was issued. As provided in the Notice and consistent with Emergency Order #12, issued by Governor Christopher T. Sununu, the final prehearing conference was held on September 2, via web-enabled remote access. The Notice provided information on how members of the public could attend the final prehearing conference by remote access.

Pamela Monroe, Administrator, and Michael J. Iacopino, Counsel for the Committee, served as the hearing officers. This memorandum serves as a report of prehearing conference pursuant to RSA 541-A:31, V(d).

II. Participants

Chinook Solar, LLC (Applicant) was represented by Douglas Patch, Esq. (Orr & Reno), Nathaniel Morse, Esq. (Orr & Reno), and Heath Barefoot, Project Director. Assistant Attorney General Heather Neville appeared as Counsel for the Public. The Town of Fitzwilliam (Fitzwilliam) did not appear. The conference was recorded by a court reporter and a transcript will be provided at a later date.

III. General Discussion

The parties were advised of the scope of the prehearing conference and also advised that Attorney Amy Manzelli representing Fitzwilliam, informed the Administrator that Fitzwilliam will not be participating in the prehearing conference or the adjudicative hearing.

IV. Stipulations

The following stipulations have been filed with the Subcommittee:

- 1. Memorandum of Understanding Between Fitzwilliam and the Applicant.** On August 27, 2020, a Memorandum of Understanding (MOU) was filed between Fitzwilliam and the Applicant. The MOU constitutes an agreement between Fitzwilliam and the Applicant and addresses various issues. The Applicant will request that the Subcommittee adopt the MOU as a condition of a Certificate of Site and Facility (Certificate.)
- 2. Stipulation Between Counsel for the Public and the Applicant.** The stipulation relates to the updated economic assessment prepared by Matthew Magnusson, filed on July 10, 2020. The Applicant and Counsel for the Public stipulate that the Subcommittee should find that the proposed project does not interfere with the orderly development of the region.
- 3. Additional Anticipated Stipulations.** Attorney Patch reported that an additional stipulation between the Applicant and Counsel for the Public may be forthcoming. It may address issues other issues with the exception of the environment and issues and the financial, managerial and technical capability of the Applicant.

V. State Agency Participation

The following participation of the state agencies was discussed:

- 1. Fire Marshal.** At the request of Counsel for the Committee, Attorney Patch reported the

last contact the Applicant had with the Fire Marshal's office was in February 2020. The Fire Marshal will be responsible to enforce the fire and building codes. The Applicant and Counsel for the Public do not expect any further participation by the Fire Marshal at the adjudicative hearing.

2. **Department of Environmental Services (NHDES).** The final decision of the NHDES Water Division contained a condition that the Applicant must provide NHDES with "final design plans and analyses, for review and approval, incorporating modifications to the hydrologic model as described in electronic communications between Tighe & Bond Inc. and NHDES, dated August 28, 2020." Attorney Patch indicated that the condition results from negotiation with NHDES and that he anticipates that the Applicant will comply with September 4, 2020, deadline set by NHDES. He agreed to file a copy of the final design plans and analyses with the Administrator on an informational basis, at the same time they are sent to NHDES. If the plans and analyses contain information that may be exempt from the Right to Know law, RSA 91-A, or confidential under any other law, the Applicant will file a Motion for a Protective Order.

3. **NH Fish & Game (NHF&G).** The final decision of the NHDES contained a condition requiring the Applicant to coordinate with NHDES and NHF&G, no later than September 4, 2020, and provide revised plans that incorporate all of the recommendations on NHF&G concerning state or federally listed threatened or endangered species. Attorney Patch reported that most of this information has been provided in the testimony of Dana Valleau. Any additional information provided to NHDES will be included in an informational filing provided to the Administrator.

The Applicant is not restricted from filing any document as a proposed exhibit and to seek its admission, including the revised plans and analyses discussed above,

The participants were not aware of any other issues involving the participation of state agencies

in the adjudicative hearings.

VI. Schedule and Order of Witnesses

The scheduling and order of witnesses was discussed. At the outset, the parties agreed that the witnesses for Counsel for the Public, Michael Lew-Smith and Jeff Parsons (as a panel) and Scott Reynolds, Ph.D will be called on September 22, 2020, and taken out of order if required. The testimony may be condensed to the afternoon only. The Applicant and Counsel for the Public will discuss this and report the results of the discussion to the Administrator.

Applicant's Witnesses. The Applicant's witnesses will be called in the order set out in the table below and includes the estimated time that Counsel for the Public will need for cross-examination.

Witness	Subject Matter	Estimated Time for Cross Examination
Heath Barefoot, Project Director	Numerous issues raised by the Application	15 Minutes
Lise Laurin ¹	Air quality; Greenhouse Gas Report	10 Minutes
Joseph Balzano	Financial Capacity and Decommissioning assurances.	15 Minutes
Dana Valleau, Wildlife Biologist ²	Environmental and Wildlife Issues	45 Minutes
Joseph Persechino & Keith Delallo (Panel) ³	Environmental Issues; Design of the Project and Alteration of Terrain, Wetland and Water quality issues.	1 Hour
Marc Wallace	Public health & Safety – Sound	10 Minutes
Michael Buscher	Aesthetics - Visual Impact Assessment	10 Minutes

¹ On September 3, the Applicant contacted the Administrator and advised her that the Applicant and Counsel for the Public agreed the Applicant's proposed order of witnesses could be amended and that Ms. Laurin would be Applicant's second witness called due to her availability.

² Mr. Valleau will adopt the joint testimony of Kara Moody.

³ Mr. Delallo will adopt the testimony of Paul Callahan, who has retired.

Matt Magnusson	Orderly Development and Economics	10 Minutes
Karen Mack & Stephen Olausen (panel)	Historic Resources	10 Minutes

Counsel for the Public. Counsel for the public’s witnesses are anticipated to be called in the following order on September 22, 2020:

Witness	Subject Matter	Estimated Time for Cross-Examination
Michael Lew-Smith and Jeff Parsons (Panel)	Environmental and Wildlife	Total Estimated cross examination: 2 Hours.
Scott Reynolds, Ph. D	Environment, Wildlife, Bats	

VII. Marking of Confidential Exhibits

The Applicant pre-filed redacted exhibits. The Applicant shall provide to the Administrator unredacted confidential exhibits bearing the original exhibit number followed by the word “**CONFIDENTIAL**” in the filename. The Administrator will provide the confidential exhibits to the Subcommittee members.

VIII. System Impact Study

The Applicant reports that the System Impact Study negotiated with ISO New England is complete and will be filed with the Committee. This document is considered to be Critical Energy Infrastructure Information (CEII) and therefore will become accompanied by a motion for confidentiality or protective treatment.

IX. Subdivision Issue

Information provided in the Application and the MOU suggests that the Site Evaluation Committee has the lawful authority to subdivide the real property at the site. Once subdivided, the Applicant will transfer that portion of the site containing the substation to the transmission company, National Grid. Whether the Subcommittee has the authority to subdivide real property and the process by which that can be accomplished has never been decided in a prior docket. Counsel for the Committee suggested that the parties may wish to brief this legal issue so the Subcommittee can determine how to lawfully proceed on the request.

X. Partial Waiver of Decommissioning Requirements

The parties noted and discussed the pending motion for waiver of certain decommissioning requirements that is pending before the Subcommittee. That motion will be resolved by the Subcommittee as part of its deliberations in this docket.


XI. Email Addresses

The parties will provide the Administrator with the email address for each witness so appropriate invitations to the web-based remote video platform can be prepared and distributed.

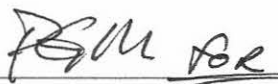
XII. No Changes to Current Schedule of Adjudicative Hearing

The adjudicative hearing schedule established in the Notice of Adjudicative Hearing dated June 25, 2020, as modified by the Order issued on August 17, 2020, shall remain in effect.

The Final Prehearing Conference was adjourned.



Pamela Monroe, Administrator
Co-Presiding Officer



Michael J. Iacopino, Esq
Co-Presiding Officer