

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

January 12, 2017 - 11:00 P.M.
Public Utilities Commission
21 South Fruit Street
Concord, New Hampshire

RSA 162-H:8-a,III, APPLICATION AND FILING FEES
PUBLIC HEARING

**PRESENT FOR
SUBCOMMITTEE:**

SITE EVALUATION COMMITTEE:

Chmn. Martin Honinberg	Public Utilities Commission
Cmsr. Robert R. Scott	Public Utilities Commission
Cmsr. Kathryn M. Bailey	Public Utilities Commission
Cmsr. Jeffrey Rose	Dept. of Resources & Economic Development
Dir. Elizabeth Muzzey	Dept. of Cultural Resources, Div. of Hist. Resources
Act'g Cmsr. Clark Freise	Dept. of Environmental Services
Cmsr. Victoria Sheehan	Department of Transportation
Patricia Weathersby	Public Member

Also Present for the SEC:

Michael J. Iacopino, Esq. (Brennan...
Pamela G. Monroe, SEC Administrator

COURT REPORTER: Cynthia Foster, LCR No. 014

1 CHAIRMAN HONIGBERG: Good morning,
2 everyone. I am convening a meeting of the Site
3 Evaluation Committee, January 12th, 2016. We
4 have two specific items on our agenda to deal
5 with. The first is to review the Application
6 Filing Fees as we are required to do under RSA
7 162-H:8-a,III. We'll do that first.

8 The second item on the agenda is Docket
9 number 2016-03, a Petition for Declaratory
10 Ruling. The plan is for us to take a break
11 between those two agenda items to allow us to
12 confer with counsel and in all likelihood for
13 people to grab something to eat. So that's the
14 expectation on that. We'll go off the record
15 for just a second.

16 (Discussion off the record)

17 CHAIRMAN HONIGBERG: With respect to agenda
18 item 1, the fees, I'm going to ask our
19 Administrator -- before I do that, people should
20 probably identify themselves. I know we have
21 nametags in front of us, but there are some new
22 faces here at the Committee. We have 8 members
23 of the Committee present. The plan was to have
24 our second public member who is our alternative

1 public member, Rachel Whitaker, participate by
2 telephone, but for reasons I don't quite
3 understand, there's a technological problem, and
4 we do not have Rachel on the line. So let's
5 have people identify themselves so everybody
6 knows who's here.

7 COMMISSIONER SCOTT: Bob Scott with the New
8 Hampshire Public Utilities Commission.

9 PRESIDING OFFICER HONINBERG: Martin
10 Honinberg with the New Hampshire Public
11 Utilities Commission.

12 DIRECTOR MUZZEY: Elizabeth Muzzey.
13 Department of Cultural Resources.

14 COMMISSIONER BAILEY: Kathryn Bailey.
15 Public Utilities Commission.

16 PATRICIA WEATHERSBY: Good morning.
17 Patricia Weathersby, Public Member.

18 COMMISSIONER SHEEHAN: Victoria Sheehan.
19 Department of Transportation.

20 ACTING CMSR. CLARK FREISE: Clark Freise.
21 Department of Environmental Services.

22 COMMISSIONER ROSE: Good morning. Jeff
23 Rose, Department of Resources and Economic
24 Development.

1 CHAIRMAN HONIGBERG: All right. Now I
2 would like the SEC's Administrator, Pam Monroe,
3 to lead us through a discussion of the fee
4 situation.

5 ADMINISTRATOR MONROE: Thank you,
6 Mr. Chairman. RSA 162-H:8-a,III requires the
7 Site Evaluation Committee to review and evaluate
8 the application and filing fees at least once
9 each year. The statute gives the Committee the
10 authority to increase or decrease any amount in
11 the fee schedule by up to 20 percent with prior
12 approval of the Fiscal Committee of the General
13 Court, providing that any such increase or
14 decrease shall occur not more frequently than
15 once during any 12-month period.

16 I had distributed to you, and I've got
17 copies up there for anybody who would like them,
18 an analysis, I guess you could call it that, of
19 the application filing fees that we've received
20 to date as well as the total charges billed for
21 those.

22 I do have one change from what I sent all
23 of you. On page 4, thank you to Ms. Weathersby
24 for her eagle eyes catching this, it's under

1 item 7, SEC Docket No. 2016-02, the total
2 charges that appear on page 4 should be an
3 amount of 503, not, I believe it was 202.

4 I can take you, whatever your pleasure is.
5 I can take you through each of the dockets with
6 a brief summary if you'd like or --

7 CHAIRMAN HONIGBERG: I have a question
8 before you do that. What's the compliance rate
9 for state agencies to submit requests for
10 reimbursement? I will confess that I have a
11 listing of dates and times from the beginning of
12 this fiscal year that is safe on my desk but not
13 in your hands.

14 ADMINISTRATOR MONROE: That has been part
15 of the issue, and I would like to take today to
16 redistribute -- one of the things that I was
17 required to do when I first came into this
18 position was develop a record keeping system and
19 accounting and payment procedures for the
20 agencies as well as the public members. Public
21 members have been great and timely with their
22 filing, but I haven't always received all the
23 Agency reporting so I'd like to distribute that.

24 COMMISSIONER BAILEY: Ms. Monroe, when you

1 get back to the microphone could you let us know
2 what we're supposed to do with them when they're
3 filled out because I filled mine out, too, but I
4 didn't know what to do with it, and I apologize
5 for that.

6 ADMINISTRATOR MONROE: Well, I did ask
7 today, and I should have introduced her, in the
8 audience here to my right is Eunice Landry.
9 She's the business administrator for the Public
10 Utilities Commission. The Site Evaluation
11 Committee is administratively attached to the
12 PUC, and Eunice has been helping me with all of
13 this accounting. So if you send them to me, I
14 will send them to Eunice, and I will work with
15 her. If you could submit the appropriate docket
16 because that's how I'm trying to track those, I
17 will take care of it.

18 COMMISSIONER BAILEY: How often do you want
19 us to submit them? Monthly? Quarterly? When
20 the page is full?

21 ADMINISTRATOR MONROE: Quarterly would be
22 the preferred time frame, which I believe is in
23 the procedure.

24 CHAIRMAN HONIGBERG: All right. So with

1 that out of the way, why don't you summarize
2 where we are, understanding I suspect is true
3 that we're probably understating the obligation
4 with the numbers that are in your report because
5 there are some outstanding reimbursement
6 requests that haven't come in.

7 ADMINISTRATOR MONROE: Right. So I believe
8 for the first Docket is 2015-05. That was the
9 Joint Application of New England Power and PSNH
10 regarding what's known as the Merrimack Valley
11 Reliability Project. I believe we probably have
12 most of the charges to date.

13 The big one that we just completed was the
14 Antrim Wind which was Docket No. 2015-02. I did
15 provide an estimate here because I did receive
16 an estimate from Commissioner Rose's office and
17 I've also developed working with Eunice an
18 average cost per day per agency number. So I
19 tried to extrapolate that given that we had 13
20 days of hearings and three days of deliberations
21 to try and come up with a number, assuming all
22 the charges get submitted. So the Application
23 fee was 78,800, and I believe if my estimates
24 are close, the total charges will be about

1 \$102,500 for that docket.

2 The fees come in when the Application is
3 submitted, and then, as you know, we have a year
4 to make our final decision so there's a lot of
5 things that go on. We have the public hearings
6 up front, but then there's a lag time between
7 that and actually the hearing. So the money
8 sits in the account, and we're not really
9 drawing down until we have those hearings.

10 CHAIRMAN HONIGBERG: Ms. Monroe, I think
11 Commissioner Scott has a question.

12 COMMISSIONER SCOTT: I wanted to clarify a
13 statement you made. You either said or implied
14 that Antrim was finished. We still have to go
15 through the process of getting a written order
16 out. There will be some time. There's a
17 potential for requests for reconsideration or
18 appeal so the financial clock has not run out on
19 that project yet; is that correct?

20 ADMINISTRATOR MONROE: That's correct. I
21 believe my estimate was just based on time to
22 date which is the hearing and the deliberations
23 on that project. Good point.

24 We also had, I'd just point out at number 4

1 as well that these are in the order of the
2 Applications as they came in. That's the way
3 they're sequenced. We did have two Petitions
4 this year to transfer membership interests in
5 two of the combined cycle power plants in the
6 State. We convened a three-member Subcommittee
7 in that, and Ms. Weathersby was kind enough to
8 be the Presiding Officer in those proceedings
9 and we had two agency members. So the second
10 one went much quicker than the first. So that's
11 represented here. We had the same Subcommittee
12 do both in order to be more efficient with our
13 time.

14 MR. ROTH: Mr. Chairman, I know this may
15 seem out of order, but my office always bills
16 for these reimbursements so I guess the question
17 I would ask is if the Committee is aware whether
18 the Attorney General's Office in billing for
19 time for Counsel for the Public is up to date as
20 well.

21 ADMINISTRATOR MONROE: I would say you're
22 not up to date. Probably as far as the agencies
23 go, probably the most complete is from the
24 Attorney General's Office, but there are

1 definitely pending charges in the Northern Pass
2 docket.

3 CHAIRMAN HONIGBERG: Director Muzzey?

4 DIRECTOR MUZZEY: I would like to go back
5 to Antrim just for a moment. Could you clarify,
6 we also had a jurisdictional hearing on Antrim
7 prior to this hearing, a certificate of site,
8 was that prior to when agencies began this
9 reimbursement process?

10 ADMINISTRATOR MONROE: I believe the law
11 provided that the agencies could be reimbursed,
12 but there weren't any fees, and some of the
13 monies came out and Eunice could maybe speak to
14 this, the Renewable Energy Fund, when there was
15 some money that was put into the --

16 CHAIRMAN HONIGBERG: I'm not sure that's
17 right. I thought that the Antrim Wind
18 jurisdictional proceeding occurred before the
19 new law was effective.

20 ADMINISTRATOR MONROE: There was a
21 provision. Do you have the spreadsheet, Eunice?
22 Thanks, Eunice.

23 I could go back and I researched this when
24 we received the charges because we did, it was

1 2014-05 was the docket number and as well as the
2 C-3 proceeding. There was a provision in the
3 law that, I believe in the 2014 changes that
4 said in the event there's funding that falls in
5 2015, that any of these open dockets were
6 subject to be reimbursed, and I researched that
7 issue so we did reimburse DOJ in that docket.

8 CHAIRMAN HONIGBERG: The Antrim Wind
9 jurisdictional proceeding?

10 ADMINISTRATOR MONROE: Correct, as well as
11 the C-3, there was a public member, PUC and DES
12 were members of that Subcommittee.

13 CHAIRMAN HONIGBERG: Okay.

14 DIRECTOR MUZZEY: Thank you.

15 ADMINISTRATOR MONROE: The Tennessee Gas
16 Pipeline which was Docket No. 2015-08, the way
17 the system that we've set up works is, well, and
18 under the statute, any Applicant has to have a
19 pre-Application meeting out in each county where
20 the project is supposed to be sited. So when we
21 received a notice from Tennessee Gas that they
22 were planning on having those pre-Application
23 meetings, we actually opened a docket.

24 And there was various charges against that

1 including a meeting of the Subcommittee that was
2 put in place for that particular docket to
3 review the statutory requirement that they
4 consider intervening in the Federal Energy
5 Regulatory Commission proceeding. So there were
6 some charges there as well as charges from the
7 public member for that, but we never received
8 any fees because they withdrew their filing and
9 said in the event the project came back, they
10 would open a new docket. So there were \$2935 of
11 charges to the fund, if you will, that we never
12 received any fees.

13 Then we have SEC Docket No. 2016-01 was a
14 rule making docket. The statute required the
15 Committee to adopt rules relative to the citing
16 of high pressure gas pipelines and gave the
17 Committee one year to do that. In order to meet
18 the statutory time frame, it was necessary to
19 hire a contractor to work with me to develop
20 those draft rules, and, essentially, we
21 submitted the proposal to the Joint Legislative
22 Committee before the statutory deadline, and the
23 rules were actually adopted in August of 2016.
24 So, again, that was \$12,267 charged to the SEC

1 fund. Again, there's no Application because it
2 was general rule making.

3 I went through number 7 which was the, that
4 was the transfer of ownership in the Newington
5 Power combined cycle dual fuel facility in
6 Newington.

7 And then the most recent Application
8 submitted was in 2015-04. That's Application of
9 Public Service of New Hampshire Company for a
10 new 115 kV transmission line. That's also known
11 and referred to in some places as the Seacoast
12 Reliability Project. We've had public
13 information sessions and our public hearings.
14 We also did a site visit with the Committee in
15 that docket, and currently the adjudicative
16 hearings are scheduled for five days in May.

17 I think I skipped over the smallest project
18 which was the Joint Application of Northern Pass
19 and Public Service. That's number 3 on my list.
20 Total Application fees that we received in that
21 docket was \$626,000. We've got charges against
22 it, 70,913 to date. Most of those were DOJ,
23 DES, DOT, and the public members. And we have
24 the adjudicative hearings currently scheduled in

1 that matter over a 29-day period starting in
2 April of this year.

3 CHAIRMAN HONIGBERG: Well, to be precise,
4 it's 29 days over a much longer period than
5 that.

6 ADMINISTRATOR MONROE: April, May, June and
7 July.

8 CHAIRMAN HONIGBERG: Correct. So of the
9 proceedings that have gone through a significant
10 portion, if not all, of their adjudication, the
11 Merrimack Valley Reliability Project, the Antrim
12 Wind, the two ownership transfers, we're over
13 sometimes and we're under sometimes.

14 ADMINISTRATOR MONROE: Correct.

15 CHAIRMAN HONIGBERG: And it's early days in
16 terms of charges for a few of the others.

17 ADMINISTRATOR MONROE: Correct. I mean, I
18 think probably next year will be a much more
19 meaningful review. We'll have, hopefully, we'll
20 get the agencies reporting in a more timely
21 fashion and reporting all their hours, and we'll
22 have a much better feel for whether or not the
23 fees are in line with what was estimated and
24 what's in the statute.

1 CHAIRMAN HONIGBERG: Do you feel like
2 there's any reason to adjust the fees at this
3 point based on what we have seen and what we
4 have experienced?

5 ADMINISTRATOR MONROE: In my opinion, I
6 think it's too soon. Certainly, I mean we've
7 got, as Commissioner Scott pointed out, the
8 Antrim Wind is over. I mean, I don't know if it
9 was because that project had a number of
10 different proceedings. You know, I don't know
11 if other wind projects would have the same
12 number of days of hearings. Those were pretty
13 long days. The Committee covered a lot of
14 ground. So I guess it's at the pleasure of
15 Committee, but certainly that's something that
16 could be looked at.

17 CHAIRMAN HONIGBERG: Anyone have any
18 questions for Ms. Monroe or any comments they
19 want to offer on the situation as we see it
20 today? Commissioner Scott?

21 COMMISSIONER SCOTT: So again, so the
22 statute, 162-H:8-a tells us to meet once a year
23 and review whether we should make adjustments to
24 the fee schedule, correct?

1 ADMINISTRATOR MONROE: Correct.

2 COMMISSIONER SCOTT: So I want to say I
3 also support waiting. I think there are a lot
4 of projects still not finished. There are a lot
5 of projects in the cue, and I think we'll learn
6 a lot more. I don't see any reason that would
7 drive me to want to change these at this point
8 given where we are right now in the scheme of
9 implementing this.

10 CHAIRMAN HONIGBERG: Other comments or
11 questions? Ms. Weathersby?

12 MS. WEATHERSBY: If I could just ask a
13 question so I understand the process. The fee
14 is paid at the time of the Application, correct?

15 ADMINISTRATOR MONROE: Correct.

16 MS. WEATHERSBY: Is there any mechanism
17 that if the charges to the fund for that
18 Application are going over that more money is
19 assessed or, conversely, if there's a big
20 balance at the end, then that gets refunded?

21 PRESIDING OFFICER HONIGNBERG: The fee is
22 the fee. You don't get a refund if the charges
23 are lower, but you don't have to pay more if the
24 charges are higher, and that was a very

1 significant issue for a lot of the people who
2 were involved in the negotiation surrounding
3 setting the fee schedule or agreeing to a fee
4 schedule, that you'd know what it was.

5 And the one thing I think everyone accepts
6 is that although there was work done in analysis
7 of historical dockets at the SEC, I think
8 there's a knowledge that every single one of
9 these Application fees is going to be wrong.

10 The question is whether they're radically wrong
11 all the time in the same direction, and as long
12 as they are generally circling around the right
13 levels, we're probably in the right place. And,
14 I mean, I think I agree with Commissioner Scott
15 and Administrator Monroe, based on what we've
16 seen, we're over sometimes and we're under
17 sometimes, and the ones that are, the few that
18 have gone far enough, I think it's too early to
19 tell whether any changes are needed.

20 Commissioner Bailey.

21 COMMISSIONER BAILEY: I also agree. I
22 think we don't have enough data yet, but out of
23 curiosity, Ms. Monroe, did you add up all of the
24 Application fees that were received and all of

1 the charges that were paid out so that we see in
2 total what the difference is?

3 ADMINISTRATOR MONROE: I did not. Did you
4 do that, Eunice? No, I didn't. I could easily
5 do it.

6 CHAIRMAN HONIGBERG: If you're going to
7 include Northern Pass and Seacoast Reliability
8 where the money has just come in and almost
9 nothing has gone out, I'm not sure what that's
10 going to tell you.

11 COMMISSIONER BAILEY: I don't think we have
12 enough data so I support not making any changes
13 as well.

14 CHAIRMAN HONIGBERG: Director Muzzey?

15 DIRECTOR MUZZEY: Thank you. Although I am
16 concerned it appears that the Antrim proceeding
17 may go over, could you confirm, we don't
18 currently have another wind farm in the docket?

19 ADMINISTRATOR MONROE: No, we do not.

20 DIRECTOR MUZZEY: So I would agree with
21 others here that waiting another year and
22 getting a more complete look at how these
23 numbers are going through time would be most
24 useful.

1 ADMINISTRATOR MONROE: I could just want to
2 add that there were 12 intervening groups in the
3 Antrim Wind matter, and there was one in the
4 Merrimack Valley Reliability Project.

5 CHAIRMAN HONIGBERG: Although, I mean, I
6 agree with the implication of what Director
7 Muzzey said that Antrim Wind was not an enormous
8 project either. I mean, it was essentially one
9 town with nine turbines. It was below the
10 jurisdictional threshold set in the statute, and
11 that earlier proceeding was to determine whether
12 the SEC should take jurisdiction over the
13 project and so another wind project which
14 crosses the borders, maybe goes into two
15 counties, could add levels of complication and
16 cost so it's certainly appropriate to watch out
17 for that.

18 At the same time, maybe the Merrimack
19 Valley Reliability Project which came in under,
20 maybe there's a lesson that could be learned for
21 the next Reliability Project or something like
22 that. But sample sizes of one I don't think
23 give us enough information to do anything about
24 it.

1 All right. Is there action that needs to
2 be taken if we are not making a change? Seems
3 procedurally like doing nothing is a possible
4 answer here.

5 ADMINISTRATOR MONROE: I believe so. I
6 don't think it specifies. Just requires you to
7 meet. Meet and review it.

8 CHAIRMAN HONIGBERG: I think the record
9 will reflect that we met and reviewed and took
10 no action to adjust the fees in light of the
11 experience that we've had to date. Is that fair
12 to say?

13 ADMINISTRATOR MONROE: Yes.

14 CHAIRMAN HONIGBERG: All right. Is there
15 anything else we need to do with respect to
16 fees? I know Commissioner Scott needs to be
17 recognized to say something about the next
18 matter, but is there anything else we need to do
19 with respect to fees?

20 ADMINISTRATOR MONROE: No. I think you
21 covered all the ground that you need to.

22 CHAIRMAN HONIGBERG: All right.
23 Commissioner Scott.

24 COMMISSIONER SCOTT: Thank you. Regarding

1 the next matter, I just want to be on record.
2 As Commissioner with the Public Utilities
3 Commission, I've recused myself from matters
4 with the Commission having to do with Northern
5 Pass. I am doing so for this Declaratory Ruling
6 also for the Site Evaluation Committee, and
7 Staff Attorney Paul Dexter has been designated
8 in my place for that proceeding.

9 CHAIRMAN HONIGBERG: To be clear, Attorney
10 Dexter works here at the PUC. So that's within
11 the agency.

12 Is there any other business we need to
13 transact with respect to that before we take our
14 break to eat and confer with counsel?

15 ADMINISTRATOR MONROE: No.

16 CHAIRMAN HONIGBERG: All right. We will
17 look to reconvene in an hour at 12:30.

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

C E R T I F I C A T E

I, Cynthia Foster, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes of the hearing for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Dated at West Lebanon, New Hampshire, this 15th day of January, 2017.

Cynthia Foster, LCR