

Notes from SEC deliberations on Monday, 12/10/18 – Day 6 – Final Day of Scheduled Hearings
By Durham Town Administrator, Todd Selig

The meeting was called to order by Chair Weathersby at approx. 10:15 AM. She began the meeting by raising again the dispute resolution process and the cost that would be required for aggrieved persons going through that process. Member Way prefers to have the applicant pay for the process, soup to nuts. Member Fitzgerald indicated he felt there should be some fee for aggrieved persons to eliminate frivolous claims. There was further discussion. There was discussion about no fee versus splitting mediation with a \$300 cap, or a possible refund for mediation if it goes on to the next stage. **It was decided, 4-3, there should be no fee.** Additional discussion about the complaint proceed ensued in terms of letting affected persons know of the process and that there is one.

Property/Real Estate Values. Member Duprey reminded the committee about the requirements outlined in 162-H:16, III (b), *"The site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies."* The various elements of this criterion as outlined in state law and administrative rules were outlined by Ms. Duprey. The applicant's expert witness, Mr. Chalmers, was referenced and Member Duprey noted that there was not expert testimony to rebut Mr. Chalmers' conclusions concerning the impact of the project on real estate values. The report from Mr. Chalmers is approx. 4,500 pages, according to Duprey. *"It was a very intensive effort on his part,"* according to Member Duprey, including case studies, market research, and literature research relating to NH, CT, and MA. Duprey noted that Chalmers found that concerning each type of property impacted, other than residences, that there would not be harm to property values. Duprey reported that Chalmers did a further analysis and found that there were three factors that might negatively impact property values:

1. Proximity to facility (within 100' of facility would have a possible impact, 100' - 200' would have less impact);
2. Whether the ROW ran across the property;
3. Whether there was a view.

Member Duprey noted that once Chalmers finds there is an impact in his study, he indicates that around 55% of properties will have an adverse impact of somewhere between 1.5% to 18%. Chalmers then takes the average of around a negative 7.5% impact as a working number and applies this to affected properties. Of the 65 properties he found within 300 feet of the project, according to Member Duprey, 29 will have some view of the project. Duprey explained that Chalmers then undertakes further analysis and concluded that maybe 6 properties will be impacted. There was discussion by the committee members. Members noted that differences concerning property value impacts that remain between the applicant and individual property owners can be adequately resolved through the SEC's dispute resolution process.

Chair Weathersby stated she found four deficiencies in the Chalmers report but noted the dispute resolution process should provide adequate resolution for affected property owners. *"So while there will likely be an impact, it is not an undue impact and can be resolved through the dispute resolution process,"* stated Weathersby. Member Fitzgerald found the analysis provided by Chalmers *"pretty thorough"* and that in general the conclusion is valid that there are relatively few properties in which there will be a negative impact, and that the dispute resolution process should address such issues. He noted that the Counsel for the Public did not contest the Chalmers report. There was further discussion.

There was a straw poll that the proposed Seacoast Reliability Project will not have an undue effect on real estate values of the region.

— 10 Min. Break at 11:45 AM —

Chair Weathersby explained that over the last several days, the SEC had been considering the various categories relating to orderly development. At this time, she explained, the committee would take a vote on the issue of orderly development.

The committee unanimously by straw poll voted that the project will not have an adverse impact on the orderly development of the region.

Pubic Interest. Chair Weathersby led the next discussion concerning whether issuance of a certificate will serve the public interest, in accordance with 162-H:16, III (e). She touched upon the various administrative regulations that the board must consider and also information submitted as part of the docket. She noted that at the public hearing, most members of the public who testified were against the project.

Member Duprey believed that the historic and aesthetic sites were the areas where there was the most impact. She noted the numerous mitigation plans that would be put in place to address these issues. She believed that the applicant had made real efforts to find solutions with impacted abutters and municipalities to ameliorate the concerns. Member Duprey noted that given the growth of the Seacoast, the needs of industry, and her view that the Seacoast is one of the most up and coming regions of NH, that the reliability of power, as even cited by local Master Plans, is very important for this region. She believes the project positively impacts the region and the state. Duprey noted that while there may be some impacts to air and water quality, it is not unmanageable. *"I am confident that our NH Department of Environmental Services is up to the job of managing this,"* Duprey stated.

Member Way stated it is hard to expand on what was just said. He add additional thoughts.

Member Schmidt agreed, referencing the impact to various sites, such as historic sites, and that the applicant has modified its plan to address these issues, and that the applicant will continue to be willing to do so. Member Schmidt noted the applicant has attempted to meet the needs of residents and intervenors. He believes the applicant has tried and will continue to try to address issues with the project.

Member Shulock agreed with the comments he has heard so far. What weighs heavily with him is that this is a reliability project. *"In situations where electricity is unreliable, it can create load shedding or worse,"* stated Shulock. It impacts street lights, residential electricity, emergency needs, etc. he explained. Shulock said that reliability is critical to the needs of the region.

Chair Weathersby noted with concern that this is a project serving a particular region and that at present, there was only a single line serving the entire Seacoast region.

Member Muzzey said that in considering this issue, it was a very close call, considering the very negative feedback from citizens and intervenors, but what swayed it for her is that this is a reliability project, and given the extent of accommodation and mitigation provided by the applicant, she believes the project serves the public interest.

Member Fitzgerald stated that *"there is no question that this project is necessary for the region."* While he is aware of the concerns expressed, it is a fact that the Seacoast is going to grow and that the infrastructure to support the growth is necessary. He noted that if towns had the ability to engage earlier in the process before ISO NE, that might be helpful going forward for future projects. Fitzgerald noted the applicant could have done more earlier to let affected towns know that the project was being discussed by the ISO.

Chair Weathersby shared many of the points made by other SEC members. She stated that some of the public comments were along the lines of “Will you please order the applicant to bury the line or to move the line somewhere else?” She wanted folks to know that the SEC cannot do that. Weathersby wanted the public to know that the SEC had listened carefully to their comments.

Chair Weathersby noted that the SEC had heard from all of its members and that the board believed the proposed project will serve the public interest.

Conditions. The committee moved on to address various conditions that will be required as part of the project. These were painstakingly addressed one by one for several hours and will be included in the actual permit language so items are not listed here.

Alternative Routes Revisited. Member Duprey indicated that the introductory language of the statute, and referenced the Gosling Road alternatives, as well as the northerly and southerly routes mentioned during testimony of various witnesses. She noted that the applicant had testified that both the northern and southern routes were longer and included land not controlled by Eversource, but in its deliberations the SEC had noted that the SRP project before the board was the project, not other projects, and it’s not the SEC’s job to compare other routes. It needs to address the proposal before it.

There was an exchange between Chair Weathersby and Member Duprey in which Duprey mentioned that the Gosling Road was really off the table for the SEC, and that the ISO NE had not recommended it, plus it was an overbuild alternative. Duprey referenced at length issues that Eversource had raised concerning both the northern and southern route alternatives.

Member Fitzgerald referenced Mr. Giottis’ testimony from the applicant that reviewed in depth the pro’s and con’s of the various routs and how Eversource got to recommending this project.

Chair Weathersby asked if there was anything else the committee would like to reconsider or review once more.

Member Way referenced the various conditions approved as part of the process before the SEC.

At 3:30 PM, having considered the potential impacts and benefits of the proposed project, the orderly development of the region, that the company had the financial resources to undertake the proposed project, that there would be no unreasonable adverse effects, etc. Chair Weathersby moved that the board approve the proposed project. Member Duprey seconded the motion. It was approved unanimously, 7-0.

— Break 3:35 PM --

The committee went on to adopt stipulated facts. The discussions are still ongoing but I anticipate there will be no further decisions by the committee not made part of the SEC’s final order.

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