

**HOUSE BILL - FINAL VERSION**

**1991 SESSION**

HOUSE BILL NO. 736-FN (CHAPTER 295, LAWS OF 1991)

INTRODUCED BY: Rep. Rodeschin of Sullivan Dist. 2; Sen. Dupont of Dist. 6

REFERRED TO: Science, Technology and Energy

AN ACT relative to energy facility siting, licensing and operation.

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ANALYSIS

This bill:

- (a) Incorporates the provisions of RSA 162-F into RSA 162-H.
- (b) Clarifies the types of facilities over which the site evaluation committee has jurisdiction.
- (c) Provides the site evaluation committee with an opportunity to waive decision-making.
- (d) Increases the opportunities for local government and the public to participate in the facility siting process.
- (e) Adds the director of the governor's energy office to the site evaluation committee.
- (f) Reduces the decision-making time to 10 months for generating facilities, and 9 months for energy facilities.
- (g) Requires that the attorney general's office be notified immediately upon receipt of an application for a proposed facility.

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EXPLANATION: Matter added appears in **bold italics**.

Matter removed appears in [brackets].

Matter which is repealed and reenacted or all new appears in regular type.

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand

nine hundred and ninety-one

AN ACT

relative to energy facility siting, licensing and operation.

Be it Enacted by the Senate and House of Represen-

tatives in General Court convened:

1 Energy Facilities. RSA 162-H is repealed and reenacted to read as follows:

CHAPTER 162-H

ENERGY FACILITY EVALUATION, SITING, CONSTRUCTION AND OPERATION

162-H:1 Declaration of Purpose.

I. The legislature recognizes that the selection of sites for energy facilities will have a significant impact upon the welfare of the population, the economic growth of the state and the environment of the state. The legislature, accordingly, finds that the public interest requires that it is essential to maintain a balance between the environment and the possible need for new energy facilities in New Hampshire; that undue delay in construction of any needed facilities be avoided; that operation of the facility be consistent with the state's least cost energy policy; and that the state ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic and technical issues are resolved in an integrated fashion. The legislature, therefore, hereby establishes a procedure for the review, approval, monitoring and enforcement of compliance in the planning, siting, construction and operation of energy facilities. The legislature also recognizes that it has a broad responsibility to provide both economic and environmental protection for its coastal and estuarine waters and the adjoining land areas. The legislature therefore declares it to be its policy that any offshore facility, other than pipelines, shall be located so as to at least comply with the policies and guidelines of the Federal Environmental Protection Agency; and that this policy may be relaxed only if it is shown by clear and convincing evidence that there are compelling technological or economic reasons for doing so, that no feasible alternative exists, and that there will be no substantial environmental risk.

II. The legislature also finds that the present and predicted growth in electric power demands in the state of New Hampshire requires the development of a procedure for the selection and utilization of sites for generating facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites and the routing of associated transmission lines will have a significant impact upon the welfare of the population, the location and growth of industry, and the use of the natural resources of the state. The legislature, accordingly, finds that the public interest requires that it is essential to maintain a balance between the environment and the need for new power sources; that operation of the facility be consistent with the state's least cost energy policy; that electric power supplies must be constructed on a timely basis; that in order to avoid undue delay in construction of needed facilities and to provide full and timely consideration of environmental consequences, all electric entities in the state should be required to engage in adequate long-range planning and provide full and complete disclosure to the public of such plans; that a certifying body be established for the preconstruction review of bulk power supply facilities;

that the siting of bulk power plants and high voltage transmission lines should be treated as a significant aspect of land-use planning in which all environmental, economic and technical issues should be resolved in an integrated fashion, so as to assure the state an adequate and reliable supply of electric power in conformance with sound environmental utilization. The legislature, therefore, hereby establishes a procedure for the planning, siting, and construction of bulk power supply facilities.

## 162-H:2 Definitions.

I. "Acceptance" means a determination by the committee that it finds that the application is complete and ready for consideration.

II. "Bulk power supply facilities" means:

(a) Electric generating station equipment and associated facilities designed for, or capable of, operation at any capacity of 30 megawatts or more, or electric generating station equipment and associated equipment which the applicant or 2 or more petition categories as defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines in accordance with RSA 162-H:1, should require a certificate.

(b) An electric transmission line of design rating of 100 kilovolts or more, associated with a generating facility outlined in subparagraph (a), over a route not already occupied by a transmission line or lines.

(c) An electric transmission line of a design rating in excess of 100 kilovolts that is in excess of 10 miles in length, over a route not already occupied by a transmission line, or an electric transmission line which the applicant or 2 or more petition categories as defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines in accordance with RSA 162-H:1, should require a certificate.

III. "Commencement of construction" means any clearing of the land, excavation or other substantial action that would adversely affect the natural environment of the site of the proposed facility, but does not include land surveying, optioning or acquiring land or rights in land, changes desirable for temporary use of the land for public recreational uses, or necessary borings to determine foundation conditions, or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental use and values.

IV. "Commission" means the New Hampshire public utilities commission.

V. "Committee" means the site evaluation committee established by this chapter.

VI. "Energy" means power, including mechanical power or useful heat, derived from any resource, including, but not limited to, oil, coal, and gas.

VII. "Energy facility" means any industrial structure, other than bulk power supply facilities, as defined in paragraph II, that may be used substantially to extract, produce, manufacture, transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting, storing or otherwise providing for the raw materials or products of any such industrial structure. This shall include but not be limited to industrial structures such as oil refineries, gas plants, equipment and associated facilities designed to use any, or a combination of, natural gas, propane gas and liquefied natural gas, which store on site a quantity to provide 7 days of continuous operation at a rate equivalent to the energy requirements of a 30 megawatt electric generating station and its associated facilities, plants for coal conversion and onshore and offshore loading and unloading facilities for energy sources. Energy facility shall also include energy transmission pipelines, storage tanks, or any other facility which the applicant or 2 or more petition categories as

defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines, in accordance with RSA 162-H:1, requires a certificate.

VIII. "Filing" means the date on which the application is first submitted to the committee.

IX. "Person" means any individual, group, firm, partnership, corporation, cooperative, municipality, political subdivision, government agency or other organization.

X. The words "public utility" or "utility" mean any electric utility engaged in the production, distribution, sale, delivery or furnishing of electricity, including municipalities, cooperatives, regulated electric companies, agencies or any combination thereof.

XI. "Petitioner" means a person filing a petition meeting any of the following conditions:

- (a) A petition endorsed by 100 or more registered voters in the host community or host communities.
- (b) A petition endorsed by 100 or more registered voters from abutting communities.
- (c) A petition endorsed by the board of selectmen of the host community or 2 or more boards of selectmen of abutting communities.
- (d) A petition filed by the potential applicant.

162-H:3 Site Evaluation Committee. The site evaluation committee shall consist of the commissioner of the department of environmental services, the director of the division of water supply and pollution control, the commissioner of the department of resources and economic development, the director of the division of public health services, the executive director of the fish and game department, the director of the office of state planning, the director of the division of water resources, the director of the division of parks and recreation, the director of the division of forests and lands, the director of the division of air resources, the director of the governor's energy office, the commissioner of the department of transportation, and the commissioners and chief engineer of the public utilities commission. The commissioner of the department of environmental services shall be chairman of the committee, and the chairman of the public utilities commission shall be vice-chairman. Notwithstanding any other agency authority to the contrary, no member may delegate a voting right to others.

162-H:4 Powers of the Committee.

I. The committee shall:

- (a) Issue any certificate under this chapter in the case of an energy facility, or forward its findings to the commission in the case of a bulk power supply facility.
- (b) Determine the terms and conditions of any certificate or findings issued under this chapter, subject to RSA 162-H:10.
- (c) Monitor the construction and operation of any energy or bulk power facility granted a certificate under this chapter.
- (d) Enforce the terms and conditions of any certificate issued under this chapter.

II. The committee shall hold hearings as required by this chapter and such additional hearings as it deems necessary and appropriate.

III. The committee may delegate the authority to monitor the construction or operation of any energy facility granted a certificate under this chapter to such state agency or official represented on

the committee as it deems appropriate, but, subject to RSA 162-H:10, it may not delegate authority to hold hearings, issue certificates, determine the terms and conditions of a certificate, or enforce a certificate. Any authorized representative or delegate of the committee shall have a right of entry onto the premises of any part of the energy facility to ascertain if the facility is being constructed or operated in continuing compliance with the terms and conditions of the certificate. During normal hours of business administration and on the premises of the facility, such a representative or delegate shall also have a right to inspect such records of the certificate-holder as are relevant to the terms or conditions of the certificate.

IV. In cases where the committee determines that other existing statutes provide adequate protection of the objectives of RSA 162-H:1, the committee may, within 60 days of filing of the application, exempt the applicant from the approval and certificate provisions of this chapter, provided that the following requirements are met:

- (a) Existing state statutes, state agency rules or municipal ordinances provide adequate protection of the objectives of RSA 162-H:1;
- (b) A review of the application reveals that consideration of the application by only selected agencies represented on the committee is required and that the objectives of RSA 162-H:1 can be met by those agencies without exercising the provisions of RSA 162-H;
- (c) Response to the application from the general public indicates that the objectives of RSA 162-H:1 are met through the individual review processes of the participating agencies; and
- (d) All environmental impacts or effects are adequately regulated by other federal, state or local statutes, rules or ordinances.

#### 162-H:5 Prohibitions and Restrictions.

I. No person shall commence to construct any bulk power or energy facility within the state unless it has obtained a certificate pursuant to this chapter. Such facilities shall be constructed, operated and maintained in accordance with the terms of the certificate. Such certificates are required for sizeable additions to existing facilities. Such a certificate shall not be transferred or assigned without approval of the committee.

II. Facilities certified pursuant to RSA 162-F or RSA 162-H prior to January 1, 1992, shall be subject to the provisions of those chapters; however, sizable changes or additions to such facilities shall be certified pursuant to this chapter.

III. The applications shall be governed by the applicable laws, rules and regulations of the agencies and shall be subject to the provisions of RSA 162-F or RSA 162-H in effect on the date of filing. Notwithstanding the foregoing, an applicant may request the site evaluation committee to assume jurisdiction and in the event that the site evaluation committee agrees to assert jurisdiction, the facility shall be subject to the provisions of this chapter.

#### 162-H:6 Time Frames.

I. Upon the filing of an application, the committee shall expeditiously forward to each of the other state agencies having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility, a copy of such parts of the application as are relevant to its jurisdiction. Upon the filing of the copy, each of the other state agencies shall conduct a preliminary review as described in RSA 162-H:7, III.

II. Upon the filing of an application, the committee shall expeditiously conduct a preliminary review to ascertain if the application contains sufficient information to carry out the purposes of this

chapter. The committee shall require as much information as it deems necessary to accompany the application.

III. The committee shall decide whether or not to accept the application within 60 days of filing.

IV. Within 30 days after acceptance of the application, the committee shall hold at least one public hearing in each county in which the proposed facility is to be located.

V. All participating state agencies shall report their progress to the committee within 5 months of the acceptance of the application, outlining draft permit conditions and specifying additional data requirements necessary to make a final decision.

VI. Any state agency having jurisdiction under RSA 162-H:7 shall make and submit to the committee a final decision on the parts of the application that relate to its jurisdiction, no later than 8 months after the application has been accepted.

VII. Within 9 months of the acceptance of an application, the committee shall either:

(a) Issue or deny a certificate for an energy facility; or

(b) Send its findings to the commission for a certificate for a bulk power facility. The commission shall either issue or deny that certificate within 10 months of the acceptance of the application.

#### 162-H:7 Application for Certificate.

I. All applications for a certificate for a bulk power supply facility shall be filed with the commission in sufficient quantities for each reviewing agency. Such applications may be subject to reasonable minor modification during the period of review. Applications shall include completed application forms from each individual agency. As a prerequisite to filing, except for good cause shown, as determined by the committee, an electric utility shall comply with the provisions of RSA 162-H:17. Power plants and transmission line routes, except for good cause shown, as determined by the committee, shall comply with the requirement that the site selected is from among those sites in the electric utility's 5-year inventory of sites approved by the committee and that it will utilize the general transmission line routes identified in its long range plans.

II. All applications for a certificate for an energy facility shall be filed with the chairman of the site evaluation committee. Applications shall include each individual agency's completed application forms.

III. Upon filing of an application, the committee shall expeditiously conduct a preliminary review to ascertain if the application contains sufficient information in accordance with this section. If the application does not contain such sufficient information, the committee shall, in writing, expeditiously notify the applicant of that fact and specify what information the applicant must supply.

IV. Each application shall contain sufficient information to satisfy the application requirements of each state agency having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility, and shall include each agency's completed application forms. Upon the filing of an application, the committee shall expeditiously forward a copy to the state agencies having jurisdiction. Upon receipt of a copy, each agency shall conduct a preliminary review to ascertain if the application contains sufficient information for its purposes. If the application does not contain sufficient information for the purposes of any of the state agencies having jurisdiction, that agency shall, in writing, notify the committee of that fact and specify what information the applicant must supply; thereupon the committee shall provide the applicant with a

copy of such notification and specification. Notwithstanding any other provision of law, for purposes of the time limitations imposed by this section, any application made under this section shall be deemed not accepted either by the committee or by any of the state agencies having jurisdiction if the applicant is seasonably notified that it has not supplied sufficient information for any of the state agencies having jurisdiction in accordance with this paragraph.

V. Each application shall also:

- (a) Describe in reasonable detail the type and size of each major part of the proposed facility.
- (b) Identify both the preferred choice and any other choices for the site of each major part of the proposed facility.
- (c) Describe in reasonable detail the impact of each major part of the proposed facility on the environment for each site proposed.
- (d) Describe in reasonable detail the applicant's proposals for studying and solving environmental problems.
- (e) Describe in reasonable detail the applicant's financial, technical, and managerial capability for construction and operation of the proposed facility.
- (f) Document that written notification of the proposed project, including appropriate copies of the application, has been given to the appropriate governing body of each community in which the facility is proposed to be located.
- (g) Provide such additional information as the committee may require to carry out the purposes of this chapter.

VI. The committee shall decide whether or not to accept the application within 60 days of filing. If the committee rejects the application, the applicant may choose to file a new and more complete application or cure the defects in the rejected application within 10 days of receipt of notification of rejection.

VII. Notwithstanding any other provision of law, the application shall be in lieu of separate applications that may be required by any other state agencies.

VIII. This chapter shall not preclude an agency from imposing its usual statutory fees.

IX. The applicant shall immediately inform the committee of any substantive modification to its application.

162-H:8 Disclosure of Ownership. Any application for a certificate shall be signed and sworn to by the person or executive officer of the association or corporation making such application and shall contain the following information:

- I. Full name and address of the person, association, or corporation.
- II. If an association, the names and residences of the members of the association.
- III. If a corporation, the name of the state under which it is incorporated with its principal place of business and the names and addresses of its directors, officers and stockholders.
- IV. The location or locations where an applicant is to conduct its business.

V. A statement of assets and liabilities of the applicant and other relevant financial information of such applicant.

#### 162-H:9 Counsel for the Public.

I. Upon notification that an application for a certificate has been filed with the committee in accordance with RSA 162-H:7, the attorney general shall appoint an assistant attorney general as a counsel for the public. The counsel shall represent the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy. The counsel shall be accorded all the rights and privileges, and responsibilities of an attorney representing a party in formal action and shall serve until the decision to issue or deny a certificate is final.

II. This section shall not be construed to prevent any person from being heard or represented by counsel; provided, however, the committee may compel consolidation of representation for such persons as have, in the committee's reasonable judgment, substantially identical interests.

#### 162-H:10 Public Hearing; Studies; Rules.

I. Within 30 days after acceptance of an application for a certificate of site and facility, pursuant to RSA 162-H:7, the site evaluation committee and, if a bulk power supply facility application, the commission, shall hold at least one joint public hearing in each county in which the proposed facility is to be located and shall publish a public notice not less than 21 days before said hearing in one or more newspapers having a regular circulation in the county in which the hearing is to be held, describing the nature and location of the proposed facilities. The public hearings shall be joint hearings, with representatives of the other agencies that have jurisdiction over the subject matter and shall be deemed to satisfy all initial requirements for public hearings under statutes requiring permits relative to environmental impact. The hearings shall be for public information on the proposed facilities with the applicant presenting the information to the site evaluation committee and to the public. Notwithstanding any other provision of law, the hearing shall be a joint hearing with the other state agencies and shall be in lieu of all hearings otherwise required by any of the other state agencies; provided, however, if any of such other state agencies does not otherwise have authority to conduct hearings, it may not join in the hearing under this chapter; provided further, however, the ability or inability of any of the other state agencies to join shall not affect the composition of the committee under RSA 162-H:3 nor the ability of any member of the committee to act in accordance with this chapter.

II. Except for informational hearings, subsequent hearings shall be in the nature of adversary proceedings and may be held in the county or one of the counties in which the proposed facility is to be located or in Concord, New Hampshire, as determined by the site evaluation committee. The committee shall give adequate public notice of the time and place of each subsequent session.

III. The site evaluation committee and, if a bulk power supply facility application, the commission, shall consider and weigh all evidence presented at public hearings and shall consider and weigh written information and reports submitted to it by members of the public before, during, and subsequent to public hearings. The committee and the commission shall grant free access to records and reports in its files to members of the public during normal working hours and shall permit copies of such records and reports to be made by interested members of the public at their expense.

IV. The site evaluation committee and, if a bulk power supply facility application, the commission, shall require from the applicant whatever information it deems necessary to assist in the conduct of the hearings, and any investigation or studies it may undertake, and in the determination of the terms and conditions of any certificate under consideration.

V. The site evaluation committee and counsel for the public and, if a bulk power supply facility application, the commission, shall jointly conduct such reasonable studies and investigations as they



deem necessary or appropriate to carry out the purposes of this chapter and may employ a consultant or consultants, legal counsel and other staff in furtherance of the duties imposed by this chapter, the cost of which shall be borne by the applicant in such amount as may be approved by the committee in the case of an energy facility, or the committee and the commission in the case of a bulk power supply facility. The site evaluation committee, the commission, and counsel for the public, as provided for by RSA 162-H:9, are further authorized to assess the applicant for all travel and related expenses associated with the processing of an application under this chapter.

VI. The site evaluation committee and, if a bulk power supply facility application, the commission, shall jointly issue such rules, pursuant to RSA 541-A, after public notice and hearing, as may from time to time be required.

162-H:11 Judicial Review. Decisions made pursuant to this chapter shall be reviewable in accordance with RSA 541.

162-H:12 Enforcement.

I. Whenever the committee determines that any term or condition of any certificate issued under this chapter is being violated, it shall, in writing, notify the person holding the certificate of the specific violation and order the person to immediately terminate the violation. If, 15 days after receipt of the order, the person has failed or neglected to terminate the violation, the committee may suspend the person's certificate. Except for emergencies, prior to any suspension, the committee shall give written notice of its consideration of suspension and of its reasons therefor and shall provide opportunity for a prompt hearing.

II. The committee may suspend a person's certificate if the committee determines that the person has made a material misrepresentation in the application or, in the supplemental or additional statements of fact or studies required of the applicant, or if the committee determines that the person has violated the provisions of this chapter or any rule adopted under this chapter. Except for emergencies, prior to any suspension, the committee shall give written notice of its consideration of suspension and of its reasons therefor and shall provide an opportunity for a prompt hearing.

III. The committee may revoke any certificate that is suspended after the person holding the suspended certificate has been given at least 90 days' written notice of the committee's consideration of revocation and of its reasons therefor and has been provided an opportunity for a full hearing.

162-H:13 Records. Complete verbatim records shall be kept by the committee of all hearings, and records of all other actions, proceedings and correspondence of the committee shall be maintained, all of which records shall be open to the public inspection as provided for under RSA 91-A.

162-H:14 Temporary Suspension of Deliberations.

I. If the site evaluation committee at any time during its deliberations relative to an application for a certificate deems it to be in the public interest, it may temporarily suspend its deliberations and time frame established under RSA 162-H:6.

II. The committee may temporarily suspend its deliberations and request the commission to exercise its duties under this chapter. After deliberations have been suspended and the commission finds that the requirements of this chapter have been met and so notifies the site evaluation committee, the committee shall resume its deliberations under this chapter.

162-H:15 Informational Meetings. Upon request of a community in which the proposed facility is to be located, or upon request of the committee, the applicant shall provide informational meetings to inform the public of the proposed project.

I. The committee shall incorporate in any certificate or findings issued hereunder such terms and conditions as may be specified to the committee by any of the other state agencies having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility; provided, however, the committee shall not issue any certificate under this chapter if any of the other state agencies denies authorization for the proposed activity over which it has jurisdiction. The denial of any such authorization shall be based on the record and explained in reasonable detail by the denying agency. Notwithstanding any other provision of law, each of the other state agencies shall make and submit to the committee a final decision on the parts of the application that relate to its jurisdiction no later than 8 months after acceptance of the application. Notwithstanding any other provision of this section or this chapter, each of the other state agencies shall retain all of its powers and duties of enforcement.

II. Findings by the site evaluation committee shall be based on the record and shall be made by a majority vote of a full committee whether or not the full committee is present for voting. A majority vote of the site evaluation committee shall be conclusive on all questions of siting, land use, air and water quality.

III. The committee and, in the case of a bulk power certificate, the commission may consult with interested regional agencies and agencies of border states in the consideration of certificates.

IV. In the case of energy and bulk power facilities, the site evaluation committee, after having considered available alternatives and fully reviewed the environmental impact of the site or route, and other relevant factors bearing on whether the objectives of this chapter would be best served by the issuance of the certificate, must find that the site and facility:

(a) Applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.

(b) 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.

(c) Will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety.

(d) Operation is consistent with the state energy policy established in RSA 378:37.

V. In the case of bulk power supply facilities, the commission shall issue or deny a certificate of site and facility. The commission shall issue a certificate only after it has reasonable assurance that all applicable state standards and requirements shall be met by the applicant. The commission shall incorporate in its certificate such lawful terms as may be supplied to it by the site evaluation committee and those state agencies having permit or license granting responsibilities under state law. The commission shall be bound by the findings of the site evaluation committee under paragraph I. In its decision the commission must find the construction of the facility:

(a) Is required to meet the present and future need for electricity. A finding that the construction of the facility is required to meet the present and future need for electricity may be based upon a determination of need for capacity to generate electricity, need for a greater supply of electricity, or need for more economic, reliable, or otherwise improved sources of either capacity or energy. The commission shall consider economic factors and the current integrated least cost resource plans filed with the commission pursuant to RSA 378:38 when considering whether or not the facility will meet the present or future needs for electricity.

(b) Will not adversely affect system stability and reliability factors.

VI. A certificate of site and facility may contain such reasonable terms and conditions as the committee deems necessary and may provide for such reasonable monitoring procedures as may be necessary. Such certificates, when issued, shall be final and subject only to judicial review.

VII. The committee may condition the certificate upon the results of required federal and state agency studies whose study period exceeds the application period.

#### 162-H:17 Bulk Power Facility Plans.

I. Each utility shall prepare annually its long-range plans for bulk power supply facilities pursuant to guidelines established by the public utilities commission. Such guidelines shall be approved by the site evaluation committee which may make such modifications as it may deem necessary within the purposes of this chapter. These plans may be part of a regional plan and shall:

(a) Describe the general location, size and type of all bulk power supply facilities to be owned or operated by the utility and whose construction is projected to commence during the ensuing 10 years or longer, but not to exceed a total of 15 years, as the commission may determine to be necessary, together with an identification of all existing facilities to be removed from utility service through such period or upon completion of construction of the bulk power supply facilities.

(b) Identify the location of tentative sites for the construction of future power plants as defined in RSA 162-H:2 including an inventory of sites for all plants on which construction may be commenced in the succeeding 5 years, and the general location of the routes of transmission lines as defined in RSA 162-H:2 and indicate the relationship of the planned sites, routes, and facilities thereon to the environment, and describe generally how potential adverse effects will be lessened.

(c) Reflect and describe such utility's efforts to involve environmental protection and land-use planning agencies in their planning process so as to identify environmental problems at the earliest possible stage.

(d) Supply additional information as the site evaluation committee, upon the advice of interested state and federal agencies, may from time to time prescribe to carry out the purposes of this chapter.

(e) Document the role of proposed facility construction and closings within the utility's current integrated least cost resource plan.

II. Each utility shall give initial public notice of its plans referred to in subparagraph I(a), by annually filing a copy of the plans, with projections of demand for electricity that the facilities would meet, with the public utilities commission and with such other affected state and local governmental authorities and citizens' environmental protection and resource planning groups requesting such plans.

162-H:18 Review; Hearing. Upon receipt of plans referred to in RSA 162-H:17, the public utilities commission shall notify the site evaluation committee which shall:

I. Review and comment on the long-range plans and make information contained therein readily available to the general public and interested state and local governmental entities.

II. Compile and publish a description of the proposed power plant sites and general locations of transmission line routes within the state as identified in the long-range plans, identifying the location

of such sites and the possible year when construction is expected to commence, and to make such information readily available to the public, to newspapers regularly circulated within the area affected by the proposed site, and to interested state and local governmental entities. The duties imposed by this paragraph may be delegated to the public utilities commission, and all documents filed under this chapter shall be held in the offices of the public utilities commission.

#### 162-H:19 Penalties.

- I. The superior court, in term time or in vacation, may enjoin any act in violation of this chapter.
- II. Any construction or operation of bulk power supply or energy facilities in violation of this chapter, or in material violation of the terms of a certificate issued under this chapter, may result in an assessment by the superior court of civil damages not to exceed \$10,000 for each day in violation.
- III. Whoever commits any willful violation of any provision of this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

162-H:20 Severability. If any provision of this chapter, or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end, the provisions of this chapter are severable.

2 Declaration of Purpose; Decommissioning. RSA 162-F:1 is repealed and reenacted to read as follows:

162-F:1 Decommissioning. The legislature recognizes that in order to ensure the safety and well-being of the public and of future generations, a costly and comprehensive decommissioning procedure is necessary at the end of the useful or serviceable life of nuclear electric generating facilities. Because the costs are substantial and because these costs are the direct and predictable result of operating such a facility and should not have to be borne by the state, it is found to be in the public interest to require that adequate fiscal responsibility be established to ensure proper and safe decommissioning and subsequent surveillance of nuclear reactor sites to the extent necessary to prevent such sites from constituting a hazard to future generations. The legislature, therefore, hereby establishes a procedure which will provide assurance of adequate funding by utilities for the decommissioning of those nuclear electric generating facilities which complete their anticipated energy-producing lives.

3 Repeal. RSA 162-F:2-13, relative to electric power plant, transmission siting and construction procedure, are repealed.

4 Effective Date. This act shall take effect January 1, 1992.

LBAO

LSR 91-0338 \*

Amended 4/15/91

FISCAL NOTE for an act relative to energy facility siting, licensing and operation.

#### FISCAL IMPACT:

The Office of Attorney General indicates this bill, as amended by the House, will increase state revenues and expenditures by a maximum of \$25,000 in FY 1992 and each year thereafter. The Department of Environmental Services estimates this bill will increase state expenditures by \$9,280 in FY 1992, by \$18,560 in FY 1993 and each year thereafter. There will be no impact on county or local revenues or expenditures.

## METHODOLOGY:

The Attorney General estimates that one additional project taken on by the Site Evaluation Committee could result in a significant number of attorney hours as well as unknown expert witness expenses ranging from \$5,000 to \$25,000 each year. The Attorney General notes that all expenses incurred by the Committee are reimbursed by the applicant.

The Department of Environmental Services bases its calculations on the additional staff time to be spent reviewing an anticipated three additional application reviews. This was based on the average senior administrator salary as follows:

Average senior administrator salary \$59,000

plus benefits @ 28% 16,520

Total \$75,520, or \$290/day

1 large project: 40 days @ 290/day \$11,600

2 small projects: 24 days @ \$290/day 6,960

Annual total \$18,560

Both the Attorney General and DES note that all expenses incurred by the Committee are reimbursed by the applicant.

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