

Siting new disposal facilities in Maine in the 1990s

Maine Policy Review (1992). Volume 1, Number 2

The seeming paralysis in siting waste disposal facilities and other new facilities in Maine and other states underscores the difficulty of designing and implementing processes that will safeguard the environment and human health while sustaining economic development. Sherry Huber, director of the Maine Waste Management Agency, highlights issues that have surfaced during the initial efforts of MWMA to site a special waste landfill. Don Meagher of the Eastern Maine Development Corporation describes the lessons learned from his involvement in an effort to site a demolition debris facility. Bob Dunning, a Bridgton facility siting activist, offers some suggestions to government and industry officials on how to communicate better with facility siting opponents. Finally, Michael Cannata, chief engineer of the New Hampshire Public Utilities Commission, details the steps taken by New Hampshire's leaders to ensure a responsive facility siting process for new energy projects.

New Hampshire's Siting Evaluation Committee for energy projects

by Michael Cannata, Chief Engineer, New Hampshire Public Utilities Commission

New Hampshire addressed siting problems twenty years ago, in 1972. The Seabrook plant was a driving force in creating the new siting process. The existing laws on wetlands and other environmental aspects were thought to be inadequate to handle large projects, especially projects that required a lot of coordination among many agencies. The legislation was intended to bolster that law; it was meant to be an additional requirement on top of existing laws. We still had local requirements and state agency requirements. The legislation created the Siting Evaluation Committee, which consisted of the Public Utility Commission, officials of the Department of Environmental Services, and about five other state officials. No authority can be delegated by these officials; they must actually sit at hearings. This law covered "bulk facilities" only. At that time, these included power plants that generated 50 megawatts or more, bulk generation transmission lines that were greater than 100 kilovolts with 10 miles over a new route, or any transmission line that was felt to have a significant environmental impact. That law also required annual submission of long-range plans by the utilities. After the siting process, if it was a bulk power supply facility, the PUC had to rule on the certificate of convenience and necessity, so it was a double-stepped process. In 1974, when Onasis proposed an offshore oil terminal, the legislature passed the Energy Facility Legislation. It was set up to be a one-stop siting process. To date, some of the projects to be certified include Seabrook, its three associated transmission lines, Hydro-Quebec Phase I, and Hydro-Quebec Phase II. The Hydro Quebec Phase II project, a 100-mile-plus line extension, took 38 days of hearings. (Note that neither statute deals with siting of waste disposal facilities or other non-energy projects.)

Based upon the experience gained by practicing the process, we all felt the process could be improved. The needs and values of society were changing. We faced more small power plants, rather than large bulk ones. We were getting into concerns on electro-magnetic fields (EMF), and the current siting legislation could not handle that. A legislative committee called the State

Electrical Energy Needs Planning Committee was established. In their recommendations of 1988, they said that the New Hampshire General Court (i.e., the legislature) should investigate the procedures for siting, licensing and operation of energy facilities for efficiency and fairness. The committee also recommended that the New Hampshire General Court investigate the procedures of public involvement to ensure that neither the state nor local practices unduly hinder that process. In 1989, the General Court authorized the creation of a 25-member committee, consisting of the following stakeholders: Members of the senate and the legislature, utilities, environmentalists, Business and Industry Association (BIA), the New Hampshire PUC, the New Hampshire Department of Environmental Services, and the Attorney General's Office.

This committee's conclusions included: We should maintain the philosophy of the original statute that was established twenty years ago. We should integrate both siting statutes, because there were subtle differences between them. We should make the process fair and relatively swift. And there was a sincere response to the needs and concerns of all stakeholder groups.

The specific changes recommended will indicate some of the shortcomings of the old statute. They combined both statutes for legislative efficiency and to reduce some of the confusion between energy facilities and bulk power supply facilities. The Department of Environmental Services and the PUC, which have eight of the 13 to 15 members of the group, are still the driving forces. The jurisdiction of the committee was clarified to include major gas transmission lines, which were in question. The generation size to be included as a bulk power supply facility was reduced to 30 megawatts. Moreover, any generator or any voltage line could come under the jurisdiction of the Site Evaluation Committee. This was a specific response to the EMF issue, because today people are more concerned with lower voltage transmission lines.

The process includes a number of checks and balances. A waiver process was formalized, where previously there was an informal process. The Site Evaluation Committee had to make a determination of jurisdiction over a particular facility. Informational hearings were previously held in any county where a facility was to be placed; that was expanded to include any town that wanted an informational hearing. The original process had informational hearings in the counties, with adversarial proceedings usually held in Concord. Town governments had to be specifically notified and involved to ensure input from local planning boards and local conservation groups. The informational hearings in the original law were just informational; the public was not allowed to ask questions. That has since been altered so that questions can be asked.

The Governor's Energy Office was added to the process. A new twist also was added on petitions for local plants. As plants were becoming smaller, particularly smaller trash plants, groups of 100 voters in that town or adjoining towns could petition the committee to include a plant under its jurisdiction, even if it was under 30 megawatts. On the other hand, the applicant itself could bring a small plant to the commission if they felt the local towns were hamstringing their project. There is a check and balance at work there also.

Lastly, there was an attempt to keep the fire to the regulators' feet. Jurisdiction on the application had to be either accepted or rejected in 60 days. Within 30 days after acceptance, hearings must be set. The total time has been reduced so that, if it is an energy facility such as a gas

transmission line, the committee has nine months to work on it. If the PUC has to approve it (e.g., because it is a transmission line), there is an additional month for the PUC. So the timetable was reduced to make the process as swift and predictable as possible.

Hopefully, our actions here in New Hampshire have reduced the paralysis to a level of rheumatism - something you can live with.

Full cite: Cannata, Michael. 1992. *Environmental regulation in the 1990s: New Hampshire's Siting Evaluation Committee for energy projects.* Vol. 1(2): 28-30.