

Minutes of the Interagency Review Panel's March 7, 2011 Meeting

The meeting was called to order at 3:08 p.m.

The following members of the Panel, State Agency staff and the public were present:

Panel Members

Barbara Alexander

Tim Agnew

Steve Ward on behalf of Fen Fowler

Harrison Horning

John Kerry, Governor's Office of Energy Independence and Security (OEIS)

Staff

Nina Fisher, DOT

Brian Burne, DOT

Todd Pelletier, DOT

Jeff Marks, OEIS

Jonathan Arey, Maine Turnpike Authority (MTA)

Members of the Public

Erika Lloyd, Woodard & Curran

Carol Purinton, Central Maine Power

Gil Paquette, TRC

Joe Rossignol, National Grid

Gerry Chasse, Bangor Hydro

Kathy Billings, Bangor Hydro

Dan Riley, Bernstein Shur for Maine Renewable Energy Association

Tim Vrabel, Efficiency Maine Trust

Hayes Gahagan, Loring Holdings

Ian Emery, Calais LNG (on phone)

1) Welcome and Introductions

Meeting called to order by Chairman John Kerry. Introductions were made.

2) Review of February 7, 2011, Draft Minutes

The minutes from the February 7, 2011 meetings were unanimously adopted (moved by B. Alexander, second by J. Kerry).

3) Discussion of "Sub-Group's" Work – Barbara Alexander

B. Alexander led the discussion on the Sub-Group's February 16, 2011 meeting on the process to propose formal rulemaking to cover key procedural activities; the process for handling applications; the means of handling confidential information; and setting forth key processes for the Panel's operations and work.

B. Alexander prepared a proposed draft rule on the process of asserting and protecting “confidential” or “trade secret” information. The draft is based on regulations adopted by the Massachusetts Energy Facilities Siting Board which can be a useful model for Maine.

B. Alexander related the need to develop additional proposed language for Panel consideration on process for soliciting proposals for statutory corridors. These solicitations must give potential applicants enough information to prepare comprehensive proposals.

B. Alexander noted that there are four basic work products being developed that need to be constantly brought back to the Panel, solicit input on the policy and other issues, continue drafting and eventually develop a proposed rule that can go through a formal rulemaking process.

Bylaws and Administration

B. Alexander led discussion on DRAFT “Bylaws and Administration of the Interagency Review Panel.” The document should be reviewed by the Panel members and comments distributed to the group.

Discussion on 2D and what constitutes a “quorum.” There are seven members, so “four (4)” members present at the start of the meeting should constitute a “quorum” and “4” should be present to vote and approve substantive issues. If an initial “quorum” is met and someone leaves, this does not disrupt the “quorum.”

Discussion on 2E. The Governor’s Office of Energy Independence and Security (OEIS) serves as the Chair. A “Vice-Chair” should be named.

Discussion on 2G. Special meetings can be held, such as the sub-group that is already meeting.

2I should be removed, as no reimbursement is available for expenses.

2M – All records of the Panel should remain with the OEIS.

2P – It is important that all substantive conversations and decision-making occurs during the meetings and all discussions outside of the “room” be disclosed (*e.g.*, lunch with an applicant). Oral disclosure of *ex parte* communications is acceptable as long as it is reflected in the minutes.

Discussion of “3. Advisory Rulings.” B. Alexander discussed that there is no need for advisory rulings. This is not a Panel that interprets rules on an ongoing basis; rather, the IRP has projects it is considering and makes decisions on those project proposals.

Discussion of “4. Hearing Procedures.” B. Alexander’s understanding is that there will be meetings held, the Panel will hear from appraisers, applications in writing will be

discussed, and the Panel will agree on whether additional information is needed. Discussion focused on whether every consideration of an application would need to be designated as a “hearing.” At some point in the process, applicants will need to be asked to make a formal presentation and give the Panel an opportunity to ask questions. J. Kerry inquired as to whether these need to be “noticed” as a formal “hearing” as in a Maine Public Utilities Commission (MPUC) proceeding, but the Panel believes the Panel would not be as formal, as there are no legal procedures, cross-examination or other formal procedures and may be run more like a “legislative” hearing. The Panel wants to be clear that they can hold meetings without being classified as “hearings.” Steve Ward mentioned that if an applicant wants a “decision,” the applicant should be required to pay for the “notice” of the hearing at which a decision will be made. An item for the sub-group to consider is how to advertise hearings/meetings.

“5. Code of Ethics.” No Panel member can benefit from an application for use of a statutory corridor.

During the next sub-group meeting, participants will prepare next drafts for Panel to review.

Freedom of Information: Protection of Trade Secrets.

B. Alexander led the discussion of this draft document.

The purpose of this rule is to provide for public access to Panel records and to protect certain trade secrets. All records will be public unless applicants cite reasons to keep confidential and “why.” The Panel will look at the materials provided and either agree or disagree with the applicants’ assessments. Once a decision is made by the Panel, a process is needed to keep confidential information separate from public information. Steve Ward inquired as to whether a password protected file could be created with access only to Panel members. The MPUC may have a process for this type of file. Confidential information will not be posted to the public Web site, but it can be referenced that confidential information has been received. Executive sessions can be called to include those that have signed “confidentiality agreements.” B. Alexander will draft section on the process for a 3rd party to have access to confidential information.

Solicitation Process for Development in Designated Energy Infrastructure Corridors

B. Burne from DOT led a discussion on a DOT document passed out at the Panel meeting. The document outlines the ongoing solicitation of proposals, receipt of letters of interest, review of proposals, an investigative phase, the process for requests for proposals, formal proposal submissions, Panel consideration and right of way occupancy agreements.

The Panel was asked to carefully review the draft document. The document envisions that applicants can bring proposals at any time. It is important to keep the web site current and communicate with potential applicants. B. Alexander pointed out that DOT is likely to be the “point of first contact” for many applicants and that DOT should then refer individual applicants to the web site and other resources. N. Fisher pointed out that proposals for potential projects should not preclude other project proposals in the corridors. J. Kerry expressed concerns in the legislature over “first-come, first serve” in the corridors. Care must be taken to make sure that cost-effective proposals are given the opportunity to move forward.

Significant discussion over the role of the “investigative phase.” B. Alexander wants to make sure that the investigative phase does not supplant the deliberations of the Panel. The DOT signaled that they will need to work with applicants prior to formal proposals at times to gauge the technical feasibility. This could take place before Panel review. B. Alexander and Steve Ward recommended calling this a variation of “technical feasibility review stage” rather than “investigative” phase.” The Panel agreed that this document is a good initial framework and the DOT will further refine the document.

J. Kerry discussed communications between Linda Pistner (Office of the Attorney General) and Jennifer Puser (OEIS). The Office of AG is willing to review and assist any substantive rulemaking language developed by the Panel. The Secretary of State “Guide to Rulemaking” was distributed to the Panel.

4) Presentation from Bangor Hydro/National Grid Proposal

Gerry Chasse gave a presentation on the proposed Northeast Energy Link (NEL). The proposal is for a 230 mile transmission line from Orrington, to the New England Massachusetts/Boston load zone with 1,100 Megawatts (MW) of transmission capacity delivering northern New England wind and balancing resources to Boston load center. This link will increase import capability between Maine and the Maritime Provinces. The estimated transmission investment is \$2 billion and will primarily consist of underground routes.

The NEL is intended to deliver wind energy to meet a substantial portion of the projected gap between state and regional renewable Renewable Portfolio Standard (RPS) requirements and renewable supply. It is a cost-effective regional solution and is an alternative to importing wind energy from Midwest. The NEL will be a critical link to vast renewable resources of northern New England, a key component of the New England Governors’ Blueprint study. It complements the emerging Eastern Interconnection Planning Council’s (EIPC) efforts and 2010 Independent System Operator of New England’s (ISO-NE) Economic Study performed at the request of the New England States Committee On Electricity (NESCOE). Changes in state law will be necessary to afford distribution companies legal assurance that all Power Purchase Agreement (PPA) costs will be recovered through non-bypass charges from all distribution customers, regardless of market conditions. The project will entail significant AC upgrades required in northern Maine for NEL or any other project seeking

to deliver renewable supply out of this area. The project proposal has been submitted to NESCOE and extensive "Alternatives Analysis" for routing alternatives have been conducted. The study found in April 2010 that an underground highway corridor was the preferred alternative and no fatal flaws were detected. Highway options have several advantages as they utilize existing DOT corridors, reduce tree clearing and wetland upland and vernal pool disruptions, reduce conflicts with landowners and other benefits. Bangor Hydro and National Grid submitted a letter summarizing their findings to the Panel as a first step in the process. They anticipate filing their proposal to the Panel for a Corridor Use Certificate in 2011. They anticipate their proposal will meet the statutory definitions, in that it materially enhances or does no harm to transmission opportunities for energy generation within the state, is reasonably likely to reduce electric rates or prices or costs for residents/businesses and minimizes conflict with public purposes for which the state owned land or asset is owned.

5) Public Comments: No public comments at the conclusion of the above items.

The next subcommittee meeting will be held immediately prior to the next Panel meeting on April 4, 2011 (2:00 p.m.)

J. Kerry adjourned the meeting at 5:25pm.