

DRAFT Minutes of the Interagency Review Panel's October 31, 2011 Meeting

The meeting was called to order at 3:06 p.m.

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

Panel Members

Tim Agnew
Fenwick Fowler
Harrison Horning
Kenneth Fletcher
Bruce Van Note
Conrad Welzel

Staff

Nina Fisher, DOT
Todd Pelletier, DOT
Toni Kemmerle, DOT
Jeff Marks, OEIS

Members of the Public

Nancy Macirowski
George Paquette, Bangor Hydro
Steve Ward
Sharon Sudbay, Maritimes & Northeast Pipeline

1) Welcome and Introductions

Meeting called to order by Chairman Ken Fletcher. Introductions were made. Handouts included the "October 25" draft, the Process Flowchart, the Agenda, and the Sept. 12 minutes.

2) Review of Draft meeting agenda and action items from meeting held on September 12, 2011 – Ken Fletcher

T. Agnew moved to adopt the minutes from the September 12, 2011 meeting and H. Horning seconded. The minutes were unanimously adopted.

3) Review of Process Flowchart – Harrison Horning

H. Horning briefed the IRP members on the latest draft of the IRP Proposed Process Flow (24 Oct 11). This draft captures the essence of the last draft of the rulemaking, but the draft rule must be revised to clarify the intent of the IRP regarding the process.

T. Agnew reviewed the Process Flowchart and interpreted it to mean that RFPs would be issued to those that submitted LOIs that passed steps outlined in draft rule. Once proposers received RFP, they would be sent forms needed to complete a formal, detailed proposal. Pre-proposal meetings can be scheduled to ensure completeness.

K. Fletcher expressed that the Process Flowchart appeared to be consistent with and meets the statutory language. It lays out the process for the IRP to consider proposals for statutory corridors.

H. Horning pointed out that the IRP members are not “experts” on corridors – DOT and MTA are the experts and will be key players throughout entire process. Therefore, the process should not be extremely detailed, as the particulars will come into play as the process moves forward.

K. Fletcher led the group through the process outlined in the draft.

B. VanNote pointed out that the process needs to be as flexible as possible. DOT concerns may not become clearly evident until the technical review phase and it will be important to work with the Proposers prior to that phase because it can become very expensive and time-consuming for proposals that may not be appropriate to move forward. Applicants should know as soon as possible whether technical aspects and potential expenses will be prohibitive. This analysis needs to be in front to the IRP as soon as possible in the process. Also, the federal government looks to the DOT for expertise on the corridors, not to the IRP. DOT has a statutory obligation to “bless” technical aspects of the corridor, transportation uses, and other matters – this will need to be inherent in the proposal. Votes of the IRP cannot overrule DOT’s statutory obligations.

K. Fletcher agreed that the “controlling” entity over the corridor would have significant determinate decision-making authority in the process because of expertise.

T. Kemmerle mentioned that the occupancy agreement is a key place in the process where DOT expertise will come into play. Applicant will need to enter into this agreement with DOT. This may be a split, parallel document, as “real estate” occupancy agreements are under the jurisdiction of DOT while “financial terms” are under the purview of the IRP. K. Fletcher further clarified this by saying that the IRP role is to review the “deal” while the DOT role is to decide whether the project is “feasible.”

T. Agnew expressed that MTA and DOT may need MOUs early in the process between the two agencies; separate from the MOU among the parties as illustrated in the Process Flowchart. S. Ward suggested that the Process Flowchart reference a parallel process between MTA and DOT. K. Fletcher further suggested a “bubble” outside of the chart showing the parallel paths for stewards of corridors. B. VanNote agreed that the statutory criteria for the IRP and the technical review phases will be on parallel tracks and should be reflected in the Process Flowchart and Rule.

H. Horning will update the Process Flowchart based on the meeting minutes and discussion, as well as the next draft of the rule.

4) Review and Final Editing of DRAFT “Bylaws, Administration, and the Energy Infrastructure Proposal and Review Process”

J. Marks gave a brief overview of how the IRP arrived at the “October 25” draft of energy infrastructure proposal and review process rulemaking. The draft contained recent revisions by T. Agnew, B. Alexander, H. Horning, as well as N. Macirowski.

K. Fletcher led the IRP members in a section-by-section review of the draft rule. The IRP reviewed the draft, made suggestions, recommended deletions and additions.

N. Macirowski assisted the IRP in its review on the legal components.

All revisions were agreed upon by all present members of the IRP.

All comments on the rule will be incorporated into the next draft to be submitted to the IRP.

5) IRP Vote on Final Rule

The IRP decided not to vote on this draft of the rule.

6) New Business

No new business.

7) Public Comments

No public comments.

8) Action Items and Potential Agenda for December meeting.

J. Marks will prepare the following items for the IRP prior to the next meeting:

- Oct. 31 meeting minutes.
- Final draft of rulemaking based on IRP deliberations.
- Draft Dec. Agenda.

H. Horning will prepare a final version of the Process Flowchart based on the final draft of the rule and the IRP discussions.

The IRP will vote on the final rule at the December meeting.