

SB361
Chaptered Law 220, Laws of 2012

An act establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission.

DRAFT FINAL REPORT

SB361 established a commission (the “Commission”) pursuant to RSA 362:G as follows:

362-G:1 Definitions. –

In this chapter:

I. "Energy infrastructure" includes electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines, petroleum pipelines, and other energy transport pipelines or conduits.

II. "Energy infrastructure corridor" means a transportation right of way on an existing state-owned transportation right of way within which energy infrastructure could potentially be sited underground or aboveground.

III. "Potential developer" means a person that can demonstrate to the state the financial and technical capability to engage in the development and construction of energy infrastructure.

IV. "Project" means the development or construction of energy infrastructure within an energy infrastructure corridor.

V. "State-owned" means owned by the state or by a state agency or state authority.

362-G:2 Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors Within the Existing Transportation Rights of Ways. –

I. There is established a commission to study the feasibility of establishing energy infrastructure corridors within the existing transportation rights of ways.

II. The members of the commission shall be as follows:

(a) One member of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The director of the office of energy and planning, or designee.

(d) The commissioner of the department of administrative services, or designee.

(e) The commissioner of the department of transportation, or designee.

(f) The commissioner of the department of environmental services, or designee.

(g) The commissioner of the department of resources and economic development, or designee.

(h) The chairman of the public utilities commission, or designee.

(i) The commissioner of the department of revenue administration, or designee.

III. Legislative members of the commission shall receive mileage at the legislative rate when

attending to the duties of the commission.

IV. The commission shall identify the feasibility of using state-owned transportation corridors for energy infrastructure and, if the commission finds the use of transportation corridors feasible for such use, shall specify which corridors are most appropriate for specific utility infrastructures. The commission's assessment of feasibility shall consider, but shall not be limited to the following issues:

(a) Whether such corridor or corridors materially enhance the delivery of electricity or other utilities, or both, to New Hampshire consumers and increase the reliability and security of the electricity distribution system in the state.

(b) The identification of the corridors.

(c) The identification of available technologies.

(d) The identification of the costs of available technologies.

(e) Whether there would be long-term economic benefits for the state, including, but not limited to, direct financial benefits from leasing rights of ways; employment opportunities; and private sector economic development.

(f) What the effects of such corridor or corridors are on the retail price of electricity or other utilities, or both, to businesses and residential ratepayers.

(g) A process design to assure the efficient development of such corridor or corridors by energy distribution companies serving the state.

(h) What actions need to be taken to assure that conflict with the public purposes for which such rights of way are already owned is minimized.

(i) Circumstances where eminent domain might be used to complete an otherwise incomplete energy infrastructure corridor.

V. Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

VI. Report. The commission, after public hearings, shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 2012.

THE COMMISSION'S PROCESS

The Commission met on August 2nd, 16th and 30th, September 6th, 20th, and 27th, October 4th, 11th and 25th and November 1st. A summary of public session input is attached. The Commission invited a broad range of testimony from government, industry, engineering and policy perspectives. The parties providing formal testimony to the Commission included George McCluskey, NH PUC, Charles Schmidt., PE, Administrator, NH Department of Transportation, N. Roger Rosenqvist, VP Business Development of ABB (Power Systems Division, Raleigh NC), Michael S. Giaimo, Esq., External Affairs, ISO New England and Eric D. Johnson,

Director, External Affairs, ISO New England, Joseph M. Rossignoli, Director, U.S. Business Development, National Grid; Nabil Hitti, Director, FERC, Network Strategy National Grid; Gil Paquette, C.W.B., P.W.S., Principal TRC; Donna Gamache, Director, Governmental Affairs at Public Service of New Hampshire/Northeast Utilities and Joseph Staszowski, Director, NEPOOL and ISO Relations, Northeast Utilities; Mark A. Lambert, Director, Government Affairs, Unital Service Corp.; Randall S. Knepper, P.E., Director of Safety and Security Safety Division, Via Teleconference Kenneth C. Fletcher, Director of the Governor's Energy Office in Maine, Michael Iacopino of Brennan, Caron, Lenehan & Iacopino, outside counsel for Site Evaluation Committee, Michael Pillsbury, Deputy Commissioner, NH Dept of Transportation, Stephan Hamilton, Dir. of Property Appraisal Division, Benoit Lamontagne, NH DRED Industrial Agent, Karen Rantamaki, Energy Manager, NH Dept of Admin. Services, Timothy Drew, Administrator, Dept of Environmental Services, Dr. G.P. Campbell McLaren, MD, FACEP of Littleton Regional Hospital and Dennis Pinski, Health Risk Assessment Supervisor, Department of Environmental Services, Susan Schibanoff, Managing Partner, Responsible Energy Action, LLC, Ann Ross, General Counsel, Public Utilities Commission, Linda M. Hodgdon, Commissioner, NH Department of Administrative Services, Senator Jeanie Forrester, Susan Thorne, Administrator, NH Office of Energy and Planning, Andrew Smith, CCIM, Broker/Owner, Peabody & Smith Realty, Inc., Carolyn O'Connor, Director of External Affairs and Communications, Hydro-Quebec, Christophe Courchesne, Staff Attorney, CLF New Hampshire, Donald J. Pfundstein, Esq. Gallagher, Callahan & Gartrell, P.C., Robin Comstock, President and CEO, Greater Manchester Chamber of Commerce. Approximately [insert number] members of the public spoke at the Commission's two public sessions. The minutes of the Commission meetings and other documents relating to the Commission's proceedings are available at <http://jeanieforrester.com/>.

The members of the Commission are sincerely appreciative for the testimony and public comments provided to the Commission.

OBSERVATIONS

The Commission was able to gather a substantial body of information relative to feasibility of using existing state transportation rights of way for energy infrastructure corridors. However, important gaps remain in the Commission's fact-finding efforts.

The Commission's observations are as follows:

1. A multitude of energy projects are planned for New Hampshire, with little or no policy input from the state. Some current transmission proposals would use New Hampshire essentially as a "through-path" to link generation capacity located outside New Hampshire with demand load centers also located outside New Hampshire. These projects raise substantial questions as to the relative benefits and burdens for the state. The Commission understands and

appreciates the important regional elements of energy policy, planning and infrastructure. The Commission also believes it is incumbent upon the state of New Hampshire to take charge and formulate a state policy regarding new energy infrastructure that strikes the right balance between the benefits and burdens to New Hampshire. Recognizing that the Interstate Commerce Clause and other provision of the US Constitution and Federal Law will also be important factors in addressing these issues.

2. The NH Department of Transportation (“DOT”) has initially identified four highway corridors as possible energy infrastructure corridors. These corridors include I-89 (between the intersection of I-93 and the Vermont border); I-93 (between the Massachusetts border and the Vermont border); I-95 (between the Massachusetts border and the Maine border); and NH Route 101 (between the intersection of I-93 and the intersection of I-95). These state-owned transportation rights of way, and potentially others, could be used to locate underground energy transmission corridors.
3. Underground transmission technology is being used extensively throughout the U.S. and internationally.
4. Testimony suggests that underground corridors may increase the reliability and security of the electric transmission system.
5. Questions of technical and financial feasibility of underground transmission technology are typically site and project-specific to a significant extent. However, testimony suggests that underground transmission facilities on appropriate state transportation rights of way may be technically and financially competitive with other transmission designs and locations.
6. At least two pending interstate electric transmission projects in the New England/New York region have been designed with underground transmission lines located on state-owned transportation rights of way, indicating this approach can be technically and financially viable.
7. At least one New England state (i.e. Maine) has developed a general framework for making state-owned transportation rights of way available to transmission developers, including provisions for the nature and amount of compensation to be paid to the state.
8. Given the pace of industry proposals and the progress of other states, New Hampshire may find itself at a competitive disadvantage if it does not keep pace with other states in the region by developing proactive policies to make state-owned transmission rights of way available for transmission infrastructure development.

The Commission was unable to secure necessary testimony and information to provide a definitive answer to the following:

- ⌚ The identification of the costs of available technologies. (The Commission notes that testimony suggests that the use of state transportation rights of way for underground transmission infrastructure may be cost-competitive with other designs and locations in specific circumstances, but the Commission wishes to provide more firm numbers on this point.)
- ⌚ Whether there would be long-term economic benefits for the state, including, but not limited to, direct financial benefits from leasing rights of ways; employment opportunities; and private sector economic development. (The Commission notes that the grant by the state to transmission developers, for compensation, of permission to use state transportation rights of way for transmission development would by definition provide economic and financial benefits to the state and the construction of such transmission infrastructure would by definition create employment opportunities and private sector economic development. However, the Commission wishes to provide more firm numbers on this point.)
- ⌚ What the effects of such corridor or corridors are on the retail price of electricity or other utilities, or both, to businesses and residential ratepayers. (The Commission notes that, by definition, the availability of another market-priced option for transmission development – state transportation rights of way at a fair level of compensation to the state – will, all else held equal, increase the supply of transmission infrastructure, which would tend to reduce competitive transmission costs and thus retail prices. However, the Commission wishes to provide more firm numbers on this point.)
- ⌚ A process design to assure the efficient development of such corridor or corridors by energy distribution companies serving the state. (The Commission notes that it has obtained information regarding the design of the comparable process in Maine, but the Commission needs more time to develop a New Hampshire-specific framework.)
- ⌚ What actions need to be taken to assure that conflict with the public purposes for which such rights of way are already owned is minimized? (The Commission notes that the DOT has identified four state-owned transportation rights of way as viable for transmission infrastructure development, however a detailed level of design review is required to determine the suitability of co-location within each corridor.)
- ⌚ Circumstances where eminent domain might be used to complete an otherwise incomplete energy infrastructure corridor. (The Commission notes that it has not yet addressed this topic pending completion of the basic feasibility analysis.)

CONCLUSION

The Commission has determined that using specific state-owned transportation rights of ways for energy infrastructure corridors is possible and has identified four corridors that are potentially

appropriate for co-location of major new transmission lines. One or more of these corridors could be endorsed as “pilot” projects to allow further assessment of whether these corridors could feasibly be used and whether they would: materially enhance the delivery of electricity to New Hampshire consumers; provide long-term economic benefits for the state; have impacts on the retail price of electricity or other utilities; provide direct financial benefits associated with leasing these rights of way; or provide employment opportunities or private sector economic development. Establishment of one or more “pilot” corridors would further allow an analysis of actions needed to be taken to assure that conflicts with the public purposes for which these rights of way were originally established are minimized.

In order to fully investigate these issues and due to the absence of detailed input from some key market participants (e.g. transmission developers and other experts), the Commission will need additional time to complete its research, analysis and assessment, including a review of best practices and innovations being implemented in other states dealing with issues similar to those facing New Hampshire. Accordingly, the Commission recommends the introduction of legislation to provide the Commission an additional twelve months to complete its work.