LEGISLATIVE COMMITTEE MINUTES

HB624

Bill as Introduced

HB 624-FN - AS AMENDED BY THE HOUSE

5Jan2022... 2223h

2021 SESSION

21-0372
06/10

HOUSE BILL ***624-FN***

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities.

SPONSORS: Rep. Vose, Rock. 9; Rep. Thomas, Rock. 5; Sen. Ward, Dist 8; Sen. Giuda, Dist 2

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill requires the site evaluation committee to establish procedures for investigating complaints related to an energy facility certificate.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 624-FN - AS AMENDED BY THE HOUSE

5Jan2022... 2223h

21-0372
06/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Site Evaluation Committee; Powers and Duties. Amend RSA 162-H:4, III to read as follows:

III. The committee may delegate the authority to monitor the construction or operation of any energy facility granted a certificate under this chapter to the administrator or such state agency or official as it deems appropriate, but ***the committee*** shall ensure that the terms and conditions of the certificate are met. 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.

2 Site Evaluation Committee; Filing Fees. Amend RSA 162-H:8-a, I to read as follows:

I. Except as provided in [~~paragraph~~] ***paragraphs*** IV ***and V***, a person filing with the committee an application for a certificate for an energy facility, a petition for jurisdiction, a request for exemption, or any other petition or request for the committee to take action, shall pay to the committee at the time of filing a fee determined in accordance with the fee schedule described in paragraph II. If an application for a certificate for an energy facility is deemed incomplete pursuant to RSA 162-H:7, VI, and a new application is submitted thereunder, the unearned portion of the initial application fee shall be refunded to the applicant or credited to the filing of the new application. The committee may in its discretion provide for a credit or refund in other circumstances that are unforeseen by the applicant.

3 New Paragraph: Site Evaluation Committee; Complaints and Fee Adjustments. Amend RSA 162-H:8-a by inserting after paragraph IV the following new paragraph:

V. Notwithstanding paragraph I, the committee shall establish procedures sufficient to ensure that complaints received by the committee that are not subject to the paragraph II fee schedule but that allege non-compliance with terms and conditions of any certificate granted by the committee under this chapter are considered, investigated when necessary, and acted upon consistent with the committee's responsibilities and powers under this chapter. In conjunction with its review and evaluation of fees as required by paragraph III, the committee shall also consider the need for statutory adjustments to said fees, including whether new fees should be scheduled for complaints or subcategories of complaints received by the committee under this paragraph. The

committee shall file annually with the fiscal committee of the general court its findings and recommendations regarding such recommended fee schedule adjustments.

4 Site Evaluation Committee; Enforcement. Amend RSA 162-H:12, I to read as follows:

I. Whenever the committee [~~, or the administrator as designee,~~] 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.

5 Effective Date. This act shall take effect 60 days after its passage.

LBA
21-0372
Amended 1/26/22

HB 624-FN- FISCAL NOTE

AS AMENDED BY THE HOUSE (AMENDMENT #2021-2223h)

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General SEC Filing Fees	[ ] Education	[ ] Highway	[X] Other -

METHODOLOGY:

The Site Evaluation Committee (SEC) indicates this bill, as amended by the House, removes the fees charged to file a petition for a declaratory ruling for complaints that allege noncompliance with an SEC certificate. The bill also requires the SEC to review its fee structure and propose changes to the legislature. The SEC states it is not possible to estimate the impact of this change given the variant nature of SEC filings. However, the SEC estimates that by removing the filing fee for these specific declaratory rulings, filings will increase, and the agency will incur and interminable increase in costs associated with investigations. SEC Filing Fee revenues would decrease by an indeterminable amount due to removal of the filing fee for specific declaratory rulings.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

Site Evaluation Committee

LBA
21-0372
Amended 1/26/22

HB 624-FN FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2021-2223h)

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
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Revenue	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
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The Site Evaluation Committee (SEC) indicates this bill, as amended by the House, removes the fees charged to file a petition for a declaratory ruling for complaints that allege noncompliance with an SEC certificate. The bill also requires the SEC to review its fee structure and propose changes to the legislature. The SEC states it is not possible to estimate the impact of this change given the variant nature of SEC filings. However, the SEC estimates that by removing the filing fee for these specific declaratory rulings, filings will increase, and the agency will incur and interminable increase in costs associated with investigations. SEC Filing Fee revenues would decrease by an indeterminable amount due to removal of the filing fee for specific declaratory rulings.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

Site Evaluation Committee

HB 624-FN - AS AMENDED BY THE SENATE

5Jan2022... 2223h
04/21/2022 1524s

2021 SESSION

21-0372
06/10

HOUSE BILL ***624-FN***

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities, and relative to net energy metering by hydroelectric generators.

SPONSORS: Rep. Vose, Rock. 9; Rep. Thomas, Rock. 5; Sen. Ward, Dist 8; Sen. Giuda, Dist 2

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill requires the site evaluation committee to establish procedures for investigating complaints related to an energy facility certificate. The bill also provides for additional participation by hydroelectric generators in net energy metering.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 624-FN - AS AMENDED BY THE SENATE

5Jan2022... 2223h
04/21/2022 1524s

21-0372
06/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities, and relative to net energy metering by hydroelectric generators.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Site Evaluation Committee; Powers and Duties. Amend RSA 162-H:4, III to read as follows:

III. The committee may delegate the authority to monitor the construction or operation of any energy facility granted a certificate under this chapter to [~~the administrator or such~~] ***any*** state agency or official as it deems appropriate, but ***the committee*** shall ensure that the terms and conditions of the certificate are met. 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.

2 Site Evaluation Committee; Filing Fees. Amend RSA 162-H:8-a, I to read as follows:

I. Except as provided in [~~paragraph~~] ***paragraphs*** IV ***and V***, a person filing with the committee an application for a certificate for an energy facility, a petition for jurisdiction, a request for exemption, or any other petition or request for the committee to take action, shall pay to the committee at the time of filing a fee determined in accordance with the fee schedule described in paragraph II. If an application for a certificate for an energy facility is deemed incomplete pursuant to RSA 162-H:7, VI, and a new application is submitted thereunder, the unearned portion of the initial application fee shall be refunded to the applicant or credited to the filing of the new application. The committee may in its discretion provide for a credit or refund in other circumstances that are unforeseen by the applicant.

3 New Paragraph: Site Evaluation Committee; Complaints and Fee Adjustments. Amend RSA 162-H:8-a by inserting after paragraph IV the following new paragraph:

V. Notwithstanding paragraph I, the committee shall establish procedures sufficient to ensure that complaints received by the committee that are not subject to the paragraph II fee schedule but that allege non-compliance with terms and conditions of any certificate granted by the committee under this chapter are considered, investigated when necessary, and acted upon consistent with the committee's responsibilities and powers under this chapter. In conjunction with its review and evaluation of fees as required by paragraph III, the committee shall also consider the

need for statutory adjustments to said fees, including whether new fees should be scheduled for complaints or subcategories of complaints received by the committee under this paragraph. The committee shall file annually with the fiscal committee of the general court its findings and recommendations regarding such recommended fee schedule adjustments.

4 Site Evaluation Committee; Enforcement. Amend RSA 162-H:12, I to read as follows:

I. Whenever the committee, or [~~the administrator as designee~~] ***appropriate state agency so designated***, determines that any term or condition of any certificate issued under this chapter is being violated, [~~it~~] ***the committee*** 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.

5 Net Energy Metering; Hydroelectric Generators. Amend RSA 362-A:9, XX to read as follows:

XX. ***Notwithstanding any provision of law to the contrary,*** a hydroelectric generator with a total peak generating capacity that is at or below the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b and that first became operational before July 1, 2021 and that shares equipment or facilities with other generators, ***energy storage facilities,*** or electric utility customers for interconnection to the electric grid, shall be eligible to participate in net energy metering as a customer-generator even if the aggregate capacity of the generators ***and energy storage facilities*** sharing equipment or facilities for interconnection to the electric grid exceeds the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b. Such a hydroelectric generator shall be eligible to participate in net energy metering as a customer-generator based on its individual total peak generating capacity ***and shall be eligible as a customer-generator as a matter of law without regard to whether such hydroelectric generator is the electric utility customer account of record at the point of interconnection to the electric grid. A hydroelectric generator eligible under this paragraph may, in reliance on revenue-grade meters, utilize a financial settlement methodology to determine generation eligible to participate in net energy metering; provided, that such a hydroelectric generator shall, for review and approval, submit to the department of energy, prior to participating in net metering, a description of the financial settlement methodology that will be used on an hourly, monthly and annual basis. If the department of energy does not review and approve the methodology within 90 days from the date of submission, then the submission shall automatically be deemed approved. Nothing in this provision shall be deemed to approve or allow the participation of energy storage facilities in net energy metering unless otherwise approved or allowed by law or an order or decision issued or rule adopted by the department of energy or the public utilities commission.***

6 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

LBA
21-0372
Amended 1/26/22

HB 624-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2021-2223h)

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General [ ] Education [ ] Highway [X] Other - SEC Filing Fees			

METHODOLOGY:

The Site Evaluation Committee (SEC) indicates this bill, as amended by the House, removes the fees charged to file a petition for a declaratory ruling for complaints that allege noncompliance with an SEC certificate. The bill also requires the SEC to review its fee structure and propose changes to the legislature. The SEC states it is not possible to estimate the impact of this change given the variant nature of SEC filings. However, the SEC estimates that by removing the filing fee for these specific declaratory rulings, filings will increase, and the agency will incur and interminable increase in costs associated with investigations. SEC Filing Fee revenues would decrease by an indeterminable amount due to removal of the filing fee for specific declaratory rulings.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

Site Evaluation Committee

Amendments

Sen. Giuda, Dist 2
March 24, 2022
2022-1216s
10/08

Amendment to HB 624-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities, and relative to net energy metering by hydroelectric generators.

Amend the bill by replacing all after section 4 with the following:

5 Net Energy Metering; Hydroelectric Generators. Amend RSA 362-A:9, XX to read as follows:

XX. ***Notwithstanding any provision of law to the contrary,*** a hydroelectric generator with a total peak generating capacity that is at or below the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b and that first became operational before July 1, 2021 and that shares equipment or facilities with other generators, ***energy storage facilities,*** or electric utility customers for interconnection to the electric grid, shall be eligible to participate in net energy metering as a customer-generator even if the aggregate capacity of the generators ***and energy storage facilities*** sharing equipment or facilities for interconnection to the electric grid exceeds the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b. Such a hydroelectric generator shall be eligible to participate in net energy metering as a customer-generator based on its individual total peak generating capacity ***and shall be eligible as a customer-generator as a matter of law without regard to whether such hydroelectric generator is the electric utility customer account of record at the point of interconnection to the electric grid. A hydroelectric generator eligible under this paragraph may, in reliance on revenue-grade meters, utilize a financial settlement methodology to determine generation eligible to participate in net energy metering; provided, that such a hydroelectric generator shall, for informational purposes, submit to the department of energy, prior to participating in net metering, a description of the financial settlement methodology that will be used on an hourly, monthly and annual basis. Nothing in this provision shall be deemed to approve or allow the participation of energy storage facilities in net energy metering unless otherwise approved or allowed by law or an order or decision issued or rule adopted by the department of energy or the public utilities commission.***

6 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

2022-1216s

AMENDED ANALYSIS

This bill requires the site evaluation committee to establish procedures for investigating complaints related to an energy facility certificate. The bill also provides for additional participation by hydroelectric generators in net energy metering.

Sen. Avard, Dist 12
Sen. Watters, Dist 4
March 24, 2022
2022-1221s
10/08

Amendment to HB 624-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities, and relative to net energy metering by hydroelectric generators.

Amend the bill by replacing all after section 4 with the following:

5 Net Energy Metering; Hydroelectric Generators. Amend RSA 362-A:9, XX to read as follows:

XX. ***Notwithstanding any provision of law to the contrary,*** a hydroelectric generator with a total peak generating capacity that is at or below the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b and that first became operational before July 1, 2021 and that shares equipment or facilities with other generators***, energy storage facilities,*** or electric utility customers for interconnection to the electric grid, shall be eligible to participate in net energy metering as a customer-generator even if the aggregate capacity of the generators ***and energy storage facilities*** sharing equipment or facilities for interconnection to the electric grid exceeds the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b. Such a hydroelectric generator shall be eligible to participate in net energy metering as a customer-generator based on its individual total peak generating capacity ***and shall be eligible as a customer-generator as a matter of law without regard to whether such hydroelectric generator is the electric utility customer account of record at the point of interconnection to the electric grid. A hydroelectric generator eligible under this paragraph may, in reliance on revenue-grade meters, utilize a financial settlement methodology to determine generation eligible to participate in net energy metering; provided, that such a hydroelectric generator shall, for informational purposes, submit to the department of energy, prior to participating in net metering, a description of the financial settlement methodology that will be used on an hourly, monthly and annual basis. Nothing in this provision shall be deemed to approve or allow the participation of energy storage facilities in net energy metering unless otherwise approved or allowed by law or an order or decision issued or rule adopted by the department of energy or the public utilities commission.***

Review and approval within 30 days or 96 days

6 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

2022-1221s

AMENDED ANALYSIS

This bill requires the site evaluation committee to establish procedures for investigating complaints related to an energy facility certificate. The bill also provides for additional participation by hydroelectric generators in net energy metering.

Sen. Avard, Dist 12
Sen. Watters, Dist 4
April 1, 2022
2022-1308s
10/08

Amendment to HB 624-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities, and relative to net energy metering by hydroelectric generators.

Amend the bill by replacing all after section 4 with the following:

5 Net Energy Metering; Hydroelectric Generators. Amend RSA 362-A:9, XX to read as follows:

XX. ***Notwithstanding any provision of law to the contrary,*** a hydroelectric generator with a total peak generating capacity that is at or below the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b and that first became operational before July 1, 2021 and that shares equipment or facilities with other generators, ***energy storage facilities,*** or electric utility customers for interconnection to the electric grid, shall be eligible to participate in net energy metering as a customer-generator even if the aggregate capacity of the generators ***and energy storage facilities*** sharing equipment or facilities for interconnection to the electric grid exceeds the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b. Such a hydroelectric generator shall be eligible to participate in net energy metering as a customer-generator based on its individual total peak generating capacity ***and shall be eligible as a customer-generator as a matter of law without regard to whether such hydroelectric generator is the electric utility customer account of record at the point of interconnection to the electric grid. A hydroelectric generator eligible under this paragraph may, in reliance on revenue-grade meters, utilize a financial settlement methodology to determine generation eligible to participate in net energy metering; provided, that such a hydroelectric generator shall, for review and approval, submit to the department of energy, prior to participating in net metering, a description of the financial settlement methodology that will be used on an hourly, monthly and annual basis. If the department of energy does not review and approve the methodology within 90 days from the date of submission, then the submission shall automatically be deemed approved. Nothing in this provision shall be deemed to approve or allow the participation of energy storage facilities in net energy metering unless otherwise approved or allowed by law or an order or decision issued or rule adopted by the department of energy or the public utilities commission.***

6 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

2022-1308s

AMENDED ANALYSIS

This bill requires the site evaluation committee to establish procedures for investigating complaints related to an energy facility certificate. The bill also provides for additional participation by hydroelectric generators in net energy metering.

Energy and Natural Resources
April 13, 2022
2022-1524s
10/05

Amendment to HB 624-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities, and relative to net energy metering by hydroelectric generators.

Amend the bill by replacing section 1 with the following:

1 Site Evaluation Committee; Powers and Duties. Amend RSA 162-H:4, III to read as follows:

III. The committee may delegate the authority to monitor the construction or operation of any energy facility granted a certificate under this chapter to [~~the administrator or such~~] ***any*** state agency or official as it deems appropriate, but ***the committee*** shall ensure that the terms and conditions of the certificate are met. 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.

Amend the bill by replacing all after section 3 with the following:

4 Site Evaluation Committee; Enforcement. Amend RSA 162-H:12, I to read as follows:

I. Whenever the committee, or [~~the administrator as designee~~] ***appropriate state agency so designated***, determines that any term or condition of any certificate issued under this chapter is being violated, [~~it~~] ***the committee*** 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.

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forth in RSA 362-A:1-a, II-b and that first became operational before July 1, 2021 and that shares equipment or facilities with other generators, ***energy storage facilities,*** or electric utility customers for interconnection to the electric grid, shall be eligible to participate in net energy metering as a customer-generator even if the aggregate capacity of the generators ***and energy storage facilities*** sharing equipment or facilities for interconnection to the electric grid exceeds the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b. Such a hydroelectric generator shall be eligible to participate in net energy metering as a customer-generator based on its individual total peak generating capacity ***and shall be eligible as a customer-generator as a matter of law without regard to whether such hydroelectric generator is the electric utility customer account of record at the point of interconnection to the electric grid. A hydroelectric generator eligible under this paragraph may, in reliance on revenue-grade meters, utilize a financial settlement methodology to determine generation eligible to participate in net energy metering; provided, that such a hydroelectric generator shall, for review and approval, submit to the department of energy, prior to participating in net metering, a description of the financial settlement methodology that will be used on an hourly, monthly and annual basis. If the department of energy does not review and approve the methodology within 90 days from the date of submission, then the submission shall automatically be deemed approved. Nothing in this provision shall be deemed to approve or allow the participation of energy storage facilities in net energy metering unless otherwise approved or allowed by law or an order or decision issued or rule adopted by the department of energy or the public utilities commission.***

6 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

2022-1524s

AMENDED ANALYSIS

This bill requires the site evaluation committee to establish procedures for investigating complaints related to an energy facility certificate. The bill also provides for additional participation by hydroelectric generators in net energy metering.

Committee Minutes

SENATE CALENDAR NOTICE
Energy and Natural Resources

Sen Kevin Avard, Chair
Sen Bob Giuda, Vice Chair
Sen James Gray, Member
Sen David Watters, Member
Sen Rebecca Perkins Kwoka, Member

Date: March 16, 2022

HEARINGS

Tuesday	03/22/2022	
(Day)	(Date)	
Energy and Natural Resources	State House 103	9:00 a.m.
(Name of Committee)	(Place)	(Time)

9:00 a.m.	**HB 614-FN**	exempting the state and political subdivisions from payment of the costs of compliance with the renewable portfolio standard.
9:15 a.m.	**HB 624-FN**	relative to site evaluation committee monitoring and enforcement responsibilities.
9:30 a.m.	**HB 1230-FN**	permitting online presentation of deer for registration.
9:45 a.m.	**HB 1420-FN**	prohibiting the issuance of new landfill permits until the state's solid waste plan is updated.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 614-FN			
Rep. Vose	Rep. Pearl	Rep. Lang	Rep. Cordelli
Rep. Harvey-Bolia	Rep. Edwards	Rep. Binford	
HB 624-FN			
Rep. Vose	Rep. Thomas	Sen. Ward	Sen. Giuda
HB 1230-FN			
Rep. Pearl	Rep. Cambrils		
HB 1420-FN			
Rep. Massimilla	Rep. Thompson	Rep. Burroughs	Rep. Theberge
Sen. Hennessey			

Daley Frenette 271-3042

Kevin A. Avard
Chairman

Senate Energy and Natural Resources Committee

Daley Frenette 271-3042

HB 624-FN, relative to site evaluation committee monitoring and enforcement responsibilities.

Hearing Date: March 22, 2022

Members of the Committee Present: Senators Avard, Gray, Watters and Perkins Kwoka

Members of the Committee Absent : Senator Giuda

Bill Analysis: This bill requires the site evaluation committee to establish procedures for investigating complaints related to an energy facility certificate.

Sponsors:
Rep. Vose Rep. Thomas Sen. Ward
Sen. Giuda

Who supports the bill: Representative Vose, Rockingham-District 9, Senator Giuda, Senate District 2, Senator Ward, Senate District 8.

Who opposes the bill: Representative Thomas, Strafford-District 20, Patricia Beffa-Negrini, Catherine Bushueff, Kenneth Grossman, Judith Saum, John Tuthill, Jonathan Glass, Jane Crandell-Glass, Lynn Merlone, Anne Thomas, Patricia Martin, Doug Bogen, Susan Richman.

Who is neutral on the bill: Bob Scott.

Summary of testimony presented:

Representative Vose, Rockingham-District 9

- Representative Vose worked on this same bill back in 2020 which the committee passed. However, it was tabled due to the COVID-19 pandemic. He reintroduced the bill this session and it passed two times. The House Ways and Means Committee changed the bill by adding language that would require the SEC to establish procedures to allow the SEC to without cost, to accept, investigate, and act upon complaints filed against a site certificate holder. This is a great

solution to the problem of average citizens who cannot afford 10,500 dollars to get a declaratory ruling from the SEC to be able to bring forward a complaint.

- Senator Watters asked how the SEC would handle the enforcement side of this legislation. Representative Vose stated that the committee is responsible complaints so they would have to develop rules and procedures to figure out how to handle this issue. This bill will complement SB 429-FN that Senator Giuda and Senator Vose cosponsored. The two bills will allow average citizens to make complaints and will allow the SEC to adjudicate those complaints.

DF
Date Hearing Report completed: March 28, 2022

SENATE CALENDAR NOTICE
Energy and Natural Resources

Sen Kevin Avard, Chair
Sen Bob Giuda, Vice Chair
Sen James Gray, Member
Sen David Watters, Member
Sen Rebecca Perkins Kwoka, Member

Date: March 24, 2022

HEARINGS

Tuesday	03/29/2022	
(Day)	(Date)	
Energy and Natural Resources	State House 103	9:00 a.m.
(Name of Committee)	(Place)	(Time)

9:00 a.m.	**HB 624-FN**	relative to site evaluation committee monitoring and enforcement responsibilities.
		(THE PREVIOUS HEARING FOR HB 624-FN WAS RECESSED ON MARCH 22ND)
9:15 a.m.		Hearing on proposed Amendment #1221s, relative to the site evalutaion committee monitoring and enforcement responsibilites, and relative to net metering by hydroelectric generators, to **HB 624-FN**, relative to site evaluation committee monitoring and enforcement responsibilities.
9:30 a.m.	**HB 1328-FN**	authorizing a utility to petition to be relieved of their carrier of last resort obligations.
9:45 a.m.	**HB 1459-FN**	relative to recycling solar panels.
10:00 a.m.	**HB 1491-FN-LOCAL**	relative to natural gas transmission pipeline safety.
10:15 a.m.	**HB 1546-FN**	defining PFAS and enabling the commissioner of the department of environmental services to adopt rules relative to airborne PFAS in certain circumstances.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 624-FN

Rep. Vose	Rep. Thomas	Sen. Ward	Sen. Giuda

HB 624-FN

Rep. Vose	Rep. Thomas	Sen. Ward	Sen. Giuda

HB 1328-FN
Rep. Harrington

HB 1459-FN
Rep. Plett

HB 1491-FN-LOCAL
Rep. Alexander Jr.

HB 1546-FN
Rep. B. Boyd

Daley Frenette 271-3042

Kevin A. Avard
Chairman

Senate Energy and Natural Resources Committee

Daley Frenette 271-3042

HB 624-FN, relative to site evaluation committee monitoring and enforcement responsibilities.

Hearing Date: March 29, 2022 *THE COMMITTEE RECONVENED THE HEARING THAT WAS RECESSED ON MARCH 28TH

Members of the Committee Present: Senators Avard, Giuda, Gray, Watters and Perkins Kwoka

Members of the Committee Absent : None

Bill Analysis: This bill requires the site evaluation committee to establish procedures for investigating complaints related to an energy facility certificate.

Sponsors:
Rep. Vose Rep. Thomas Sen. Ward
Sen. Giuda

Who supports the bill: Senator Giuda, Senate District 2, Representative Vose, Rockingham-District 9.

Who opposes the bill: Jeanne Torpey, Ruth Perencevich, Karen Dewey, Elizabeth Corell, Nancy Brennan, Lynn Merlone, Jane Hershey, Patricia Martin, Anne Thomas, Anne Grossi, Patricia Beffa-Negrini, Bruce Berk, Maureen Ellerman, Representative Christy Dolat Bartlett, Merrimack-District 19, Judith Saum, Janet Lucas, Claudia Istel.

Who is neutral on the bill: Mark Sanborn, NHDES.

Summary of testimony:

Representative Vose, Rockingham-District 9

- The bill makes a few minor adjustments to RSA 162:H which is the statute that governs the site evaluation committee. The original intent was to lower the cost of a declaratory ruling as a way to give the public more access to the site evaluation committee. The House Ways and Means Committee amended the bill to restore the funding for the declaratory rulings and to add new language to

direct the SEC to come up with a procedure to accept, investigate, and act upon complaints against a site certificate holder. This version of the bill passed the House of Representatives twice. After conversing with the Commissioner of DES, Representative Vose sent the committee suggested language change that clarifies other parts of the bill. The other part of the bill besides the fee aspect of the bill was to clarify that only the SEC has the authority to make judgments about whether a site certificate holder is meeting the terms and conditions of the certificate, not the administrator.

- The Commissioner of DES was concerned that the language change that was made might preclude an agency that has been designated to investigate or to monitor a site certificate holder from making recommendations. The word changes clarify that an appropriate state agency is allowed to determine whether any term or condition of a certificate issued under this chapter is being violated. It is a minor change but an important one and Representative Vose hopes that a future amendment will incorporate those language changes.
- Senator Guida asked if this bill was the result of the committee that met last summer. The Senate took some actions and asked the House of Representatives to take actions as well. Senator Giuda believes the bill reflects the nature of those previous discussions held during that committee. Representative Vose agreed but clarified that the bill was filed before that committee had run its course and completed all of its hearings. They did discuss the bill during the course of those hearings and decided that the bill was appropriate.

DF
Date Hearing Report completed: April 5, 2022

Senate Energy and Natural Resources Committee

Daley Frenette 271-3042

Amendment #1221s, relative to the site evaluation committee monitoring and enforcement responsibilities, and relative to net metering by hydroelectric generators, to **HB 624- FN**, relative to site evaluation committee monitoring and enforcement responsibilities.

Hearing Date: March 29, 2022

Members of the Committee Present: Senators Avard, Giuda, Gray, Watters and Perkins Kwoka

Members of the Committee Absent : None

Bill Analysis: This bill requires the site evaluation committee to establish procedures for investigating complaints related to an energy facility certificate.

Sponsors:
Rep. Vose Rep. Thomas Sen. Ward
Sen. Giuda

Who supports the bill: Representative Vose, Rockingham-District 9, Kelly Buchanan, CENH, Donna Gamache, Eversource, Heidi Kroll and Steve Zuratti, Brookfield, Representative Plett, Hillsborough-District 6.

Who opposes the bill: Jeanne Torpey, Ruth Perencevich, Karen Dewey, Elizabeth Corell, Nancy Brennan, Lynn Merlone, Jane Hershey, Patricia Martin, Anne Thomas, Anne Grossi, Patricia Beffa-Negrini, Bruce Berk, Maureen Ellerman, Representative Christy Dolat Bartlett, Merrimack-District 19, Judith Saum, Janet Lucas, Claudia Istel.

Who is neutral on the bill: Josh Elliot, NHDOE.

Summary of testimony presented:

Senator Watters, Senate District 4

- Senator Watters introduced amendment #1221s which is a non-germane amendment to HB 624-FN.
- Last year, a great deal of work was done on HB 315 and SB 91 regarding the issue of customer generators, and it seems that there is a need to clarify the law

relating to customer generators. The amendment clarifies who is a customer and who is the producer. The Department of Energy through Heidi Kroll would like a change to line 24 where previously this financial settlement methodology would have, for informational purposes, been given to the department. Now, instead of informational purposes to say, "for review and approval within 30 days" the department feels that this would give them the ability to review and approve. It is important to have the 30 days to ensure that the process is not prolonged.

- This clarification is needed. The point is that the basic principle of a customer generator and how we have developed that term over the years is not changed by the amendment. Its sole purpose is to clarify a particular circumstance.
- Representative Vose stated that the is in support of the amendment as changed by Senator Watters.

Josh Elliot, NHDOE

- The Department of Energy appreciates Senator Watters comments about having the department review and approve any of the financial settlement methodology. The Department respectfully asks that the number is changed from 30 days to 90 days. This would provide a hard cap for when they would have to take action on it. Many situations involve a lot of back and forth the department, Brookfield itself, and potentially Eversource in terms of trying to sort out all the details. The goal is for the department to finish it sooner than 90 days, but understanding that there is sometimes other parties the department is dealing with who may or may not see the time urgency.
- Senator Avard asked if 60 days would be more appropriate. Mr. Elliot stated that the department could work with 60 days, but they prefer 90 days. This issue is not something that the department would procrastinate on, but they would prefer some extra leeway in case of a situation involving a third party that is not getting the department the information it needs. 90 days would provide the assurance that the department has enough time to get all the information they need from third parties.
- The Department of Energy is neutral on the amendment but has one concern revolving around the customer generator language. Mr. Elliot understands that this has been termed a technical fix, but the department respectfully disagrees with that characterization.
- Last year, there was a discussion revolving around Monadnock Paper. The SB 91 and HB 315 compromise where that language was included. However, that was a different situation where Monadnock Paper Mills was both consuming the power on site as well as owning both generation assets. In that situation the combined assets were 1.9 megawatts combined. In this situation, we are talking about 30 megawatts of power and therefore a more complex situation. It is complex because there are multiple parties involved. In this situation you have

Brookfield which owns the generation assets and then White Mountain Paper consumes a portion of the electricity generated behind the meter.

- Senator Avard asked if that situation would qualify as group net metering. Mr. Elliot stated that it does and that he would provide more details.
- Mr. Elliot stated that if this were a situation where White Mountain Paper continued to own their generation assets and were coming forward with this legislation, it would be a different conversation. However, in this situation the generation and the consumption are being done by two separate entities and then the separate generator is seeking to net meter rather than the actual retail customer which is White Mountain Paper. Brookfield is the generator but does not consume any of that generation itself, so it is not properly considered a customer generator within the general construct of net metering. The department believes that this language only applies to Brookfield which owns a series of hydroelectric generating facilities. White Mountain Paper previously owned those generation assets but has since sold those assets, but still consumes a portion of that power generated which all occurs behind the meter.
- The department believes that this bill would only apply in this situation with White Mountain Paper and Brookfield. The department also believes that this legislation would be precedent setting and could lead to other generators seeking similar legislative exceptions in the statute.
- Other hydroelectric dams have no load and participate as retail customers, whereas this legislation aims to get the best of both worlds by participating as both load serving to a third party as well as a customer generator which goes outside the norms of the net metering arrangements. Allocating who the customer generator is in the relationship gets to be precedent setting in terms for the department.
- From departments analysis, they do not see anything in current statute that prevents White Mountain Paper from serving as the customer generator for net metering purposes and being able to do essentially what they would like to do in this situation. It may require some upgrades and changes to the metering equipment and how the meters are read and how the data is reported. This would require some revised agreements with Brookfield as the generator in order to address the details, but from the departments analysis of the situation is that Brookfield's goal could be accomplished without legislation.
- Senator Watters asked if this legislation disrupts the concept of the customer generator. Mr. Elliot stated that it does not disturb it in terms of numbers. As far as the department can tell this would be only facility that would be impacted by this legislation. The departments concern in the grand scheme of things is that the legislation is precedent setting and that other generators will come to the legislature looking for similar exemptions.
- Senator Watters disagreed with the notion that the legislation is precedent setting because the legislature has the power to say no. The legislature votes when statutory changes are made. Mr. Elliot clarified that the legislature does

have the power to make these decisions but felt that it is the duty of the department to highlight the issue.

- Senator Watters asked if the concept of customer generator covers this issue where you potentially have someone who is not a consumer on site but is in this arrangement. He asked if the definition covers this issue. Mr. Elliot stated that consumer generator is going to continue to evolve. The energy field is very dynamic and going through radical change. In this situation, the department is concerned that the legislation aims to provide the best of both worlds where you can participate as a group host net metering while also selling some of your generation through a separate arrangement. This is a policy decision for the legislature to make. The department seeks to highlight that this is different then what has been done in the past which is why they do not view it as a technical fix where there is this additional opening to do both.
- Senator Giuda stated that any law that the legislature passes is a change and introduces new possibilities. He pointed out the language on line 26 that reads that nothing in this provision shall be deemed to approve or allow the participation of energy storage facilities and net energy metering unless otherwise approved or allowed by law or an order or decision issued or rule adopted by the department of energy or the public utilities commission. Senator Giuda stated that he believes that this language more than adequately addresses the departments concerns.
- Senator Perkins Kwoka asked if it is not true that in other state markets it is fairly standard practice to settle out energy storage and generation behind the meter via software. She asked if the concern here is that there is a generation facility and then some sort of bilateral contract with on-site load consumption that is all happening behind the meter. Mr. Elliot stated that of those series of generation assets owned by Brookfield, there are two that are above the 5-megawatt net metering cap so those two would be unable to participate in municipal group host net metering. This is a way of seeing what they are allocating the behind the load generation to what facility to make sure that that cap is maintained.
- Senator Perkins Kwoka asked what criteria the department plans on using to approve the financial settlement methodology. She asked if it is to just ensure compliance with the existing law. Mr. Elliot stated that he would need to get clarification from the department. He stated that that would be a factor in the decision but there could be other factors.
- Senator Gray stated that he does not see any language in the bill regarding who is going to oversee this to ensure compliance with whatever time limit is put in place. Mr. Elliot stated that this is an issue because there is no authority to appeal to. If the department took no action on an issue, there is no obvious recourse. Senator Gray stated that a solution could be to say that it is automatically approved after a set number of days. If this route is taken, Senator Gray would prefer the 90-day period. Mr. Elliot stated that if 90 days

was the set time period the department would be comfortable with having an automatic default mechanism where it is automatically approved by the department or automatically deemed to have been approved by the department if there is no action by the department by the 90-day mark.

- Senator Avard asked if the department would be okay with a 60-day period and then after 90 days it is automatically approved. Mr. Elliot stated that the department would be comfortable with that as well.

Mark Sanborn, DES

- Assistant Commissioner Sanborn stated that he has spoken to the sponsors of the HB 624-FN about his concern. He stated that Commissioner Scott has some concerns in terms of the changes to the SEC process about when a state agency is the designee to follow up on an action about them having to have their decisions come back to the SECs because if it is an environmental issue it is given to DES and if it is a different issue it is given to a different agency. Assistant Commissioner Sanborn stated that he has spoken with the chair, and he knows that there is amendment language. DES supports the amendment language that the chair has put forward on making that change. Assistant Commissioner Sanborn withdrew Commissioner Scott's opposition to the bill that he had previously signed in.

Heidi Kroll and Steve Zuratti, Brookfield Renewable

- Mrs. Kroll and Mr. Zuratti spoke in favor of the amendment.
- Last year, HB 315 and SB 91 were passed into law. HB 315 allowed for group net metering for municipalities, schools, village districts, and other political subdivisions and allows those entities to group net meter with facilities up to 5-megawatts. SB 91 had a few items in it including in part 2 section 1 that includes a provision meant to kind of level the playing field for a small handful of hydrogenators in NH including Brookfield and Monadnock Paper Mills in particular. On all other accounts, those hydro facilities would be eligible for group net metering or regular net metering in the case of Monadnock Paper Mills for the fact that they shared an interconnection point to the grid with other entities and consumers. This topic was talked about prior to SB 91 and there was legislation that was caught up during the COVID-19 pandemic and never went forward. In the past there has always been bipartisan support to address this situation and level the playing field. They had worked with Eversource on that language, and they thought they had got it right, but they found an issues that needed correcting. After the passage of SB 91, Brookfield reached out to Eversource, and they worked together to figure out how to operationalize that provision of law. During those discussions, they unearthed

the fact that there were some unique situations with Brookfield's site up north regarding the legacy configuration of these hydro facilities and mills that have evolved over the years. Brookfield and Eversource worked cooperatively to arrive at a resolution to address the technical issues that they identified in terms of Brookfield being able to group net meter with the municipalities under HB 315. At that point they started doing outreach to other parties including staff at the department of energy followed by a meeting with Chris Elms and Josh Elliot. They also reached out to Representative Vose and ultimately they all agreed that clarification was important.

- Prior to HB 315, there was a great deal of interest among municipalities and businesses to group net meter with hydro facilities that are 1-megawat and less. With passage of HB 315, that interest has only grown amongst the political subdivisions. There are schools and municipalities that have interest in group net metering with Brookfield hydro facilities that are eligible.
- We are in a situation where electricity rates are very high and there is opportunity for savings for taxpayers and municipalities.
- Josh Elliot did a good job describing the configuration of the site. The customer generation piece is unique in this case because the retail customer at the point of interconnection is White Mountain Paper which is an unaffiliated entity. There are six hydro stations that share the point of connection with this unaffiliated retail load. Four of those hydro stations would be eligible for the program based on size. In fact, the provision in SB 91 intended to include these facilities. Absent this clarification that is being proposed, they are only aware of the option pursuing infrastructure upgrades that essentially interconnect these facilities individually which would undermine what SB 91 and HB 315 intended to accomplish. The other option may be that Brookfield took over the retail account at the point of interconnection but that would be a strange scenario where we would be taking on an obligation for an unaffiliated load.
- Mr. Zuratti clarified that mill load is served by those generators and would be unchanged here. They do have priority in terms of the available generation, and they intend to honor that contract regardless.
- The other piece is the financial settlement aspect. There are 6 facilities and 4 would be eligible, 2 would not be, and then there is the unaffiliated mill load. Brookfield, after speaking with Eversource and the Department, believes that the best way to go about this through this financial settlement approach. We would use station level meter data and essentially establish a calculation that would determine what generation is eligible and what is not.
- Senator Perkins Kwoka asked if there is a shared facilities agreement for the hydroelectric plants and then White Mountain Paper at the point of interconnection. Mr. Zuratti stated that historically that had been the case. Now, the interconnection agreement that is in place only lists Brookfield on the interconnection itself.

- Senator Perkins Kwoka asked if the ISA is with Brookfield and then White Mountain Paper is in bilateral agreement. Mr. Zuratti clarified that White Mountain paper is behind the meter and the retail customer is not included in the agreement for the interconnection itself because they are getting their power from Brookfield and that is first priority behind the meter.
- Senator Gray asked if Representative Vose had any comments on the discussion regarding the time period of 90 days and the automatic approval option. Representative Vose stated that he is okay with the language change.

DF
Date Hearing Report completed: April 5, 2022

Speakers

Senate Energy & Natural Resources Committee
SIGN-IN SHEET

Date: 3/22/2022 **Time:** 9:15 a.m.

HB 624-FN AN ACT relative to site evaluation committee monitoring and enforcement responsibilities.

Name/Representing *(please print neatly)*

Senator Giuda	Support ☑	Oppose ☐	Speaking?	Yes ☐ No ☒
Rep Vose	Support ☑	Oppose ☐	Speaking?	Yes ☑ No ☐
Rep Thomas	Support ☒	Oppose ☐	Speaking?	Yes ☐ No ☐
Bob Scott	Support ☐	Oppose ☒	Speaking?	Yes ☒ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
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	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐

Senate Remote Testify

Energy and Natural Resources Committee Testify List for Bill HB624 on 2022-0

Support: 1 Oppose: 12

Name	Title	Representing	Position
Ward, Senator Ruth	An Elected Official	senate district 8	Support
Beffa-Negrini, Patricia	A Member of the Public	Myself	Oppose
Bushueff, Catherine	A Member of the Public	Myself	Oppose
Grossman, Kenneth	A Member of the Public	Myself	Oppose
Saum, Judith	A Member of the Public	Myself	Oppose
Tuthill, John	A Member of the Public	Myself	Oppose
Glass, Jonathan	A Member of the Public	Myself	Oppose
Crandell-Glass, Jane	A Member of the Public	Myself	Oppose
Merlone, Lynn	A Member of the Public	Myself	Oppose
Thomas, Anne	A Member of the Public	Myself	Oppose
Martin, Patricia	A Member of the Public	Myself	Oppose
Bogen, Doug	A Member of the Public	Myself	Oppose
Richman, Susan	A Member of the Public	Myself	Oppose

Senate Energy & Natural Resources Committee
SIGN-IN SHEET

Date: 3/29/2022 **Time:** 9:00 a.m.

HB 624-FN AN ACT relative to sire evaluation committee monitoring and enforcement responsibilities

Name/Representing *(please print neatly)*

Mark Sanborn NHDES Neutral	Support ☐	Oppose ☐	Speaking?	Yes ☑ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
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	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐

Senate Energy & Natural Resources Committee
SIGN-IN SHEET

Date: 3/29/2022 **Time:** 9:00 a.m.

HB 624-FN AN ACT relative to sire evaluation committee monitoring and enforcement responsibilities

Name/Representing *(please print neatly)*

Senator Giuda	Support ☑	Oppose ☐	Speaking?	Yes ☐ No ☐
Rep. Vose, Rockg	Support ☑	Oppose ☐	Speaking?	Yes ☑ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
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	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐
	Support ☐	Oppose ☐	Speaking?	Yes ☐ No ☐

Senate Energy & Natural Resources Committee
SIGN-IN SHEET

Date: 3/29/2022 **Time:** 9:15 a.m.

Amendment #1221s AN ACT relative to sire evaluation committee monitoring and enforcement responsibilities, and relative to net metering by hydroelectric generators.

Name/Representing *(please print neatly)*

Rep. Vose, Rock 9	Support ☑ Oppose ☐	Speaking?	Yes ☐ No ☐	✓
Josh Elliott NH Dept. of Energy	Support ☐ X Oppose ☐	Speaking?	Yes ☒ No ☐	✓
Kelly Buchanan CENH	Support ☑ Oppose ☐	Speaking?	Yes ☐ No ☑	
Donna Gamache Eversource	Support ☑ Oppose ☐	Speaking?	Yes ☐ No ☑	
Heidi Kroll and Steve Zuretti, Brookfield	Support ☒ Oppose ☐	Speaking?	Yes ☒ No ☐	
Revo Fuel PLLC	Support ☑ Oppose ☐	Speaking?	Yes ☐ No ☑	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
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	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	
	Support ☐ Oppose ☐	Speaking?	Yes ☐ No ☐	

Senate Remote Testify

Energy and Natural Resources Committee Testify List for Bill HB624 on 2022-0

Support: 0 Oppose: 17

Name	Title	Representing	Position
Torpey, Jeanne	A Member of the Public	Myself	Oppose
perencevich, ruth	A Member of the Public	Myself	Oppose
Dewey, Karen	A Member of the Public	Myself	Oppose
Corell, Elizabeth	A Member of the Public	Myself	Oppose
Brennan, Nancy	A Member of the Public	Myself	Oppose
Merlone, Lynn	A Member of the Public	Myself	Oppose
Hershey, Jane	A Member of the Public	Myself	Oppose
Martin, Patricia	A Member of the Public	Myself	Oppose
Thomas, Anne	A Member of the Public	Myself	Oppose
Grossi, Anne	A Member of the Public	Myself	Oppose
Beffa-Negrini, Patricia	A Member of the Public	Myself	Oppose
Berk, Bruce	A Member of the Public	Myself	Oppose
Ellermann, Maureen	A Member of the Public	Myself	Oppose
Dolat Bartlett, Rep Christy	An Elected Official	Merrimack County 19	Oppose
Saum, Judith	A Member of the Public	Myself	Oppose
Lucas, Janet	A Member of the Public	Myself	Oppose
Istel, Claudia	A Member of the Public	Myself	Oppose

Testimony

State of New Hampshire

GENERAL COURT

CONCORD

MEMORANDUM

DATE: **November 1, 2021**

TO: **Honorable Sherman Packard, Speaker of the House**
Honorable Chuck W. Morse, President of the Senate
Honorable Paul C. Smith, House Clerk
Honorable Tammy L. Wright, Senate Clerk
Honorable Chris Sununu, Governor
Michael York, State Librarian

FROM: **Rep Michael Vose, Chairman**

SUBJECT: **Final Report of the Commission to Study Limited Electrical Energy Producers (SB91 Part IV, Chapter 228, Laws of 2021)**

Pursuant to SB91, Part IV, Chapter 228, Laws of 2021, please find enclosed the final report of the Commission to Study Limited Electrical Energy Producers.

Should you have any questions or comments regarding this report, please do not hesitate to contact me.

I would like to thank those members of the commission who were instrumental in this study. I would also like to acknowledge all those who testified before the commission and assisted the commission in our work.

Sincerely,

Michael Vose

Rep Michael Vose, Chairman

MV
[Commission to Study Limited Electrical Energy Producers Final Report]

Commission to Study Limited Electrical Energy Producers
(SB91 Part IV, Chapter 228, Laws of 2021)
FINAL REPORT
November 1, 2021

Representative Michael Vose, Chairman
Representative Douglas Thomas
Representative Jackie Cali-Pitts
Senator David Watters
Senator Kevin Avard
Director Thomas C. Frantz, NH Department of Energy

Introduction – Chairman Michael Vose

Supporting free-market innovation in electrical energy markets provides an opportunity for our state to potentially lower the costs of electricity. Such innovation should avoid, however, unintended consequences, such as shifting costs from one class of electricity consumer to another.

This study commission was created as a response to legislation proposed in the 2020 session (SB91, Part IV) to modify RSA 362-A:3-a. This legislation proposed to update a previously underused existing statute regarding intrastate electricity sales by limited electrical energy producers. The hearings on this legislation raised serious questions that warranted further study. SB91, Part IV was subsequently amended to create this study commission.

The commission was appointed in September of 2021 and met four times during October before issuing this report.

Charge of the Commission

The commission shall:

I. Examine the feasibility of legislation amending RSA 362-A (limited electrical energy producers or LEEP) to facilitate intrastate wholesale electricity sales and determine if such sales provide a way to fill the gap between one- and 5-megawatt electricity sales outside of ISO-New England markets. The commission shall seek to answer several major questions:
   a. Do LEEP sales avoid jurisdictional conflicts with FERC regulated transmission transactions?
   b. Does crediting LEEP generators with avoided transmission costs shift such costs to either a transmission utility, which could then increase its rates to recover said costs, or to distribution ratepayers?
   c. Do the transmission and distribution grids overlap in ways that make calculating avoided transmission charges possible?
   d. Do transmission rates increase to cover credits in LEEP transactions?
   e. What kinds of transactions will legislation enable that cannot be achieved today?
   f. What other issues could affect this legislation?
   g. Are there relevant similarities or differences with respect to how LEEP generators are or could be treated with respect to avoided transmission costs and how customer-generators under net energy metering are or could be treated with respect to avoided transmission costs?

II. Make a report with its findings and any recommendations for proposed legislation on or before November 1, 2021, to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library.

Testimony Received by Commission

October 5, 12, and 19, 2021 Meetings

- Deputy Commissioner Christopher Ellms – NH Department of Energy
- Kate Bashford Epsen, External Affairs – ISO-NE (written testimony)
- Donna Gamache, Director, Governmental Affairs – Eversource
- Hon. Clifton Below – Assistant Mayor, Lebanon City Council
- Michael Licata, VP Member Services and Public Affairs – NHEC (written testimony)
- Katherine A. Bourque, Esq., Director, Government Affairs – Unitil (written testimony)
- David Burnham, Director, Transmission, ISO Policy & Compliance – Eversource
- Garth Corriveau, Attorney, BIACO – ISO-NE
- Huck Montgomery, Director of Governmental Affairs – Liberty Utilities (written testimony)

Findings

General commission findings.

- Electric distribution utilities can report wholesale loads to ISO New England for determination of transmission charge billing based on their respective shares of regional network load, and for purposes of wholesale load obligation billing to load-serving entities (LSEs), based on their wholesale meter readings.
- The utilities' wholesale meter reading and reporting capability may permit load reductions attributable to limited electrical energy producers (LEEP) to decrease transmission charges assessed to NH utilities and potentially also to decrease wholesale market product and load obligation charges to NH LSEs.
- To accurately track and credit any transmission and wholesale load charge reductions resulting from LEEP generator's electricity sales to retail customers, it likely would be necessary for the utilities to (i) install, operate, and maintain additional OP 18-compliant interval metering to measure both LEEP generator output and retail customer consumption, and (ii) implement additional "backend" data management and systems upgrades.
- The costs of additional interval metering are uncertain but may be substantial; according to Eversource the costs may run into the "tens of thousands of dollars;" however, another witness suggested the costs would be much lower than that but did not provide the amount.
- Additional metering costs may be allocated to and recovered from LEEP generators and/or their retail customers; however, the costs of any additional "backend" data management and systems upgrades likely would be recovered from all electric utility customers on a "socialized" basis.
- Providing a credit to LEEP generators for avoided transmission charges may not be effective unless those generators are assessed transmission charges; otherwise, a payment to the generator or a bill credit to the retail customer may be necessary.
- An alternative approach to address the issue noted above would be for transmission charges to be assessed directly to the LEEP generators engaging in retail customer sales transactions; that alternative was suggested by one witness, but the proposal was not well-developed.
- Such direct assessment of transmission charges to generators (or to retail customers) is not consistent with long-standing arrangements in New England, as reflected in the ISO-New England open access transmission tariff approved by FERC, and no evidence was presented that it has been implemented in any other New England state.
- LEEP generators, which are often intermittent sources, may be able to provide electric capacity and energy to retail customers at certain times and under specific circumstances, but it is unlikely they will be able to always meet a retail customer's full demand for such products.

- LEEP generators also are generally unable to provide full-requirement, load-following electricity supply service to retail customers, including the various wholesale load-related obligations that are undertaken by LSEs under the ISO-New England market settlement system. The quality of electricity supply service available from LEEP generators therefore may be considered limited in comparison to that provided by LSEs such as the suppliers of utility default service or competitive electric power suppliers (CEPS) selected by retail customers.
- The balance of a retail customer's electricity supply requirements that cannot be met by LEEP generator, whether at specific times or always, will have to be covered by a CEPS or by the utility default service supplier.
- The potential additional costs associated with that "backup" service will be either assessed to the LEEP generator or its retail customer or be recovered from other customers. If those costs are assessed to the LEEP generator or its retail customer, then the costs of such transactions will be increased, and their financial justification diminished. If the costs are instead recovered from other customers, that would result in "cost-shifting" from participating to non-participating customers.
- According to Eversource's witness, virtually all electricity sales transactions between LEEP generators and retail customers will involve use of the regional transmission system, and federal jurisdiction under the Federal Power Act and FERC regulations and orders therefore is implicated by such transactions.
- Significant uncertainty remains concerning jurisdictional control of transmission costs. Wholesale electricity sales are interstate sales, not intrastate sales, according to some sources. Court cases have declared that intrastate wholesale sales are allowed, but the issue seems far from settled.
- Generation generally is not subject to transmission costs.
- OP-18 meters measure wholesale load and therefore would be required to identify any load supplied by a LEEP generator or recipient.
- The costs of additional OP-18 meters, telemetry, and backend processing might need to be borne by LEEP generators. These costs could be considerable.
- Transmission tariffs are filed with FERC by the ISO and/or transmission-owing utilities and therefore are subject to federal and not state jurisdiction.
- Transmission rate design is based on monthly allocation peaks.
- Only small portions of transmission costs are sensitive to load.
- Compensation for load reduction would be a desirable pricing mechanism if it could be accurately calculated and applied.
- Kilowatt hour pricing for transmission at $.02-3 makes avoided transmission cost credits relatively small in the short-term, with an unknown long-term impact.
- LEEP transactions between generators and customers on local distribution circuits appear to reduce transmission load, but such transactions that cross onto different distribution circuits do engage the transmission system.
- No example calculation of avoided transmission charges was provided. For example, a 2MW solar array would be expected to produce 2,446 MWh of yearly electricity and would thus likely incur (at $2.50 per MWh) $6,114 of transmissions charges: How much of those charges could be avoided?
- The 1996 restructuring statute gives the state the authority to develop and regulate intrastate agreements. It may be helpful to have more discussion in which Eversource and ISO-NE could respond to the arguments put forward about state authority.
- Given the uncertainty of what is really meant by cost shifting, there is likely to be more discussion on this matter. However, based on the presentations and documents before the body, cost shifting is currently hard to detect in relation to transmission, in part because there is not metering now, and the benefits of reducing load and peak demand is currently given to all ratepayers, while one can argue that that benefit should go to those who produce it.
- There seems to be a way to calculate any overlap in the transmission and distribution grids for the purposes of calculating avoided transmission charges now, and if the utilities believe that they need additional metering, they have had many years to install it. This suggests it is not really seen as an issue now, though such metering may become necessary if there is substantial new growth in this area.
- Legislation to enable the development of under 5MW generation that could be sold through purchase power agreements in-state would further the goals of community power aggregation. This would also encourage further investment in storage and other means to manage power load and help address peak demand costs. Such legislation would need to include language that addresses any remaining questions about whether and how credits are

calculated, and language to address any remaining questions about what cost-shifting does or does not mean in this context.

- Legislation may be useful in the future to address the issues about new metering systems for the utilities related to this power in terms of avoided transmission costs. It is not clear that such metering is necessary, so perhaps this deserves further study.
- Avoiding transmission costs provides benefits to all ratepayers and those benefits should be either shared or provided in their entirety with the generators who create them.
- Finding ways to lower transmission costs without charging electricity ratepayers is extremely difficult and complex and beyond the time scope of this commission.
- The study commission heard from very few parties, which likely means that interest in RSA 362-A is confined to a very small universe of generators and customers but could nevertheless break new ground in energy innovation.

Appendix A contains written testimony submitted to the commission.

Recommendations

The commission recommends one or more of the following next steps:

1. Create a new study commission to more closely examine exactly how to calculate avoided transmission charges to provide a firm understanding of what's involved. Such a commission should require more in-depth presentations by the utilities and ISO-NE to provide more definitive conclusions and recommendations. The market, load computations, reliability programs and renewables all play into this calculation and ISO-NE is a key player.
2. Submit legislation to require the Dept. of Energy and/or the PUC to conduct a study on the mechanics of computing and monetizing avoided transmission charges and intermittent load reduction, and to determine if such transactions create benefits and/or cost shifting among customers.
3. In view of the significant complexities, uncertainties, and potential risks associated with the proposal to expand LEEP retail sales transactions and provide avoided transmission charge credits to participants in those transactions, as summarized in the findings section above, this study recommends the DoE/PUC continue to monitor metering costs and policy decisions made by FERC that could affect the benefits of changes to the LEEPA statute that would reduce transmission costs and/or New Hampshire's allocation of transmission costs and that could be done without significant cost shifting to non-participating customers.
4. Review any newly proposed LEEPA legislation based on the findings of this commission including consideration that any created avoided transmission charge program be adopted as a pilot program with a defined sunset date.

Respectfully submitted,

Rep. Michael Vose
Chair, Rockingham District 9

Senator David Watters
Senate District 4

Representative Douglas Thomas
Rockingham – District 5

Representative Jackie Cali-Pitts
Rockingham – District 30

Senator Kevin Avard
Senate District 12

Tom C. Frantz, Director, Regulatory Support
NH Department of Energy

Commission to Study Limited Electrical Energy Producers
(SB91 Part IV, Chapter 228, Laws of 2021)
FINAL REPORT
November 1, 2021

Appendix A

Written testimony by Unitil Corporation:
Q: Please explain how Unitil determines and reports its customer loads to ISO-NE and/or its transmission provider for the purpose of calculating Regional Network Load, Local Network Load, and monthly transmission bills. Please clarify whether the customer loads are based on retail meter readings or wholesale meter readings.
A: Unitil calculates network loads for reporting to ISO-NE based on readings from OP-18-compliant wholesale meter readings from generators located within UES distribution territory and tie-line interconnection points between the UES and PSNH network. The customer loads are based on wholesale meter readings.
Q: If Unitil currently uses retail meters to measure its customer loads for RNL/LNL and transmission billing purposes, would those loads be different if wholesale meters located at the interconnection of the transmission and distribution systems were used for load measurement purposes? If so, please explain why. When responding to this question, please assume that: (i) all limited producers are connected to Unitil's distribution system; and (ii) one or more limited producers are connected downstream of each wholesale meter.
A: Unitil does not use retail meters measure customer loads for RNL/LNL
Q: If Unitil currently bases its reporting of customer loads on retail meter readings (subject to line loss and possibly other adjustments), what is an estimate of the number of new wholesale meters needed, if any, to comply with the transmission charge crediting provisions of SB 91 as introduced? Please estimate the capital costs to procure and install such wholesale meters. Please also estimate any ongoing operation and maintenance expenses related to such wholesale meters. Finally, please specify the pros and cons of switching from retail to wholesale meters for measuring customer loads and reporting those loads to ISO New England for purposes of transmission billing and the wholesale load obligations of load-serving entities.
A: Unitil uses wholesale meters, not retail meters to measure customer loads.

Written testimony by Liberty Corporation:
Q: Under SB 91 as originally proposed, does Liberty foresee a need for distribution utilities to monitor the output of limited producer generating facilities in order to determine when and by how much a customer's electric energy requirements would be met by a supplier or suppliers other than limited producers? If so, who would be responsible for paying the incremental supply costs incurred by such other suppliers (e.g., utility default energy suppliers) and how would those costs be determined?
A: Default Service is contracted as an "all requirements" service. For customers taking Energy Service that also has BTM resources, any load that is not provided to a customer from BTM resources is provided from the default service supplier at the contracted price. If a customer is taking service from a competitive supplier, the load is served by the competitive supplier. Liberty does not know what contract terms were executed between the customer and the competitive supplier.
Q: Please explain how Liberty determines and reports its customer loads to ISO-NE and/or its transmission provider for the purpose of calculating Regional Network Load, Local Network Load, and monthly transmission bills. Please clarify whether the customer loads are based on retail meter readings or wholesale meter readings.

A: Wholesale meter values for all interconnection points between Liberty's meter domain and the regional transmission network are reported. This is provided daily to ISO-NE. ISO-NE determines the monthly peak used to calculate each transmission customers coincident peak load. RNS/LNS uses the same coincident peak value to determine transmission billing.

Written testimony by Eversource Corporation:
Q: Under SB 91 as originally proposed, does PSNH/Eversource foresee a need for distribution utilities to monitor the output of limited producer generating facilities in order to determine when and by how much a customer's electric energy requirements would be met by a supplier or suppliers other than limited producers? If so, who would be responsible for paying the incremental supply costs incurred by such other suppliers (e.g., utility default energy suppliers) and how would those costs be determined?
A: Yes, Eversource anticipates needing to monitor the output of limited producer generating facilities to ensure that the load served by these facilities is not included in the load reported as part of an ISO-NE-registered load asset. Eversource believes that the remaining load of a customer that is not served by a limited producer would continue to be served by the customer's chosen supplier.
Q: Please explain how PSNH/Eversource determines and reports its customer loads to ISO-NE and/or its transmission provider for the purpose of calculating Regional Network Load, Local Network Load, and monthly transmission bills. Please clarify whether the customer loads are based on retail meter readings or wholesale meter readings.
A: Eversource calculates loads for reporting to ISO-NE primarily based the readings from OP-18-compliant wholesale meter readings from registered generating assets located within the NU network, which includes PSNH, and tie-lines between the NU network and adjacent networks. As required by the ISO-NE Tariff, Eversource also calculates the load for Network Customers located within our network in a similar manner.
Q: If PSNH/Eversource currently uses retail meters to measure its customer loads for RNL/LNL and transmission billing purposes, would those loads be different if wholesale meters located at the interconnection of the transmission and distribution systems were used for load measurement purposes? If so, please explain why. When responding to this question, please assume that: (i) all limited producers are connected to PSNH's distribution system; and (ii) one or more limited producers are connected downstream of each wholesale meter.
A: Eversource does not use retail meters for this purpose.
Q: If PSNH/Eversource currently bases its reporting of customer loads on retail meter readings (subject to line loss and possibly other adjustments), what is an estimate of the number of new wholesale meters needed to comply with the transmission charge crediting provisions of SB 91 as introduced? Please estimate the capital costs to procure and install such wholesale meters. Please also estimate any ongoing operation and maintenance expenses related to such wholesale meters. Finally, please specify the pros and cons of switching from retail to wholesale meters for measuring customer loads and reporting those loads to ISO New England for purposes of transmission billing and the wholesale load obligations of load-serving entities.
A: Eversource current[ly] bases the reporting of wholesale loads on wholesale meter readings, not retail meter readings. However, implementation of SB91 as originally proposed would require additional metering and internal systems to track and record the LEEP transactions.
SB 91 would not change how monthly RNL is calculated. However, the calculated value would be lower by the amount of LEEP generation no longer registered with ISO-NE that is running at the time of the network monthly peak load. To calculate the proposed transmission cost allocation savings credit to LEEP generation the company would need OP18 compliant metering or comparable quality metering for this generation and some mechanism to feed that metering into its internal systems. The credits would then need to be recovered in some manner – either from retail customers or from LEEP transaction participants. Similarly, for energy market settlement purposes, the company would need OP18 compliant

or comparable quality metering for LEEP generation selling directly to particular loads and internal system to map this generation to those particular load assets and net the LEEP generation from the correct retail loads. The metering costs would be typical of those associated with OP18 compliant meters. Additional costs to develop and maintain internal systems to facilitate the LEEP transactions would also be significant. For example, the NEPOOL Generator Information System (GIS) used to track the trading of Renewable Energy Credits within New England has annual costs of approximately $1.5 million per year. Eversource anticipates that a more complex (and more costly) system could be required to facilitate LEEP transactions as contemplated by SB91.
Q: Regarding the previous question, if the change in metering and reporting were made to comply with the requirements of SB 91 as originally proposed, please describe and explain how the costs of purchasing, installing, operating, and maintaining any new wholesale metering equipment should be collected.
A: Eversource anticipates that some costs could be direct assigned to either load or generation participating in a LEEP transaction, while other costs would need to be recovered from PSNH retail load.

Written testimony by NHEC:
Q: Please explain how NHEC determines and reports its customer loads to ISO-NE and/or its transmission provider for the purpose of calculating Regional Network Load, Local Network Load, and monthly transmission bills. Please clarify whether the customer loads are based on retail meter readings or wholesale meter readings.

A: NHEC's transmission providers use wholesale delivery point meter readings for all transmission service billing.

Q: If NHEC currently uses retail meters to measure its customer loads for RNL/LNL and transmission billing purposes, would those loads be different if wholesale meters located at the interconnection of the transmission and distribution systems were used for load measurement purposes? If so, please explain why. When responding to this question, please assume that: (i) all limited producers are connected to NHEC's distribution system; and (ii) one or more limited producers are connected downstream of each wholesale meter.

A: Retail meters are not used for transmission service billing.

Q: If NHEC currently bases its reporting of customer loads on retail meter readings (subject to line loss and possibly other adjustments), what is an estimate of the number of new wholesale meters needed, if any, to comply with the transmission charge crediting provisions of SB 91 as introduced? Please estimate the capital costs to procure and install such wholesale meters. Please also estimate any ongoing operation and maintenance expenses related to such wholesale meters. Finally, please specify the pros and cons of switching from retail to wholesale meters for measuring customer loads and reporting those loads to ISO New England for purposes of transmission billing and the wholesale load obligations of load-serving entities.

A: As stated above, retail meter readings are not used for transmission service billing.

Written testimony by CPCNH:

COMMUNITY POWER COALITION
OF NEW HAMPSHIRE
For communities, by communities.

October 24, 2021

Hon. Michael Vose
Chair, Commission to Study Limited Electrical Energy Producers
New Hampshire House
107 North Main St.
Concord, NH 03301

Dear Chairman Vose and members of the Commission to Study Limited Electrical Energy Producers,

On behalf of the City of Lebanon and the Community Power Coalition of New Hampshire, a coalition of 14 municipalities and one county[1] operating under joint powers agreement pursuant to RSA 53-A and 53-E and comprising more than 16% of the state's population, I write to provide some concluding information and thoughts on the study you have undertaken in the past few weeks.

Your commission has been charged with examining the feasibility of legislation to amend RSA 362-A to facilitate intrastate (within state) wholesale electricity sales and determine if such sales provide a way to fill the gap between one- and 5-megawatt electricity sales outside of ISO-New England markets.

There are 7 specific questions the commission has been seeking to answer. Before responding to those specifics, I would like to put the question of enabling an intrastate wholesale market in both current and historic context.

At present, significant amounts of small-scale generation and storage are being deployed across New England, to varying degrees on a state-by-state basis, and intelligently orchestrated to lower peak demand — along with the corresponding wholesale transmission costs allocated to customers.

- These resources are being primarily deployed and credited for avoided costs through programs administered by distribution utilities and, not unlike Net Energy Metering, are approved through regulated proceedings. To varying degrees, these programs allow for utility control and ownership of the small-scale resources being deployed.
- Liberty Utilities' Home Battery Storage Pilot in New Hampshire is one such example. As the utility concisely explained in a NH PUC stakeholder presentation earlier this year:

[1]CPCNH members are the cities of Lebanon, Nashua, and Dover, Cheshire County, and the towns of Hanover, Enfield, Plainfield, Walpole, Harrisville, Warner, Pembroke, Exeter, Rye, Durham and Newmarket.

"Batteries dispatch power to the grid during ISO NE peak events... Batteries offset load... Reduction of load = reduction of transmission charges... ".[2]

- Indeed, such utility-led and controlled program are scaling up across the country. In California, for example, Southern California Edison is seeking approval to deploy utility-owned battery storage that would be connected to *"portions of the electric system under the jurisdiction of the [state] Commission"*, explicitly in order to *"operate outside of the [FERC jurisdictional] CAISO wholesale market"* under the *"operational control"* of the utility itself.[3]
- In response to the proliferation of small-scale resources being deployed, ISO-NE's Director of Advanced Technology Solutions recently identified the need to authorize "*local energy markets*" that are regulated by New England states in future — and clarified that "*If DERs [distributed energy resources] participate in the wholesale market directly, that's FERC jurisdiction. But if you want to set up a local energy market, that actually falls in the hands of the state.*"[4]

I offer the above context to draw the committee's attention to the following observations:

1. Twenty years after New Hampshire led the nation in breaking monopoly utility control over centralized generation, distribution utilities operating in "restructured" states are increasingly being permitted and relied upon to control — and in many cases own — decentralized generation and battery storage facilities.
2. Utilities are well-positioned to propose these programs and administer the necessary settlement and billing transactions: doing so requires (1) accounting for how these small-scale resources avoid transmission costs and (2) crediting customers for a portion of the resulting savings — and utilities have largely retained control, in practice if not on paper, over billing retail customers for transmission along with the submission of settlement data to ISO-NE for transmission cost allocation. Under ISO-NE settlement rules and FERC transmission tariffs, it does not matter if a battery or generator is inside a home, a big box store, a parking lot or a field — so long as the resource is connected to the utility's state-regulated distribution grid, and so long as the resource is not registered to participate directly in the ISO-NE wholesale market, utilities may treat these resources as retail load reducers for purposes of transmission cost allocation.
3. There is no barrier preventing New Hampshire from creating a market for these transactions — no unresolved question of Federal or State jurisdictional boundaries, no uncertainty regarding ISO-NE settlement rules governing the allocation of transmission

[2] Liberty Utilities, "Liberty Battery Storage Pilot", at the NH PUC Storage Investigation Stakeholder Session, 25 January 2021, slide #2: https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-166/LETTERS-MEMOS-TARIFFS/20-166_2021-02-01_STAFF_ATT_RPT_TECH_SESSION.PDF

[3] Rulemaking 20-11-003, Southern California Edison Company's Reply Brief, page 14: https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M410/K467/410467128.PDF

[4] See EPRI, Digital Grid Virtual Workshop - Integrating Customer Resources, Presentation "09-Digital Grid - The Value of Resilience for Customer DERs Panel (August 5, 2020)" at 1:18:15. Available online under "Attachments" > "Media" at: https://www.epri.com/research/sectors/technology/events/6182D0F6-9731-4819-83FD-3A126EEEF613

costs, no question of equity or cost-shifting, etc. — as evidenced by the proliferation of utility programs that are deploying small-scale generation and storage resources to lower transmission cost allocations to customers in their service territories. Indeed, ISO-NE has suggested states develop precisely the sort of market under consideration.

4. **What is under consideration before you is therefore simply this: will New Hampshire lead again by authorizing the first state-regulated market that permits Competitive Electric Power Suppliers, Community Power Agencies and retail customers to (1) contract with in-state, small-scale generation and storage resources and (2) be fairly compensated for the avoided transmission charges — in the same way that utilities are currently doing, seemingly everywhere — or will New Hampshire instead follow down the path that other states are taking, under which it is left up to distribution utilities to propose and engage in such transactions, while policy makers and stakeholders focus on legislative and regulatory revisions to net metering year after year?**

For 25 years it has been the policy of this state, pursuant to RSA 374-F:1 to promote the development of retail and wholesale electricity markets and customer choice of power supply in order to harness the power of competitive markets to reduce cost for consumers and drive innovation. Per RSA 374-F:1, II "*Competitive markets should provide electricity suppliers with incentives to operate efficiently and cleanly, open markets for new and improved technologies, provide electricity buyers and sellers with appropriate price signals, and improve public confidence in the electric utility industry.*" This work is not done.

Since the enactment of RSA 362-A:2-a in 1979, there has been a policy in effect to allow limited electrical energy producers of up to 5 MW in capacity to sell directly, at retail or in intrastate wholesale transactions, to at least a small number of purchasers other than the electric utility. However, due to certain archaic language in this law, and the relatively more accessible use of net metering, this market based approach to state jurisdictional distributed generation has not been functionally used, notwithstanding RSA 362-A's overall finding that it is "*in the public interest to provide small scale and diversified sources of supplemental electrical power . . . to encourage and support diversified electrical production that uses indigenous and renewable fuels . . . [and] that these goals should be pursued in a competitive environment pursuant to the restructuring policy principles set forth in RSA 374-F:3.*"

That declaration of purpose also notes that "*net energy metering for eligible customer-generators may be one way to provide a reasonable opportunity for small customers to choose interconnected self generation, . . .*" — but a key question for the legislature to consider going forward is whether net metering should be the exclusive way for customers to access distributed generation and storage under state jurisdiction, especially moving into the realm of 1 to 5 MW generation.

Enabling greater customer and community choice through development of intrastate markets for distributed energy resources (DERs) — that properly recognize the benefits and costs of DERs, with appropriate price signals based on cost causation — by amending the LEEPA statute, would be an important and valuable step forward that could put New

Hampshire at the forefront of market-based approaches that contribute to economic efficiency, innovation, resiliency, and cost savings for residents and businesses.

At present, there have been few if any new 1 to 5 MW projects in New Hampshire, despite what seems to be considerable pent-up demand for such by both consumers and developers. Solar and other renewable energy and storage projects of this size can be considered "community scale" DERs. Solar projects participating in ISO-NE markets tend to be larger than 5 MW as the economies of scale favor larger projects participating in interstate wholesale transactions. Consequently, the limited expansion of net metering up to (but under) 5 MW is likely to drive significant new projects of this scale — and will only strengthen political pressure to further expand net metering unless we change course.

Further, the uncertainty of future compensation for group net metered projects (which are currently linked to the default energy service price) is a constraint on this approach, aside from cross subsidization issues. My impression is that many DER developers might find the opportunity to enter long term Purchased Power Agreements (PPAs) — with known and stable rates, under contracts with load serving entities (LSEs) and institutional and business off-takers through LSEs — advantageous compared with net metering or the cost, administrative burden and *fiction* of somehow sending the power up through the transmission grid to the ISO NE markets only to be instantly redelivered and sold locally (which participation in those interstate markets implies).

In short, compared to the further expansion of net metering or alternatives such as requiring DERs to operate through the FERC jurisdictional ISO New England interstate electricity markets, the market-based approach you have been asked to evaluate would minimize cross subsidization, scale back our reliance on costly and slow administrative regulatory processes, help to drive innovation, and generally achieve greater benefits in an economically efficient manner for the state.

Please see my responses to the committee's specific questions below — and don't hesitate to be touch if you have any questions. I hope to work with the legislative policy committees and interested stakeholders to further consider and advance an intrastate wholesale and retail markets for New Hampshire. Thank you!

Yours truly,

Clifton Below

Clifton Below
Assistant Mayor, Lebanon City Council
Vice Chair, Community Power Coalition of New Hampshire
Clifton.Below@LebanonNH.gov

Do LEEP sales avoid jurisdictional conflicts with FERC regulated transmission transactions?

With ISO New England's response to this question, the plain language of the Federal Power Act, and US Supreme Court rulings and opinions, the answer should be a clear "yes" — with the caveat that LEEPs would have to be under 5 MW, interconnected on the distribution grid, and only selling to buyers within New Hampshire (and not for resale out-of-state), which is to say, not participating in ISO-NE markets including pursuant to FERC Order 2222.

Exclusive state jurisdiction over all retail sales, as well as intrastate wholesale sales, is well established under the Federal Power Act[5] and Supreme Court precedent, although it

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[5] As Justice Kagan wrote in *FERC v. Electric Power Supply Ass'n*, "It is a fact of economic life that the wholesale and retail markets in electricity, as in every other known product, are not hermetically sealed from each other." 123 S. Ct. 760 (2016) It is in this interwoven environment that electric products reside. Though deeply interconnected, there are no gaps in regulation such that electricity sales of any size may not be subject to regulation. With the passage of the Federal Power Act, Congress ensured that there is no gap in jurisdiction over energy transactions. The sale of electricity that FERC does not regulate, may be regulated by the states.

And as Justice Kagan writing for the majority in that case also noted: ". . . **the Commission may not regulate either within-state wholesale sales or, more pertinent here, retail sales of electricity** (*i.e.*, sales directly to users). See *New York*, 535 U. S., at 17, 23. State utility commissions continue to oversee those transactions. . . . as earlier described, [FPA] **§824(b) limit[s] FERC's sale jurisdiction to that at wholesale, reserving regulatory authority over retail sales (as well as intrastate wholesale sales) to the States.** *New York*, 535 U. S., at 17 (emphasis deleted); see 16 U. S. C. §824(b); *supra*, at 3. **FERC cannot take an action transgressing that limit no matter its impact on wholesale rates."**

Relevant here, SB 91, Part IV as passed by the Senate only sought to regulate distributed generation under 5 MW that is not registered to participate in ISO-NE's FERC regulated market. State regulation of distributed generation under 5 MW that does not participate in federally regulated markets does not constitute impermissible regulation of wholesale rates in interstate commerce. *See Hughes v. Talen Energy Marketing, LLC*, 136 S.Ct. 1288 (2016). Distributed generation (too small to require FERC regulation as bulk power supply and interconnected to the distribution grid) that does not participate in the federally regulated ISO-NE market is properly subject to state regulation. Utilizing preexisting authority of State regulation (as in existing RSA 362-A:2-a and 9) ensures that there is no gap in regulation over electricity.

Energy sales that are not subject to the ISO-NE market that may need transmission subject to FERC jurisdiction does not make the energy sale FERC-jurisdictional. Congress established two separate elements of federal jurisdiction over electricity: wholesale sales in interstate commerce and transmission in interstate commerce. *See* H.R. Rep. No. 1318 at 27. ("Subsection (b) confers jurisdiction upon the Commission over the transmission of electric energy in interstate commerce and the sale of electric energy in wholesale in interstate commerce. . . ."; *see also* S. Rep. No. 621 at 48 ("Jurisdiction is asserted over all interstate transmission lines whether or not there is a sale of the energy carried by those lines . . . .").

The fact that a sale may involve one element of federal jurisdiction, such as transmission, does not compel the application of the other element, power sales, where the federally regulated market does not include (and thereby subject to federal jurisdiction) a particular retail or intrastate

is casually said that FERC regulates wholesale markets, their only authority is over wholesale sales in ***interstate*** commerce, as stated in the FPA: "*electric energy shall be held to be transmitted in interstate commerce if transmitted from a State and consumed at any point outside thereof.*"

Eversource's argument that potential use of its FERC jurisdictional Local Network Service (LNS) may create jurisdictional problems, including the need to charge for transmission used by LEEPs, is a red herring and without merit. The whole point of FERC Order 888 was to require utilities owning transmission used in interstate commerce to open access to their transmission system in a nondiscriminatory manner for both wholesale ***and retail*** sales of electric power. "*FERC (1) ordered "functional unbundling" of wholesale generation and transmission services, which means that each utility must state separate rates for its wholesale generation, transmission, and ancillary services, and must take transmission of its own wholesale sales and purchases under a single general tariff applicable equally to itself and others; [and] (2) imposed a similar open access requirement on unbundled retail transmissions in interstate commerce;*" meaning transmission on FERC jurisdictional interstate transmission facilities.[6] The Supreme Court in *New York v. FERC,* upheld FERC's authority to open nondiscriminatory access to transmission under its jurisdiction to both wholesale and retail sales, even as FERC expressly did not assert any jurisdiction over any retail sales [or intrastate wholesale sales].

Mr. Steven Burnham (Manager, Meter Systems & Data Management at Eversource) in his verbal testimony on 10/19 to the Commission conflated and confused hypothetical contract paths with what actually occurs physically on the electric grid, as well as the question of who the customer for transmission service actually is and how their OATT (open access transmission tariff) is to apply. Under its retail tariffs approved by the NH PUC[7] Public Service Company of New Hampshire (PSNH, Eversource's NH affiliate), is the sole network customer of its LNS tariff (as well as for the ISO New England RNS tariff for pooled transmission facilities (PTF) for the totality of power delivered to the PSNH distribution system at points of interconnection with the LNS and used to serve retail loads within its NH service territory — regardless of who is selling or purchasing that power, whether at wholesale or retail (per FERC Order 888). Under the ISO New England OATT, LSEs could be the network customer for LNS and RNS, rather than PSNH, but that is not presently the case. Thus, it would violate Eversource's obligation to apply its LNS tariff in a nondiscriminatory fashion to apply some other formula or rate to serve a LEEP sale over its transmission grid differently than any other sale.

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wholesale sale (here distributed generation less than 5 MW, not an ISO-NE generation or network asset).

[6] *New York v. FERC*, 535 US at 3.

[7] See https://www.eversource.com/content/docs/default-source/rates-tariffs/electric-delivery-service-tariff-nh.pdf?sfvrsn=7fb7f062_72 at p. 21C.

That tariff[8] calls for allocation of the LNS revenue requirement to each of the LNS network customers based on each network customer's network load, which is their total load on the transmission network, plus any retail load located behind the point of interconnection between the distribution system and the LNS transmission grid[9] that is served (offset) by network resources (bulk generation that is registered as generation assets with ISO New England), measured at the single hour of monthly coincident peak on the LNS transmission grid in each month of the year.

The proposed legislation to better enable LEEPs would only recognize credit for actual avoided transmission charges to the extent that LEEPs actual reduce the network load and consequent transmission charges from what they would otherwise be absent the load reducing LEEP exports to the distribution grid.

Mr. Burnham supposed that if a retail sale was to occur between a LEEP on one part of the PSNH distribution grid and a customer on a different part, connected only by Eversource's LNS transmission grid, it would be like flowing the power between those two points and may require some change in the transmission tariff or point to point service and special new and expensive metering.

That is not the case. As a physics and engineering reality, power from LEEPs would displace load that is electrically nearest to it on the distribution grid and have the effect of reducing the network load behind the substation where distribution interconnects to transmission down to zero before it flows onto the transmission grid. Only when the sum of LEEP and net metered exports to the distribution grid at a monthly hour of coincident system peak exceeds the total load behind the point of interconnection (POI) would power flow onto the transmission grid, and there would be no further reduction to network load for the surplus exported onto the transmission grid and no more avoided transmission costs for that exported power onto transmission facilities. However, as Mr. Burnham pointed out, that is very unlikely to occur with solar, the most common form of DG, because solar production is limited or nonexistent at monthly hours of coincident peak demand (late afternoon in summer months and after dark in winter months).

The protest of the National Association of Regulatory Utility Commissioners (NARUC) to FERC in the case of New England Ratepayers Association, No. EL20-42, provides additional explanation of the jurisdictional issues as well as the engineering aspect of electric power flows on the grid in the context of net metering, though the issues with LEEPs would be substantially the same. Relevant excerpts are attached.

[8] Schedule 21-ES: www.iso-ne.com/static-assets/documents/regulatory/tariff/sect_2/sch21/sch_21_nu.pdf

[9] Behind the wholesale meter, sometime referred to as simply behind the meter or BTM.

Does crediting LEEP generators with avoided transmission costs shift such costs to either a transmission utility, which could then increase its rates to recover said costs, or to distribution ratepayers?

"Cost shifting" connotes an unfair shifting of costs from those causing them to those that don't, which is arguably generally a bad thing. However, as the term is being used in this context it could also mean shifting costs currently being borne by those who don't cause or contribute to the costs to those who do, which would arguably generally be a good thing.

Aligning rate design to allocate costs to those customers or generators who cause them is a fundamental goal of good utility policy and regulation. Avoiding costs by making investments (e.g., energy efficiency) or taking action (e.g., demand response or load management) that reduce costs from what they would otherwise be absent those choices is generally considered a good thing, especially if the investment or cost to avoid other costs is less than the costs that would be incurred by not making the investment. Hence compensation for discernable avoided costs in such circumstances is generally recognized as appropriate and is widely done within the electric utility industry and monopoly regulation.

The dominant concern about cost shifting seems to be that enabling LEEPs to function as load reducers relative to network load (monthly coincident peak demand) and consequently reducing allocation of transmission costs to NH utilities, with a fixed revenue requirement for LNS and RNS, will result in the transmission rate being adjusted upwards to recover the revenue requirement compared to not having new LEEPs. Because the vast majority of load for both RNS and LNS is outside of NH, most such "cost shifting" would be to other states' load.

It is important to note that other states in New England, particularly Massachusetts and Connecticut, which together account for 70% of the forecasted 2021 gross NE load[10], are forecast to realize more peak load reductions by BTM solar and energy efficiency investments (justified in part by avoiding costs) than NH is currently forecast to do over the next 10 years. ISO-NE forecasts that this will reduce MA & CT share of transmission costs and the cost of transmission per kWh of load, while NH's share will remain the same (assuming a substantial increase in electric energy efficiency investments, such as reflected in the proposed Energy Efficiency Resource Standard / EERS).[11] Absent such assumed

[10] Each year ISO-NE forecasts "Capacity, Energy, Load, and Transmission" (CELT) values over the next decade for various system planning purposes. The 2021 CELT, found here: https://www.iso-ne.com/system-planning/system-plans-studies/celt is supported by forecasts that break out data by state found here: https://www.iso-ne.com/static-assets/documents/2021/04/forecast_data_2021.xlsx. Relevant excerpts from the later are attached hereto with additional calculations by me shown in red text. Loads are calculated by forecast gross load, and after deducting impacts from utility energy efficiency investments and growth of BTM PV (that is not a network resource, principally through net metered programs).

[11] NH's rate of investment in utility sponsored electrical energy efficiency measures was projected in the 2019 EE forecast to be $52.8 million/year, but was increased in the 2021 EE forecast to be $67.2

increased investment in EE measures and BTM PV that functions as a load reducer relative to ISO-NE, NH's forecasted share of monthly peak demands and hence transmission costs would increase. Note, for example, that while both MA and NH gross load is projected to increase at the CAGR (compound annual growth rate) of 1.9% from 2021 to 2030, and while MA gross summer peak demand is projected to increase by 7.6% from 2021 to 2030, its net summer peak demand is projected to shrink by 1.5% from 2021 to 2030 while NH's gross summer peak demand is projected to increase by 7.2%, similar to MA, but it's net summer peak demand is projected to also increase, by 3.0%.

Net monthly peak demands closely approximate RNS cost allocation proportions, and LNS cost allocation would generally also track such proportions. In Eversource's case, LNS primarily just serves NH, MA, and CT, so if Eversource LNS transmission customers total net monthly peaks in 2030 shrunk as forecast for CT overall by ISO-NE in its 2021 CELT by 1.3% and MA only increased by 0.9% but NH's share increased by 2.7% as forecast, even assuming increased EE spending beyond what has currently been approved, NH's share of Eversource LNS would increase significantly, likely raising the average cost per kWh, especially compared with MA and CT. This kind of "cost shifting" is appropriate because it would reflect cost causation as determined by FERC approved Open Access Transmission Tariffs.

Another type of cost shifting that Eversource posits would occur by giving credit (or payment) to LEEPs or load served by LEEPs for actual avoided transmission costs, assumes that LEEPs might be developed absent such credit. So, if a LEEP functioned as a load reducer, but was not given credit for such in reducing transmission cost allocation to NH from what it would otherwise be absent such generation or storage, then yes, the socialized benefit of lower network load from such generation or storage would shift from load that doesn't cause such savings to load and/or generation that causes such savings. Giving credit or payment to the entity that causes the savings, however, would be consistent with causation theory, provided the credit or payment is the same as the directly attributable savings. Proposed reforms of LEEPA RSA 362-A: 2-a would give less than full credit (if only by about 6% by using the retail metered load vs. the greater network load that would be calculated by adding in line losses on both the transmission and distribution system, so there would be some sharing of savings with load that did not contribute to the savings from avoided costs.

The main problem with the above referenced scenario of cost shifting is that it assumes LEEP type generation in the 1 to 5 MW range would occur absent a credit for avoided transmission cost, and to date that has not proven to occur as there is no generation that could qualify as a LEEP operating outside of net metering or participation in ISO markets. In theory an existing generator, such as a 1 to 5 MW hydro that is an ISO market participant might retire to become a LEEP and qualify as a load reducer, but the current expansion of net metering to 5 MW for municipalities and school districts is likely to absorb much, if not all, such available existing generation capacity.

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million/year. See https://www.iso-ne.com/static-assets/documents/2020/04/eef2020_final_fcst.pdf p. 25 and https://www.iso-ne.com/static-assets/documents/2021/04/eef2021_final_fcst.pdf p. 30.

Also, in theory, an existing net metered generator greater than 100kW could switch from net metering, where they or their "off-takers" in a group net metering situation are not getting credit for avoided transmission costs, to LEEP status where they would get such credit. However, such a change is status would also reduce the cost shift from compensating them at full default service rate, which is greater than the energy and capacity related costs that that they avoid, so there may be a net reduction in cost shifting in such a case. It may also be of interest to note that a number of settling parties in the development of alternative net metering tariffs supported the settlement of giving full default service rate credit to NEM generation >100 kW as a rough justice considering that no credit was being given for avoided transmission costs.

Do the transmission and distribution grids overlap in ways that make calculating avoided transmission charges possible?

There should be a bright line between transmission and generation (T&G) facilities as every investment and expense is accounted for as assets under either state or FERC jurisdiction. Calculating avoided transmission charges from a LEEP, with a revenue grade interval meter, should be readily possible and should not require OP-18 compliant metering or expensive new accounting software. A LEEP connecting to the distribution grid with a capacity greater than a few hundred kW (including everything over 1 MW) is likely to require an interval meter, simply because of its size and the retail rate class it would fit into. I believe the NH distribution utilities all currently use such hourly interval meter load data for their largest C&I load classes to calculate hourly load settlement for each and every hour of the year and for each and every LSE, regardless of when they collect such data (i.e. daily or once a month), as load settlement for each hour of the year occurs twice: in the first instance on a daily basis, and then it gets trued up more than a month later, based on updated load data, extrapolated from meter data that is only read monthly.

Every retail meter, which would include those at the POI to the distribution grid for a LEEP, is assigned to a specific LSE for each hour of the year. Currently RSA 262-A:9, II requires output to the distribution grid from net metered generation to be accounted for as a reduction to the wholesale load obligation of the LSE serving the net metered customer, if other than for default service.

Accounting for LEEP exports could be handled in the exact same manner, except that all LEEPs the utility will have revenue grade interval metering that will show the exact amount of power exported to the distribution grid at the hour of monthly coincident peak demand when network loads are calculated. The credit or payment due could readily be calculated manually or on a spreadsheet by simply looking up, through the utility's MDMS (meter data management system), exports to the grid by a LEEP at the hour of each month's peak demand and then multiplying it by the RNS and LNS rates for that month. All of this necessarily would occur after the fact and receipt of the monthly transmission invoices. Such a calculation would only need to be automated once the number of LEEPs reaches some significant scale, which is likely to take a substantial number of years. It is

likely to be significantly less complicated and at a much smaller scale than providing on-bill credits for members of a net metering group, as currently required by law.

The responsibility for any customer specific retail transactions involving a LEEP would fall on the LSEs serving such customer and LEEPs. The utility would not be required to support LEEPs or LEEP transactions as part of their default energy service as proposed in legislation. The utility only need calculate each LSE's hourly wholesale load obligation as they do now, including netting exports to the grid against retail loads as they are required to do now for net metering.

The whole discussion by Eversource about needing expensive OP-18 metering on both LEEPs and retail customers or a huge new investment in software is a red herring and not necessary here. OP-18 metering requirements only apply to FERC jurisdictional transactions. NH has its own requirement for revenue grade metering.

As an aside, Eversource seems to have indicated that they calculate LNS from the wholesale meter at the interface between their NU/Eversource LNS transmission network and the PTF/RNS transmission network. That is possible by factoring in an engineering estimate of line losses on the LNS network to gross up to network load at the POI between distribution and LNS network, since PSNH is the only network customer for LNS serving their distribution territory. They seem to have stated that they don't always have a meter at the POI between their NH "NU" LNS transmission network and their PSNH distribution system, so that they might not be able to tell if there are LEEP/net metered exports across such a POI during coincident peaks, which is highly unlikely for the foreseeable future in any case. (Exports across the LNS grid at any other time are irrelevant because there is no charge for using transmission at other than the monthly hour of coincident peak demand for network load.)

However, if that is the case that they don't have metering at every POI between their distribution grid and their transmission grid, then there appears to be serious violation by Eversource of the filed rate doctrine that requires them to uniformly apply their FERC jurisdictional tariffs. Their OATT Schedule 21-ES LNS tariff at sections 8 and 10 of Attachment ES-G, Network Operating Agreement (see footnote 5 for link), requires the network customer, in this case PSNH, to install what is essentially OP-18 compliant metering and real time telemetry at each POI where they take LNS transmission service, i.e., the POI between their NU transmission grid and PSNH distribution system.

Do transmission rates increase to cover credits in LEEP transactions?

No, assuming LEEPs are developed pursuant to a reform in state law and would not otherwise be developed or operated, as the credit for newly avoided transmission costs would be somewhat less than the actual savings in transmission costs (due to not adjusting metered exports to the grid for T&G line losses), so the per kWh rate would be the same to all a load, except for the regional true-up based on appropriate cost causation based allocation of T revenue requirements, which should roughly match the line T&G line loss savings, so likely de minimus in any case.

What kinds of transactions will legislation enable that cannot be achieved today?

Development of 1 to 5 MW community scale generation selling at retail through PPAs to specific in-state retail customers, such as institutions and businesses, as well as potential in-state wholesale sales to LSEs, including, in particular, community power aggregations providing alternative default service, would be enabled. Any project that might qualify for group net metering may be able to avail themselves of this alternative instead of group metering.

Eversource suggests that such PPAs could be entered into through the ISO-NE wholesale market, which does allow for bilateral transactions between generators and LSEs. However, the cost, delays, and administrative burdens of undertaking such transactions through ISO-NE, including registration of the LEEP scale generation, is costly and burdensome relative to power generated. And without credit for actual avoided transmission cost allocation, such projects are much less likely to pencil out.

Enabling such transactions would also allow market-based innovation to more readily compete with utility sponsored DER projects including storage, demand response, and load management, which typically depend on the utility capturing the value stack of avoided energy and transmission costs.[12] Such innovations could include more deployment of market-based storage options, such as PV with storage, and dual axis PV trackers, whose production profile extends later into the afternoon and early evening than fixed orientation PV, more closely matching load profiles and providing more peak demand reduction for the investment dollars.

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[12] See for example:

- NH: Liberty Utilities' UOG BTM storage pilot program, the cost effectiveness of which depends on avoiding transmission cost allocation charges.
- VT: Green Mountain Power's BTM storage pilot, under which the utility has been discharging "*batteries during (1) times of high market prices to help lower its energy costs and (2) times of peak load to help reduce significant capacity and transmission expenses*"
- CA: Southern California Edison's recent pilot proposal (brief online here) to deploy UOG IFM storage "*under the jurisdiction of the [California Public Utilities] Commission and the operational control of SCE and operate outside of the CAISO wholesale market.*" and which was justified, in part, on avoiding the delays associated with interconnecting to the wholesale transmission network.
- Plus more everywhere you look (e.g., this Greentech Media article and this list in NE).

What other issues could affect this legislation?

This legislation will enable NH to help lead market-based policy and regulatory innovation for more economically efficient integration of distributed energy resources to everyone's benefit. Our best window to try such policy innovation at the distribution level is now, when net metering is still not available to most new generation in the 1 to 5 MW range. It will provide an alternative to measure any future proposals to expand net metering against.[13]

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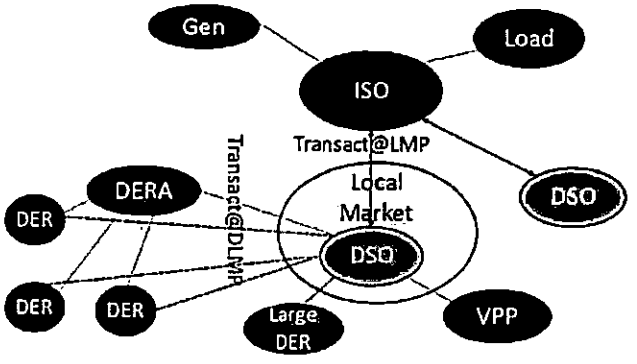
[13] ISO New England's Director of Advanced Technology Solutions, Tongxin Zheng, in a presentation in the summer of 2020 in the Electric Power Research Institute (EPRI) – Stanford University's Digital Grid Webinar series, called for development of **"local energy markets"** for distributed energy resources, **regulated by the states**, but in coordination with ISO-NE interstate wholesale markets for bulk power generation. The slide deck that went with the presentation can be downloaded, along with other presentations, at the "online here" reference.

- Transcribed parts of the ISO-NE presentation and the Q&A follow below.
- The recording is online here (click on attachments > media > play "Digital Grid - Customer DERs in Wholesale Markets panel").
- The Q&A mentions Federal / state jurisdiction— and alludes to how Europe is further along in implementing Distribution System Operator (DSO) frameworks. In NH the electric distribution utilities are the DSOs.
- ISO-NE's presentation walks through the structural limitation of the current approach, reliant upon aggregators bidding DER assets into wholesale markets — which is that dispatch signals from ISO-NE could cause issues on the distribution grid and local congestion that requires "significant adjustment" deviating from the original dispatch instruction, all compounded by a lack of DER visibility and "mismatch between the market model and the physical".
- This leads to the conclusion that the scheme described above requires "proper ISO/DSO/[DER aggregator] coordination" and "can be efficient in the short run" — but to "fully resolve the TSO/DSO coordination issue, ***local energy markets could be established*** in the future when a large number of DERs participate in the wholesale markets."

That suggestion is accompanied by the conceptual schema below:

Possible Long-Term Market Structure for DER

- A local energy market construct



The slide above begins at 1:11:45 — transcription below:

1:11:45 — Tongxin Jen (ISO-NE): *We should have two levels of market structure... the existing wholesale market, and the DSO becomes either a market participant or a market operator for a local energy market. So the DSOs will monitor the distribution system and dispatch [DER aggregators] and also resources connected into their system, and try to resolve any issues in the distribution system — a D-LMP concept. However, the DSO will be coordinating with the ISO, or transacting at the T and D boundary at the LMP.*

So in this type of coordination the ISO market will have very few responsibilities... so will not face the complexity created by the DER integration. This concept looks simple, but there are challenges especially from the state and policy perspectives . . . to fully resolve the DSO / TSO coordination issue, the local energy market should be tackled in the future...

The Q&A that immediately follows is also interesting — excerpts from the first few minutes are transcribed below, where CAISO broadly agrees with ISO-NE and they discuss Federal / state jurisdiction:

- **Q: A consistent theme is the need for market evolution and role of market operator as DSO, which we have in Europe but not really in the US. What kind of interventions are necessary in order to establish this role formally in each of these areas?**
- 1:15:45 — Jill Powers (CAISO): "*I think Tongxin really laid out what the challenge were and it's not just one agency that will be able to resolve this issue... [discusses the scope of coordination and metering necessary to implement DER aggregator model and practical challenges with participation]... absent having all of that in place there is real reluctance to even open up the ability for these types of resources to participate in the market. So it's going to be larger than just the ISO and working in partnership with utilities — it's going to take a lot of regulatory effort at the state level to really put these frameworks into place. As John laid out, we really should be looking at long-term vision. We've tried to move forward incrementally into these participation models, but really we need to get to that long-term vision to really have the direction and roadmap as to what we're going to do to get there.*"
- 1:18:15 — Tongxin Jen (ISO-NE): "*Jill pretty much covered it. For me, I think this is a regulatory issue especially though. If DERs participate in the wholesale market directly, that's FERC jurisdiction. But if you want to set up a local energy market, that actually falls in the hands of the state. . . .*
- **Q: paraphrased: what is the regulatory innovation you think should happen to achieve this vision?**
- 1:21:20 — John Goodin (CAISO): *I think the regulatory innovation has to be the ability to capture avoided cost value down at the lower tiers. . . . we need resources that can participate and provide both capacity and energy and capture those values and do that without having to present themselves and integrate with all the complexity in the wholesale markets. So the regulatory hurdle or mechanism is again, how can DR and DER capture avoided cost value, so while they don't have to explicitly earn a capacity payment out of a wholesale market but by their actions, and by reshaping load curve of that customer or in that distribution system under that DSO, that they are reducing the need for peak capacity. . . . So how do these DER entities capture value — for avoiding the need for RA, or avoiding the need for ancillary services by lowering requirements on the system through lower loads, less volatility, lower ramping requirements and ramping energy needs. And I think that's one of the biggest challenges: how to express that value for these providers by allowing them to participate in their tier, avoiding some of these costs, and getting them compensation for doing that — instead of squeezing every tiny little device into the wholesale market. And I think that's the challenge that we face: how to get that value as avoided cost value.*

Are there relevant similarities or differences with respect to how LEEP generators are or could be treated with respect to avoided transmission costs and how customer-generators under net energy metering are or could be treated with respect to avoided transmission costs?

Yes, the NH Department of Energy is currently undertaking a value of distributed energy resources study to inform the next iteration of new metering tariffs, due to be completed next spring. Below are images of three slides recently used at a stakeholder presentation, detailing a three avoided cost components being studied, for which there was a stakeholder consensus, including the utilities, that these were appropriate elements of the potential value stack to study and consider. The first two are transmission related, while the third, regarding wholesale energy market cost suppression, also known as Demand Response Induced Price Effect or "DRIPE" is a benefit that accrues generally to all ratepayers when coincident peak demands are curtailed.

Criteria #5: Transmission Charges

dunsky

Rationale

From a NH utility perspective, reductions in load attributable to DG resources may lower the allocation of Regional Network Service (RNS) and Local Network Service (LNS) charges assessed to NH utilities, which would represent avoided transmission cost.

Approach

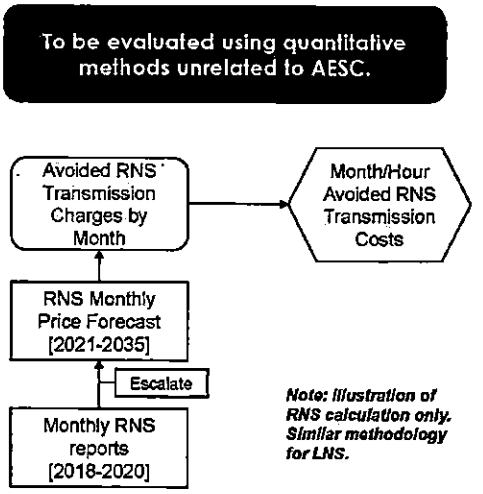
Step 1: Establish historic monthly RNS and LNS charges (2018-2020). All RNS and LNS cost categories that are allocated based on monthly Regional Network Load level will be included.

Step 2: Forecast monthly RNS and LNS charges (2021-2035) based on a) short-term ISO-NE RNS and LNS forecasts, and b) applying appropriate escalation factors (changes in the cost of capital and inflation) to historic and ISO-forecasted RNS and LNS charges.

Step 3: Distribute monthly RNS and LNS charges by hour, by establishing monthly peak load hours based on the last three years of data and then assigning the monthly charges to those peak hours.

Data Sources

RNS: ISO-NE Load Cost Reports (2018-2020) and Utility docket filings;
RNS Rates: 2020-2024 PTF Forecast (PTO AC - Rates Working Group)
LNS: Utility docket filings



Criteria #9: Transmission Line Losses

dunsky

Rationale

The electricity generated by customer-sited DG resources reduces the amount of energy that would otherwise be transmitted through the transmission network. Any surplus energy that is exported to the system is assumed to be contained within the distribution network and no transmission backflow occurs due to surplus energy. As such, the avoided transmission line losses apply to the total energy produced by the distributed resource.

Approach

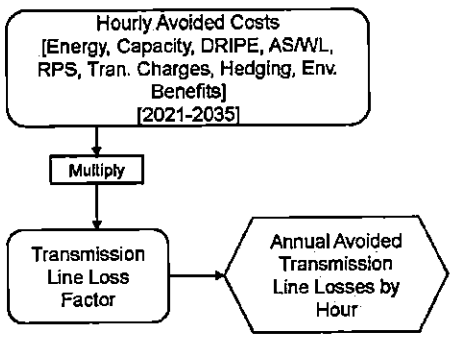
Step 1: Establish an appropriate system-wide transmission line loss factor based on NH utility information, the AESC 2021 Study, and other VDER studies.

Step 2: Calculate hourly avoided costs by multiplying hourly avoided costs - for each applicable avoided cost component studied here - by the transmission line loss factor for each study year (2021-2035).

Data Sources

AESC 2021
Utility line loss information
Other VDER studies

To be evaluated using quantitative methods unrelated to AESC.



Criteria #11: Wholesale Market Price Suppression

dunsky

Rationale

Electricity generated at customers' sites reduces the overall energy and capacity procured through the wholesale market. The reduced demand results in lower market clearing prices, and this price suppression benefit - also known as Demand Reduction Induced Price Effect or DRIPE, ultimately may be passed on to market participants and their customers.

For this analysis, we will consider the direct price suppression benefits that result from reduced energy (Energy DRIPE), reduced capacity (Capacity DRIPE), and the indirect price suppression benefits that result from reduced electricity demand on gas prices, which in turn reduce electricity prices (Electric-to-Gas-to-Electric cross-DRIPE).

Approach

The AESC 2021 methodology and data will be used to calculate each DRIPE component. DRIPE values from 2021 to 2025 will be taken directly from the AESC 2021; beyond 2025, the DRIPE values are modelled outside the workbook by applying the appropriate decay schedule (corrected for customer demand elasticity and generation effects) to the unhedged energy portion and gross DRIPE values.

Data Sources

AESC 2021 (Counterfactual #2 workbook)

To be evaluated using AESC data, methods, and results.

Energy and Capacity DRIPE Methodologies are outlined in the appendix.

Are there suggestions for recommended legislation?

Yes, one approach would be to build off the work undertaken in informal stakeholder discussions on SB 91, Part IV last spring guided by Rep. Vose. Suggested text for such legislation can be found attached to the end of attachments to Comments on behalf of City of Lebanon by Clifton Below in the PUC's Investigation into "Compensation of Energy Storage Projects for Avoided Transmission and Distribution Costs," IR 20-166. The Comments can be found here: https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-166/LETTERS-MEMOS-TARIFFS/20-166_2021-07-08_LEBANON_REPLY_COMMENTS.PDF.

Suggested legislative text can be found on Bates pages 36-37. The attachments can be found here: https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-166/LETTERS-MEMOS-TARIFFS/20-166_2021-07-08_LEBANON_ATT_REPLY_COMMENTS.PDF.

Another approach would be to include in revisions to RSA 362-A: 2-a language to direct the PUC to consider, in an adjudicated proceeding, amending electric distribution utility tariffs to enable LSE's serving NH load, at their option, to be directly responsible for transmission charges based on their share of network load or their share of load for a specified meter subdomain of customers, such as those with hourly interval metering. LSEs could be allocated their share of transmission costs based on their net load, Including transmission line losses, for wholesale market settlement purposes at monthly hours of coincident peak demand. The LSE would then determine how to charge those costs to their customers, who would no longer pay transmission rates from their distribution tariffs, just as is done with energy and capacity charges, where the utility does not provide default service.

It Is significant to note that Eversource in Massachusetts, for both its western and eastern Massachusetts territories, includes language in their tariffs[14] allowing the possibility of LSEs (Competitive Suppliers) arranging for transmission service, rather than having the distribution utility be the transmission customer:

> **"TERMS AND CONDITIONS – COMPETITIVE SUPPLIERS**
>
> 3B. Distribution Company
>
> The Company shall:
>
> (1) Arrange for or provide (i) regional network transmission service over NEPOOL PTF and
>
> (ii) local network transmission service from NEPOOL PTF to the Company's Distribution System for each Customer, unless the Customer or its Competitive Supplier otherwise arranges for such service;"

Likewise National Grid in Rhode Island has nearly identical language specific for municipal aggregators.[15] Other reforms to RSA 362-A: 2-a would still be needed to enable a viable intrastate market (retail and wholesale) for Limited Electrical Energy Producers.

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[14] See for example: https://www.eversource.com/content/ema-c/residential/my-account/billing-payments/about-your-bill/rates-tariffs/electric-tariffs-rules#:~:text=EMA-,Terms%20%26%20Conditions%20-%20Competitive%20Suppliers,-- at page 5.

[15] At p. 5 of this: https://www.nationalgridus.com/media/pdfs/billing-payments/tariffs/ri/muni_aggreg-tcs_05.26.21.pdf.

To: Representative Douglas Thomas & Members of the Commission to Study Limited Electrical Energy Producers

From: City of Lebanon Asst. Mayor Clifton Below, 603 448-5899

Date: 10/11/21

At the first meeting of the Commission to Study Limited Electrical Energy Producers on 10/5, after reviewing the questions posed in SB 91, Part IV and to ISO New England, you invited suggestions for additional questions that the Study Committee might ask. I offered two. Near the end of the meeting you asked if I could put the questions I posed and the thoughts I shared in writing for the record and to share with Rep. Vose, who could not attend. I agreed and I apologize that it has taken me until now to complete the task, though I have had a very busy week. I was speaking extemporaneously, without notes, so my writing below undoubtedly varies to some extent from what I said.

1. I suggested that it might be worth asking about the history and rationale for how and why the ISO New England Open Access Transmission Tariff (OATT) allocates costs the way it does. I said I hadn't had time to research this history, but perhaps ISO New England or others could provide it. I summarized the way most transmission costs are allocated and offered these observations:

    a. The highest voltage portion of the FERC jurisdictional interstate transmission grid that serves the New England region as a whole is known as the Pooled Transmission Facilities (PTF) providing Regional Network Service (RNS). Although most of the cost of such RNS is the sunk embedded costs of historic investments in transmission capacity (ROI and ROE), the costs are allocated using a strong marginal cost price signal, by apportioning the RNS revenue requirement based on Regional Network Load (RNS), which is the load of each distribution utility or Load Serving Entity (LSE) at the hour of coincident peak demand for each month of the year, measured or estimated at the point where the power leaves the PTF.[1]

    b. There is also Local Network Service (LNS), which isn't local in the way we might think of "local", rather it is portions of the interstate transmission grid that only serve a smaller subset of distribution utilities, typically an artifact of vertically integrated utilities that provided T, D & G to customers. For example, Liberty Utilities in NH is served by the National Grid LNS, because they are Granite State Electric which was originally part of the New England Electric System that became National Grid, along with Massachusetts Electric and Narragansett Electric in Rhode Island. Eversource in NH is served by Eversource LNS that also serves Eversource affiliates in MA and CT, along with some small distribution utilities such as municipal systems and the NH Electric Cooperative. LNS costs are mostly allocated in a similar fashion to RNS, but only to the LNS customers, based on their share of the Local Network Load, the hour of coincident peak demand in each month measured or estimated at the interface between the LNS and the distribution system, which is also the boundary between FERC and state jurisdiction of electric transmission and distribution facilities. National Grid tends to use the RNL hour of coincident peak demand for their LNS, but Eversource uses the LNS coincident

[1] Such metered loads would be increased by the amount of any load offset by generation from a network resource or generator asset that is registered with ISO New England as a FERC jurisdictional generator participating in interstate wholesale electricity markets, if such generator was interconnected on the distribution grid behind a transmission/distribution system interface meter. [I didn't explain this detail at the meeting on 10/5].

peak which is sometimes the same and sometimes a bit different than RNL. Most transmission costs are in RNS rather than LNS.

c. I speculated that at some point in the past [probably the mid to late 1990s or early 2000s in the wake of FERC Order 888, "Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities" in 1996 and its model OATT] there was some agreement or understanding between transmission owners and other stakeholders, approved by FERC, that using the single hour of coincident peak demand to allocate mostly fixed embedded costs, was the most appropriate price signal reflecting marginal costs.

d. A basic tenant of economic regulatory theory of monopoly utilities is that prices or rates should reflect what would occur in a competitive free market where prices tend toward the marginal cost of production. If, for example, manufacturers are able to produce and sell a widget for $5 each, and earn a market-based profit margin, and someone else comes along and is able to produce and sell widgets for only $4 each, because they have figured out a cheaper way to produce them, then the market price will tend toward the marginal cost of production, which has dropped to $4. Another example would be the fact that airplane seats go up in price when demand is high because of limited supply and limited ability to bring on new capacity in a hurry.

e. In the electric system, every component of distribution, transmission and generation needs to be sized based on the coincident peak demand on that part of the system. The marginal cost of transmission is the cost to build and operate new increments of capacity due to increasing coincident peak demand, so it makes sense to charge for transmission, even sunk costs, based on share of peak demand. Generation capacity in the ISO New England Forward Capacity Market (FCM) is based on forecasted coincident peak electric demand with a safety margin. FCM costs are allocated based on the single hour of highest demand for an entire year. Each retail meter gets a capacity tag, based on their share (metered or estimated) of the system peak hour for the prior power year.

f. New increments of T & D capacity are generally more expensive than existing capacity, both because existing capacity is partially paid for (depreciation and debt amortization) and because new construction -- steel, concrete, copper, and land acquisition -- is relatively more expensive.

g. The ISO NE OATT provides that transmission costs are allocated to eligible customers, which are entities providing power supply from the bulk transmission system to retail customers. These could be individual load serving entities, like competitive suppliers and community power aggregations, but in NH these costs are assigned to the electric distribution utilities (EDUs) which recovers them through NH PUC regulated retail transmission rates that typically are just flat per kWh charge that is the same for all hours of the day, so a very strong marginal cost price signal from FERC transmission tariffs gets turned into the opposite, a price signal that has nothing to do with marginal costs, except maybe in a very general way by rate class average load shape.

h. The transmission rates are trued up to the revenue requirement periodically through a "Transmission Cost Adjustment Mechanism" or TCAM, an accounting system to true up these pass-through costs to rates and revenue.

i. A key element of NH's restructuring of electric utilities is a call for "appropriate price signals" which isn't really defined but there is general agreement that regulated rates –

price signals - should reflect cost causation. In an ideal world each customer would have an interval meter that would measure their share of annual peak for capacity tags and monthly coincident peaks for transmission charges that would be passed through to them based directly on cost causation. Customers that could curtail or shift their usage away from coincident peaks or meet load with behind the meter generation or storage, would reduce RNL and LNL and would only pay for costs they caused. Load that is served at other than peak hours does not cause any transmission or FCM charges.

j. In addition, in-state load that is served by distributed generation (which could be Limited Electrical Energy Producers <5 MW, as well as net metered generation) that is NOT registered with ISO NE as a generation asset at monthly coincident peak hours, does not contribute to or cause transmission cost allocation, so it would be an appropriate price signal to not charge them, or give proportionate avoided cost credit, for such transmission costs.

k. Although the revenue requirement for RNS and LNS is rather fixed for any given year, and the transmission rate is adjusted to true-up for that revenue requirement, that doesn't mean that if RNL or LNL is reduced by DG or storage on a given distribution system that translates into cost shifting or higher costs for others. For one thing, such DG or storage will reduce the rate of growth in peak demand and can result in avoiding or deferring expensive new investments in transmission capacity that will tend to raise the average cost of transmission capacity. Also, with the increasing electrification of transportation loads and building heating loads (from electric heat pumps), peak demands are likely to grow in any case, so slowing that rate of growth by opening up a market for 1 to 5 MW DG that can reduce the coincident peak demand growth on the transmission grid can actually save money. Also, if load is shifted to fill valleys away from the peaks, or even if only the very peak hours are shaved, that will mean those capacity costs are spread over more kWh, lowering the cost/kWh on average as a result of improving asset utilization rates (or load factors, which can be thought of as the ratio of average load over peak load or capacity). That is why recognizing the strong temporal price signals from FERC regulated services and markets, actual or as avoided costs, makes good economic sense.

2. The second question I suggested was to ask how Liberty Utilities justified its investment in its battery pilot and how they are being compensated for avoided transmission and capacity costs and how competitive entities might receive comparable credit for avoided costs.

    a. I briefly previewed the answer: a large part of their investment in BTM (behind the meter) battery storage is based on the value of avoided transmission cost allocation and reduced FCM capacity cost allocation. [Most of the remaining portion of the cost is recovered from an upfront cash contribution from the customer or paid as an extra rate over time.] So, the pilot is designed to see if by curtailing net loads at forecasted possible coincident peaks, including exports to the distribution grid, transmission cost allocation and FCM cost allocation can be reduced to an extend to support and increase in Liberty's distribution rate to cover their ROI, including ROE, and still produce some savings for all customers. So while T & G costs might go down a bit, the D rate component will also go up some, hopefully a bit less than saved.

That pretty much concluded my observations. Please don't hesitate to call if you have any questions.

NH Study Commission on Limited Electrical Energy Producers (NH RSA 362-A)
ISO New England Responses
October 5, 2021

Disclaimer: The ISO provides the following responses to your questions related to limited electrical energy producers as we understand the concept; however, the ISO is not an arbiter of whether federal or state jurisdiction applies to these types of resources, so the Study Commission should not consider this as advice in this area.

(a) Do LEEP sales avoid jurisdictional conflicts with FERC regulated transmission transactions?

From NH RSA 362-A:2-a, I:

"The commission may authorize a limited producer, including eligible customer-generators, to sell electricity at retail, either directly or indirectly through an electricity supplier, within a limited geographic area where the purchasers of electricity from the limited producer shall not be charged a transmission tariff or rate for such sales if transmission facilities or capacity under federal jurisdiction are not used or needed for the transaction."

It appears that if the transaction is jurisdictionally limited to the retail level and to the distribution system, then LEEP sales would avoid such-jurisdictional conflicts.

If a LEEPA-defined system is connected to the distribution system, is behind the meter, and does not participate in ISO wholesale markets, then sales will not conflict with FERC-regulated, wholesale transactions.

There may be circumstances where a BTM resource on the distribution system may seek to participate in the wholesale markets, such as those resources contemplated under FERC Order 2222. Order 2222 requires all ISO/RTO markets to allow distributed energy resource aggregations (DERAs) to participate in the wholesale markets where they are technically capable of providing the relevant market services. ISO-NE's deadline to file proposed changes to its tariff to comply with this order is February 2, 2022. Order 2222 specifically requires that DERA participate in wholesale markets would preclude retail-level sales; in other words, it will not allow double counting or double dipping of services and/or revenues. For more information on Order 2222 and DERA participation in wholesale energy markets, visit the project page of the ISO website.

(b) Does crediting LEEP generators with avoided transmission costs shift such costs to either a transmission utility, which could then increase its rates to recover said costs, or to distribution ratepayers?

ISO-NE does not have a comment on this hypothetical transaction. However, as relevant background, the Participating Transmission Owners (PTOs) across New England recently asked the

Federal Energy Regulatory Commission (FERC) for approval to change New England's governing rules (aka, the Open Access Transmission Tariff) on transmission surrounding the treatment of behind the meter (BTM) resources. According to their filing, the PTOs seek to "clarify that the calculation of Monthly Regional Network Load ("Monthly RNL") excludes load served by behind-the-meter generation, which does not participate in the New England wholesale markets as a Generator Asset, as well as the portions of a Generator Asset utilized to net load (aka customer demand) at the same retail meter."[1]

If this change is approved by FERC, then BTM resources, as defined above, will be netted out of the monthly RNL calculation (already the current de facto process for many PTOs), will decrease that load value calculated by each PTO and may therefore result in a decrease of its share of RNS-related costs, all else being equal. As the PTOs also state, "participants that rely to a lesser degree on the New England integrated transmission system to serve load through their use of behind-the-meter generation will likely pay less for the use of that system."[2]

(c) Do the transmission and distribution grids overlap in ways that make calculating avoided transmission charges possible?

Electrically speaking, the bulk transmission system is generally defined as transmission lines and associated infrastructure rated at 115 kV or higher, though may include 69 kV rated infrastructure in some instances. The distribution system is the electrical system rated at 69 kV or lower.

Federally regulated transmission charges include Regional Network Service (RNS) and Local Network Service (LNS), which are distinct from retail distribution/delivery charges. The ISO does not develop the inputs for, calculate or file the RNS or LNS rates, nor does the ISO have legal rights to change the RNS or LNS rates or the process associated with those rates. The RNS and LNS rates and inputs are developed by the Participating Transmission Owners (PTOs) in the region.

(d) Do transmission rates increase to cover credits in LEEP transactions?

The ISO has no comment on this question.

(e) What kinds of transactions will legislation enable that cannot be achieved today?

The ISO has no comment on this question.

(f) What other issues could affect this legislation?

The ISO has no comment on this question.

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[1] *Modifications to Monthly Regional Network Load Calculation in the ISO-NE Transmission, Markets and Services Tariff.* July 1, 2021. FERC Docket ER21-2337. This filing provides additional useful background information on RNL and RNS.

[2] Ibid.

(g) Are there relevant similarities or differences with respect to how LEEP generators are or could be treated with respect to avoided transmission costs and how customer-generators under net energy metering are or could be treated with respect to avoided tran smission costs?

LEEP generators and net-metered customer-generators generally would have similar characteristics, and therefore would likely have similar impacts related to transmission costs, or avoided transmission costs.

Daley Frenette

From: Charles D. Brackett <Charles.D.Brackett@hitchcock.org>
Sent: Sunday, March 20, 2022 11:05 AM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Daley Frenette
Subject: oppose HB614

To the Energy and Natural Resources Committee;
The RPS is the only policy promoting renewable energy in NH and is a market-based mechanism that encourages renewable energy for the lowest possible cost. HB614 would undermine the RPS, create new utility billing costs, and reduce funding in the Renewable Energy Fund. It makes no sense to shrink the RPS at just the time when we should be increasing our clean energy ambition; at a time when clean energy JOBS now represent a sizable sector of our workforce. Instead of attempting to shrink the RPS, we should be working with municipalities to help them install their own locally-owned renewable generation, which results in real savings on municipal energy bills. I strongly OPPOSE this bill.

thanks, Charlie

Charles Brackett, MD, MPH, FACP, FASAM
General Internal Medicine and Population Health
Associate Professor of Medicine and Health Policy and Clinical Practice (TDI)
Dartmouth-Hitchcock | Dartmouth Geisel School of Medicine

Daley Frenette

From: Michael Vose
Sent: Saturday, March 26, 2022 6:03 PM
To: Daley Frenette
Subject: Fw: HB624

FYI...

--Rep. Michael Vose, Chair
Science, Technology, & Energy Committee
Rockingham District 9
Epping, NH

From: Michael Vose
Sent: Friday, March 25, 2022 10:00 AM
To: Kevin Avard <Kevin.Avard@leg.state.nh.us>; David Watters <David.Watters@leg.state.nh.us>; James Gray <James.Gray@leg.state.nh.us>; Bob Giuda <Bob.Giuda@leg.state.nh.us>; Rebecca Perkins Kwoka <Rebecca.PerkinsKwoka@leg.state.nh.us>
Subject: HB624

After discussion with Commissioner Scott from DES, I believe some additional changes will be required to HB624. The first and last subsections should be changed to read as follows [deleted text appears in brackets]:

HB624 Amendment

1 Site Evaluation Committee; Powers and Duties. Amend RSA 162-H:4, III to read as follows:
III. The committee may delegate the authority to monitor the construction or operation of any energy facility granted a certificate under this chapter to ***any*** [the administrator or such] state agency or official as it deems appropriate, but ***the committee*** shall ensure that the terms and conditions of the certificate are met. 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.

4 Site Evaluation Committee; Enforcement. Amend RSA 162-H:12, I to read as follows:
I. Whenever the committee ***or appropriate state agency so designated*** [, or the administrator as designee,] 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:

Thank you.

TO: Senate ENR Committee
FROM: Rep. Michael Vose
RE: Testimony for HB624-FN

Sen. Ruth Ward and I introduced the substance of HB624-FN in the Senate in 2020. It passed out of committee with an amendment and was adopted by the full Senate on a voice vote. It was briefly part of a Senate omnibus bill, but was eventually tabled. I reintroduced the bill last year with some additional modifications.

The original bill reduced the fee for a declaratory ruling from the Site Evaluation Committee (SEC) from either $10,500 or $3,000 to $250. Such a reduction would make the declaratory ruling process more accessible to the general public. Since 2015, only three declaratory rulings have been requested of the SEC, with none by the general public.

A declaratory ruling responds to a question or complaint about an energy project site certificate. It typically asks the SEC to rule on a possible violation of the terms or conditions of a certificate.

The bill further clarifies that only the full SEC can determine whether an energy project operator is meeting the terms and conditions of its site certificate. This language change ensures that an SEC administrator can observe and record possible violations, but only the full SEC owns the responsibility for enforcing the terms and conditions of the certificate.

Via amendment 2021-2233h, the House Ways & Means committee restored the declaratory ruling fee and added new language to the bill to require the SEC to establish procedures to allow the committee, without cost, to accept, investigate, and act upon any complaints filed against a site certificate holder. This change preserves a funding stream for the committee but also provides a cost-free complaint resolution process for members of the public.

This amended bill seeks to make the SEC process more accessible to the public. The recent situation with Antrim Wind, about which you may hear more in subsequent testimony, demonstrates that public accessibility to the SEC is essential to the transparency and responsiveness of the site certificate process. Such accessibility enables public trust in the process of energy project siting.

Respectfully submitted,
Rep. Michael Vose
Rockingham 9
Epping

Voting Sheets

Senate Energy & Natural Resources Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # 624 - FN

Hearing Date: 3/22/22

Executive Session Date: 4/12/22

Motion of: ~~3085~~ Committee amendment **Vote:**

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	☐	☐	☑	☐	☐
Sen. Giuda, Vice Chair	☐	☐	☐	☐	☐
Sen. Gray	☐	☐	☐	☐	☐
Sen. Watters	☐	☑	☐	☐	☐
Sen. Perkins Kwoka	☐	☐	☐	☐	☐

Motion of: OTP/A **Vote:**

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	☐	☐	☐	☐	☐
Sen. Giuda, Vice Chair	☐	☐	☑	☐	☐
Sen. Gray	☐	☐	☐	☐	☐
Sen. Watters	☐	☑	☐	☐	☐
Sen. Perkins Kwoka	☐	☐	☐	☐	☐

Motion of: Consent **Vote:**

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	☐	☐	☐	☐	☐
Sen. Giuda, Vice Chair	☐	☐	☑	☐	☐
Sen. Gray	☐	☐	☐	☐	☐
Sen. Watters	☐	☑	☐	☐	☐
Sen. Perkins Kwoka	☐	☐	☐	☐	☐

Motion of: **Vote:**

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	☐	☐	☐	☐	☐
Sen. Giuda, Vice Chair	☐	☐	☐	☐	☐
Sen. Gray	☐	☐	☐	☐	☐
Sen. Watters	☐	☐	☐	☐	☐
Sen. Perkins Kwoka	☐	☐	☐	☐	☐

Reported out by: Giuda

Notes:

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, April 13, 2022

THE COMMITTEE ON Energy and Natural Resources

to which was referred **HB 624-FN**

AN ACT relative to site evaluation committee monitoring and enforcement responsibilities.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1524s

Senator Bob Giuda
For the Committee

HB 624-FN makes a few minor adjustments to RSA 162:H which is the statute that governs the site evaluation committee. The original intent of the bill was to lower the cost of a declaratory ruling as a way to give the public more access to the site evaluation committee. The House Ways and Means Committee amended the bill to restore the funding for the declaratory rulings and to add new language to direct the Site Evaluation Committee to come up with a procedure to accept, investigate, and act upon complaints against a site certificate holder. The amendment clarifies who is a customer and who is the producer.

Daley Frenette 271-3042

FOR THE CONSENT CALENDAR

ENERGY AND NATURAL RESOURCES

HB 624-FN, relative to site evaluation committee monitoring and enforcement responsibilities.
Ought to Pass with Amendment, Vote 5-0.
Senator Bob Giuda for the committee.

HB 624-FN makes a few minor adjustments to RSA 162:H which is the statute that governs the site evaluation committee. The original intent of the bill was to lower the cost of a declaratory ruling as a way to give the public more access to the site evaluation committee. The House Ways and Means Committee amended the bill to restore the funding for the declaratory rulings and to add new language to direct the Site Evaluation Committee to come up with a procedure to accept, investigate, and act upon complaints against a site certificate holder. The amendment clarifies who is a customer and who is the producer.

General Court of New Hampshire - Bill Status System

Docket of HB624

Docket Abbreviations

Bill Title: (Second New Title) relative to site evaluation committee monitoring and enforcement responsibilities, and relative to net energy metering by hydroelectric generators.

Official Docket of **HB624.**:

Date	Body	Description
1/14/2021	H	**Introduced** (in recess of) 01/06/2021 and referred to Science, Technology and Energy **HJ 2** P. 57
1/20/2021	H	Public Hearing: 01/29/2021 02:00 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/92874903669 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/16/2021	H	Majority Committee Report: Ought to Pass (Vote 19-1; RC) **HC 12** P. 24
2/16/2021	H	Minority Committee Report: Inexpedient to Legislate
2/24/2021	H	FLAM **#2021-0465h** (Rep. Somssich): AF DV 132-204 02/24/2021 **HJ 3** P. 89
2/24/2021	H	**Ought to Pass:** MA VV 02/24/2021 **HJ 3** P. 89
2/24/2021	H	Reconsider (Rep. Adjutant): MF DV 149-194 02/24/2021 **HJ 3** P. 90
2/24/2021	H	Referred to Ways and Means 02/24/2021 **HJ 3** P. 90
3/10/2021	H	Public Hearing: 03/10/2021 11:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/99357402693 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/30/2021	H	Retained in Committee
8/18/2021	H	Full Committee Work Session: 09/07/2021 09:30 am LOB 202 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
9/8/2021	H	Subcommittee Work Session: 09/15/2021 11:00 am LOB 202-204
8/18/2021	H	==CANCELLED== Full Committee Work Session: 09/28/2021 09:30 am LOB 202 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
9/21/2021	H	Subcommittee Work Session: 09/28/2021 09:50 am LOB 104
9/21/2021	H	==RESCHEDULED== Full Committee Work Session: 09/28/2021 11:00 am LOB 202-204 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
9/29/2021	H	Subcommittee Work Session: 10/07/2021 09:30 am LOB 202-204
10/13/2021	H	Subcommittee Work Session: 11/04/2021 09:30 am LOB 104
10/13/2021	H	Full Committee Work Session: 11/04/2021 10:00 am LOB 202-204
10/20/2021	H	Subcommittee Work Session: 11/10/2021 12:30 pm LOB 104
10/20/2021	H	Full Committee Work Session: 11/10/2021 01:30 pm LOB 202-204
11/17/2021	H	Committee Report: Ought to Pass with Amendment **#2021-2223h** NT 11/10/2021 (Vote 20-0; CC) **HC 48** P. 19
1/11/2022	H	Amendment **#201-2223h:** AA VV 01/05/2022 **HJ 1**
1/11/2022	H	**Ought to Pass with Amendment** 2021-2223h: MA VV 01/05/2022 **HJ**

		1
1/18/2022	S	Introduced 01/05/2022 and Referred to Energy and Natural Resources; **SJ 2**
3/16/2022	S	==RECESSED== **Hearing:** 03/22/2022, Room 103, SH, 09:15 am; **SC 12**
3/24/2022	S	==RECONVENE== **Hearing:** 03/29/2022, Room 103, SH, 09:00 am; **SC 13**
3/24/2022	S	**Hearing:** 03/29/2022, Room 103, SH, 09:15 am, on proposed amendment **#2022-1221s**; **SC 13**
4/13/2022	S	Committee Report: Ought to Pass with Amendment **#2022-1524s**, 04/21/2022; Vote 5-0; CC; **SC 16**
4/21/2022	S	Committee Amendment **#2022-1524s**, AA, VV; 04/21/2022; **SJ 9**
4/21/2022	S	**Ought to Pass with Amendment** 2022-1524s, MA, VV; OT3rdg; 04/21/2022; **SJ 9**
5/10/2022	H	House Non-Concurs with Senate Amendment 2022-1524s and Requests CofC (Reps. Vose, Thomas, Harrington, Notter): MA VV 05/05/2022 **HJ 12**
5/12/2022	S	Sen. Avard Accedes to House Request for Committee of Conference, MA, VV; 05/12/2022; **SJ 12**
5/12/2022	S	President Appoints: Senators Avard, Giuda, Watters; 05/12/2022; **SJ 12**
5/17/2022	H	Conference Committee Meeting: 05/17/2022 10:00 am LOB 306-308
5/23/2022	S	Conference Committee Report; Not Signed Off; **SJ 13**

NH House	NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 624-FN **Senate Committee:** Energy

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

X Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

X Bill version as it came to the committee

X All Calendar Notices

X Hearing Sign-up sheet(s)

X Prepared testimony, presentations, & other submissions handed in at the public hearing

X Hearing Report

X Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

X - amendment # 1308S X - amendment # 1524S

X - amendment # 1216S X - amendment # 1221S

X Executive Session Sheet

X Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

X as amended by the senate ___ as amended by the house

___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Dale 6/24/22

Committee Aide **Date**

Senate Clerk's Office HL