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Date: April 17, 2007
Time: 1:15 p.m.
Room: State House Room 100

The Senate Committee on Energy, Environment and Economic Development held a hearing on the following:

HB 873-FN-L establishing minimum renewable standards for energy portfolios.

Members of Committee present:

Senator Fuller Clark
Senator Hassan
Senator Cilley
Senator Sgambati
Senator Barnes
Senator Odell

Senator Martha Fuller Clark, D. 24: I'd like to have the attention of everyone here before I actually have Senator Hassan open the hearing on HB 873. We have allowed two hours for this bill. You will know that the House Committee had an all-day hearing on this legislation, at which the members heard overwhelming support for the RPS bill. So far, looking at our list, that no one has signed up in opposition to this bill. So when many of you might like to speak, it's really important that we bring this hearing to a close around quarter of three, if at all possible. So I really would encourage you, if you have written testimony, to hand it in; but we'd like to be able to move this bill forward.

And so I just wanted -- and the first part of the hearing testimony will be an explanation for the Committee members from both Joanne Morin, from the Department of DES, who has provided extraordinary leadership as we have shaped and reshaped and reshaped this legislation, and also then from Ross Gittell, who will provide the information that looks at the economic impact. And then, after, but we'll let the sponsors or co-sponsors to be able to speak first, just to open the hearing, and then we will call on other individuals. So just so that you have a sense of how we're going to proceed, I wanted to lay that out at the very beginning. And now I would like Senator Hassan to open the hearing.

We adjusted the alternative compliance payments. As you know, how you comply with this bill is either by buying RECs on the market; if RECs are not available because of a maximum price, the electric supplier can pay into an alternative compliance payment; it's basically a price cap on this, it's very common in RPS bills. And we wanted to -- we're trying to make a regional market and so we just matched our payments for new renewables to the Massachusetts market to make them more fluid and joint regional market that seems to be driving the prices as the mass market. But those are very slight adjustments.

And then, Bob Scott also spoke to the thermal study committee, and the thermal energy is energy to produce heat, if you're not familiar with that term. So, wood-pellet stoves for heating is the part that we'd like to try to get some incentive on the thermal side; in other words, producing heat with renewables. This is an electric Renewable Portfolio Standard for that study committee. So those are the main changes.

Senator Martha Fuller Clark, D. 24: Are there other questions for either Bob Scott or Joanne Morin? Senator Odell.

Senator Bob Odell, D. 8: Thank you, Madam Chair. Tell me a little bit about the fish ladders, and how important that is, and ... whether or not we've addressed the right kind of fish and things in this, I've heard we might not have, and --

(Laughter.)

Ms. Joanne Morin: I'll try. We might have to defer to stakeholders. But the idea being that we were -- the concept behind it is to incent those hydroelectric facilities that are more at risk of not being able to compete economically because they have additional requirements or that they're just very small, so that the economics are more difficult. So, and also there's a push-and-pull on hydro; you know, you know, some people think any hydro-electric is very positive renewable energy. There are some that feel that there's a environmental tradeoff in terms of impacts to streams and fishways and fish and so forth.

So what this says is that the ones that would get this RPS additional incentive would be ones that actually have both fish ladders for wild fish to migrate up and downstream. The word that was used would include things like migrating eels as well as things like salmon that spawn upstream, as opposed to eels that live upstream and go to the ocean to breed. So it's trying to do joint, as I understand it, and a stakeholder may have to -- I'm not an expert, but that's I think the layman's explanation.

Director Robert Scott: "Dianadromous" (laughing).

Ms. Joanne Morin: Diana ..., yeah. Which would include both the eels and the salmon; in other words, both the eels that need to come down and the salmon that need to come up to spawn.

Director Robert Scott: So the language now allows free flow of fish going both ways, basically.

Ms. Joanne Morin: Both ways. So we believe these to be the most -- you know, that's a lot of investment for a small dam, and those to warrant an economic incentive.

Senator Martha Fuller Clark, D. 24: Yes, follow-up.

Senator Bob Odell, D. 8: How do we get to the five megawatts, we're talking about hydro; who's included or who's not included?

Ms. Joanne Morin: We looked at that, it includes a large -- I don't have the percentage off the top of my head; we did look at New Hampshire's facilities, we believe it includes a large percentage, you know, greater than three-quarters of the facilities in New Hampshire. There are some large facilities in New Hampshire that would not be included. And we also feel there is relatively smaller competition from the other states at that level, so that's one consideration. Kind of a little bit of a favoring New Hampshire facilities.

Is it a scientific number, five versus six or seven? No. I can't say that it is. A little bit more of a level of magnitude in terms of being a very small number that everyone was comfortable with that tried to bring in as many small hydro projects in New Hampshire.

Director Robert Scott: And, again, as I mentioned, we were trying to tailor this as much as possible to New Hampshire; that overall we're worried about -- there's a concern that perhaps Quebec Hydro plants could just -- we'd basically be sending all our money to Quebec, and we didn't think that was such a good idea, so we were setting a limit, basically.

Senator Bob Odell, D. 8: Thank you. Thank you, Madam Chair.

(Please see above-referenced NH Department of Environmental Services packet attached hereto as Attachment #2.)

I will be very brief. We are in support of the bill as it currently stands. National Grid does support Renewable Portfolio Standard policies. The committee (sic) feels that it's a very important additional tool to add to other tools that customers have, namely, energy efficiency programs which the company has been very committed to, is very committed to working with customers to help them manage their energy bills and mitigate price volatility.

There are two aspects of the bill that are of particular importance to the company that we're supportive of the way it's currently drafted. One has to do with reference to the default service charge and recovering compliance costs with the RPS through that charge. I think the company, and other stakeholders, agreed and recognized that compliance costs are a supply-related cost. And for National Grid, who's out of the generation business and purchases all of its electricity needs on the competitive market, it recovers prudently incurred costs through that default service charge, and so this legislation recognizes that RPS compliance costs should also be recovered there.

And then the other provision that's of importance to National Grid, and we support the way it's currently drafted, is the long-term contracting language, or the multi-year contracting language which is written as being voluntary, and the company supports that. It gives companies, the customers and other stakeholders flexibility in not mandating anything that could potentially have unintended consequences.

Senator Martha Fuller Clark, D. 24: Thank you very much.

Ms. Heidi Kroll: So with that, I will wrap it up.

(Please see written testimony of National Grid hereto attached as Attachment #13.)

Senator Martha Fuller Clark, D. 24: Questions for Ms. Kroll? Thank you. Jonathan Winer. Granite State Hydro Association.

Mr. Jonathan Winer, Granite State Hydropower Association: Thank you, Madam Chair. My name is Jonathan Winer, on behalf of the --

Senator Martha Fuller Clark, D. 24: "Winer," I'm sorry.

Mr. Jonathan Winer: That's fine -- Granite State Hydropower Association. Very briefly, in light of the clock, we support the bill as drafted. What we ask

is that the discussion that was, I think Senator Odell prompted earlier with regard to types of fish passageways that qualify, we address that in our written comments, request that somehow, if you agree, become part of legislative record, to show the types of fish passageways.

As you might expect, the industry has very diverse situations and nuances, and the legislation as we worked on it with the House committee, attempts to reflect that, and we believe the language is clear, but we think some additional demarcation by the Senate would be useful.

Senator Martha Fuller Clark, D. 24: Thank you very much. Any questions? Yes.

Senator Bob Odell, D. 8: Thank you. I have a constituent who uses the term, "substandard fish facilities" merely to become eligible for the RPS benefit? Are we -- are the five megawatt, the low people, basically okay in this legislation?

Mr. Jonathan Winer: Yes, I think that point you're making is the point I was trying to address, quickly, which was that there are various types of fish passageways, and if the comments that we offered in writing are agreeable to the Committee, then if those are adopted as the intent, I think the issue of "substandard" will go away.

Senator Bob Odell, D. 8: Okay. Thank you.

Mr. Jonathan Winer: That's our concern as well. Thank you very much.

(Please see Granite State Hydropower Association letter of testimony attached hereto as Attachment #14.)

Senator Martha Fuller Clark, D. 24: Thank you very much. I'd like to call upon Maura Weston.

Ms. Maura Weston, Ridgewood Power Management: Good afternoon, Madam Chair and members of the Committee. I will try to be as brief as possible, and I'll follow up with written testimony for the Committee members. My name is Maura Weston. I'm here today on behalf of Ridgewood Power Management. Bill Short from Ridgewood intended to be today, but was called away for a family emergency, so I'm going to be delivering these remarks.

Ridgewood owns, operates, manages and develops renewable electricity-generating facilities, including biomass, landfill gas and hydroelectric

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April 17, 2007

Senator Martha Fuller Clark, Chairwoman
Senator Margaret W. Hassan, Vice Chairwoman
Senate Energy, Environment and Economic Development Committee
State House
107 North Main Street
Concord, NH 03301

Re: HB 873-FN – Electric Renewable Portfolio Standard

Dear Chairwoman Fuller Clark, Vice Chairwoman Hassan, and Members of the Committee:

On behalf of The Granite State Hydropower Association ("GSHA"), thank you for the opportunity to comment in support of HB 873, the Electric Renewable Portfolio Standard ("RPS") legislation that you are now considering. As you may recall, GSHA is a non-profit trade association that represents approximately 45 New Hampshire hydroelectric facilities which have a total installed capacity of approximately 50 MW.

GSHA supports the legislation in its present form. Below, we highlight a topic concerning existing hydroelectric facilities on which we request that the Committee confirm the legislative intent; we also offer a brief explanation of the importance of this legislation to our members.

Intent of Class IV Language (362-F:4)

The Committee will note that there are a number of requirements for a hydroelectric project to meet in order to be classified within Class IV in HB 873. These are that:

- (i) "the source began operation prior to January 1, 2006";
- (ii) the "gross nameplate capacity" of the project is "5 MWs or less";
- (iii) the project "has installed upstream and downstream dianadromous [sic] fish passages that have been required and approved under the terms of its license or exemption from the Federal Energy Regulatory Commission"; and
- (iv) the project "when required, has documented applicable state water quality

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certification pursuant to section 401 of the Clean Water Act."

GSHA thinks that requirements (i), (ii) and (iv) are clear and straightforward. However, requirement (iii) warrants two comments on changes made during the concluding meetings of the House Science, Technology and Energy Committee concerning this proposed legislation.

First, the word "diadromous" is misspelled and should be changed. This was a technical drafting error.

Second, the future administration of the RPS will benefit to the extent the legislative intent of requirement (iii) is clear.

The goal of limiting eligibility to hydroelectric projects with both upstream and downstream fish passages is to recognize that projects with such facilities have gone to great capital expense and incur meaningful operating costs by virtue of supporting the migration of fish. Importantly, stakeholder discussions regarding the significant capital and operating costs of certain fish passages focused on fish passages designed to facilitate the upstream migration of salmon, shad, herring, and other "anadromous" fish.

In the course of its review, GSHA learned that some small projects in New York State have upstream and downstream fish passages designed solely for eels. Although the eel passages at those projects are relatively inexpensive to install and operate, the projects would have qualified under the Class IV definition, as originally drafted. To correct the problem, at GSHA's request, the House Committee changed the referenced definition concerning fish passages to read: ". . . has installed upstream and downstream diadromous fish passages that have been required" By adding the word "diadromous," the projects that will potentially benefit from Class IV eligibility will be as the stakeholders and the Bill's sponsors intended, i.e. those that went to the substantial expense of installing at least anadromous fish passages.

In summary, it is GSHA's understanding that the Legislature intends the Class IV definition in HB 873 to apply to any hydroelectric project which has been required to and has provided, at a minimum, upstream and downstream anadromous fish passages, and, in the event that catadromous fish passages also happen to be required by the regulatory agencies, then the project must also have upstream and downstream catadromous fish passages. Conversely, if a project has fish passages only for catadromous fish but not for anadromous fish, then the project will not qualify.

Importance of Legislation

GSHA owners and operators face a challenging scenario. On the one hand, there is growing public policy recognition of the value of emission-free, indigenous energy resources that can be priced in a stable manner. On the other hand, increasing numbers of GSHA projects are no longer covered by firm contracts and face the volatile wholesale electric energy market. In addition, most of the GSHA projects are approximately 20 years old and are incurring increased maintenance costs. Some projects face costly required upgrades for fishway and other improvements.

These issues are present even though hydroelectric projects have no fuel cost. This is because the absence of fuel costs is more than offset by hydro project capital costs and increasing unit maintenance costs. Further, the proper operation of small hydro projects can be labor intensive per unit of output. This combination of factors produces marginal economics at some sites. Thus, the inclusion of certain existing hydroelectric facilities in proposed RPS Class IV is important financially and sends a meaningful signal to owners of eligible facilities which can make a contribution to the policy goals of the RPS legislation.

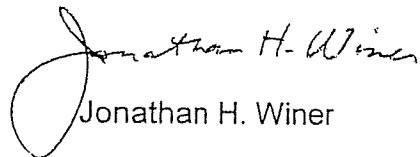
Conclusion

Once again, GSHA supports the proposed legislation, appreciates the opportunity to provide these comments, and would be pleased to respond to any questions or provide further information if needed.

Thank you again for your continuing efforts regarding RPS legislation.

Sincerely,

GRANITE STATE
HYDROPOWER ASSOCIATION



Jonathan H. Winer

Copies:

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