

## **APPENDIX 13: COMPARISON OF PUBLIC HEARING/INFORMATION SESSIONS – CT, MA, NH, RI, VT**

The siting bodies typically hold public information sessions or public hearings and also evidentiary hearings. Members of the public are always granted some public forum in which information is shared and comments can be made about the proposed project. There is also an evidentiary hearing, where only the parties can participate. The statutes generally require at least one session of a public hearing to be held in the local area where the project is proposed to be sited. New Hampshire's structure favors public hearings and requires an applicant to hold a pre-application public information session as well as a post application public hearing. In New Hampshire, the statutes specifically require that at the initial public information session, the presiding officer explain to the public the process the committee will use to review the application for the proposed facility and the final order must contain a summary of the issues raised during the public hearing. The Vermont Department of Public Utilities also incorporates issues raised in public comments in its decision, if a public hearing is held. In contrast, in Connecticut, the municipality decides if a pre-application public hearing should be held and there is one public hearing that takes place after the evidentiary hearing.

### **Connecticut - for Application/Certificate**

In Connecticut, the first public hearings and meetings may be initiated by a municipality after receiving initial notice of a project before the application is filed. "The municipality may conduct public hearings and meetings as it deems necessary for it to advise the applicant of its recommendations concerning the proposed facility."<sup>117</sup>

The CSC then sets up at least one public hearing and can take notice of any facts found at the hearing. Before conducting the hearing, the CSC must consult with and solicit comments from certain state agencies. Copies of such comments shall be made available to all parties prior to the commencement of the hearing (See Appendix 4 which further describes the CT hearing process).<sup>118</sup>

### **Massachusetts**

For a petition to construct a "facility" (non-generating), a public hearing, which is also an adjudicatory proceeding, is held by the board within six months of the application. Additionally, a public hearing must be held in each locality in which a facility is to be located. The authority of the board to conduct public hearings for a "non-generating" facility or oil facility may be delegated in whole or in part to the employees of the department. Pursuant to the rules of the board, such employees shall report back to the board with recommended decisions for final action thereon.

For the construction of "generating" facilities, within 60 days of the filing of a petition to construct a generating facility, the board shall conduct a public hearing in each locality in which the generating facility would be located. In addition, the board shall, within 180 days of the filing thereof, conduct

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<sup>117</sup> [CGS Sec. 16-50l \(f\)](#) amended by [P.A. 24-144](#).

<sup>118</sup> *Id.* at [Sec. 16-50m](#) and [Sec. 16-50j \(i\)](#) amended by [P.A. 24-144](#).

public evidentiary hearings on every petition to construct a generating facility. Such evidentiary hearings shall be adjudicatory proceedings.

The public hearings, held in the evening, provide those who attend with an opportunity to learn about the proposed project and its potential environmental impacts. It also allows staff to learn about the public's concerns. At the public hearing, the applicant presents an overview of the proposed facility. Public officials and the public then have an opportunity to ask questions and make comments about the proposal. The public hearing is recorded by a court reporter. Written comments are also welcome and given equal weight to in-person comments.<sup>119</sup>

## **New Hampshire**

The public information sessions begin in New Hampshire before the application is filed. Notice of this public hearing is published in the newspaper and sent by first class mail to the governing body of each affected municipality.

Thereafter, once the application is complete, within 45 days, the applicant, after public notice, must hold at least one public information session in each county in which the proposed facility is located to present information about the facility and provide an opportunity for questions or comments. Notice must be given by newspaper and also by certified mail to each affected community. Notice must also be given to the presiding officer of the Site Evaluation Committee. The administrator or designee of the presiding officer of the committee acts as the presiding officer at the public information session. This session is for public information on the proposed facility with the applicant presenting the information to the public. The presiding officer also explains to the public the process the committee will use to review the application for the proposed facility.

Further, upon request of the municipality in which the proposed energy facility is to be located or on the committee's own motion, the committee may order the applicant to provide additional public information sessions.

In addition to the public information sessions, the Site Evaluation Committee, within 90 days after the acceptance of an application for a Certificate, must hold at least one public hearing in each county in which the proposed facility is to be located. The applicant provides notice of the hearing and prepares a transcript which is later published on the committee's website.

Generally, except for state agencies and programs that are required by state or federal law or regulation to comply with program specific public notice and public hearing requirements or for those agencies that do not have the authority to hold hearings, the public hearing can also be a joint hearing with representatives of any agencies that have permitting or other regulatory authority over the subject matter and is in lieu of and deemed to satisfy all initial requirements for public hearings under the statutes requiring permits relative to environmental impact applicable to the proposed facility.

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<sup>119</sup> [M.G.L.A. 164 Sec. 69J](#), [M.G.L.A. 164 Sec. J1/4](#), and [EFSB and DPU Siting Process | Mass.gov](#).

Members of the public who have an interest in the subject matter are provided with an opportunity to state their positions or to have someone read their statement into the record.

The Committee is also required to have an adjudicative proceeding regarding an application. Subsequent public hearings are considered to be such adjudicative proceedings and are held in the county or one of the counties in which the proposed facility is to be located or in Concord, N.H., as determined by the committee.

The committee also provides an opportunity at one or more public hearings for comments from the governing body of each affected municipality and residents of each affected municipality.<sup>120</sup>

## **Rhode Island**

In Rhode Island, the statutes specifically state that public input is part of the decision-making process.<sup>121</sup> Upon receipt of the application, the board notifies the towns and cities affected by the proposed facility and will hold a preliminary hearing on the matter. This preliminary hearing is convened between 45 to 60 days after docketing. The purpose of this hearing is to determine the issues to be considered by the board in evaluating the application, and to designate those agencies of state government and of political subdivisions of the state which shall act at the direction of the board for the purpose of rendering advisory opinions on these issues, and to determine petitions for intervention.<sup>122</sup>

The Board then conducts public comment hearings- typically after the preliminary hearing but before the final hearing and final action. The board is required to hold at least one hearing in each affected location prior to the other board hearings and final decision. If the subject of the application is a facility for the generation of electricity, or new facilities for the transmission of electricity, the town or city where the proposed facility would be located may request funding from the applicant to perform studies of the local environmental effects of the proposed facility.<sup>123</sup>

Within forty-five days after the state agencies have issued their advisory opinions, the public is also invited to a final hearing prior to the final decision of the Board. The purpose of this hearing is not to rehear the evidence which was presented previously in hearings before those agencies which rendered advisory opinions, but rather, to provide the applicant, intervenors, the public, and all other parties in the proceeding, the opportunity to address in a single forum, and from a consolidated, statewide prospective, the issues reviewed, and the recommendations made in the proceedings before those state agencies. The board at this hearing may, at its discretion, allow the presentation of new evidence by any party as to the issues considered by the agencies. The board may limit the presentation of repetitive or cumulative evidence. The hearing shall proceed on not

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<sup>120</sup> [N.H. Rev. Stat. Sec. 162-H:10](#) and [Statutes / Rules / Procedures | NH Site Evaluation Committee \(nh.gov\)](#).

<sup>121</sup> [R.I. Gen. Laws Ann. Sec. 42-98-9.1\(e\)](#).

<sup>122</sup> [R.I. Gen. Laws Ann. Sec. 42-98-9\(a\)](#).

<sup>123</sup> [R.I. Gen. Laws Ann. Sec. 42-98-9.1\(a\) and \(b\)](#).

less than thirty (30) days' notice to the parties and the public, shall be concluded not more than sixty (60) days following its initiation, and shall be conducted expeditiously. The final decision is issued within 60 days of concluding the final hearing.<sup>124</sup>

The siting board is authorized and empowered to summon and examine witnesses and to compel the production and examination of papers, books, accounts, documents, records, certificates, and other legal evidence that may be necessary for the determination of its jurisdiction and decision of any question before, or the discharge of any duty required by law of, the board.<sup>125</sup>

## **Vermont**

With respect to a facility located in Vermont, in response to a request from one or more members of the public or a party or on its own initiative, the Public Utility Commission will hold a non-evidentiary public hearing on a petition for such finding and certificate which is either remotely accessible or held in at least one county in which any portion of the construction of the facility is proposed to be located, or both. From the comments made at a public hearing, the Commission determines areas of inquiry that are relevant to the findings to be made and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Commission shall direct the parties to provide evidence on the area. This subdivision does not require the Commission to respond to each individual comment.

The Public Utility Commission also holds evidentiary hearings at locations that it selects in any case in which contested issues remain or when any party to a case requests that an evidentiary hearing be held. In the event a case is fully resolved, and no party requests a hearing, the Commission may exercise its discretion and determine that an evidentiary hearing is not necessary to protect the interests of the parties or the public, or for the Commission to reach its decision on the matter.<sup>126</sup>

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<sup>124</sup> [R.I. Gen. Laws Ann. Sec. 42-98-11 \(a\)](#) and [R.I. Gen. Laws Ann. Sec. 42-98-11 \(c\)](#).

<sup>125</sup> [R.I. Gen. Laws Ann. Sec. 42-98-7 \(b\)](#).

<sup>126</sup> [30 V.S.A. Sec. 248\(a\)\(4\)\(A\) – \(B\)](#).