IBERDROLA RENEWABLES

MEMORANDUM

TO: NH OEP
FROM: Ed Cherian, Iberdrola Renewables, LLC
DATE: 29 April 2014
SUBJ: SB 99 SEC Rule-Making Process: Aesthetics

We offer the following comments on the draft dated April 24, 2014 proposing new criteria for aesthetics.

As a general comment, we are very concerned with the make-up of the "sub-group". The group leaders and the draft appear geared towards creating new criteria that are not supported by SEC precedent or established standards. More particularly, we see attempts to create new standards that no project can meet and no existing project could have met.

The goal of the group should be to identify existing regulatory precedents and standards so as to better codify them for the SEC, rather than attempting to create new standards.

Specific Comments:

- Definitions
    1. "Cumulative Impact"
        i. Should be "Cumulative Effects".
        ii. The definition as written assumes that any and all cumulative effects are adverse. A cumulative effect may be beneficial, adverse, or benign.
        iii. The citation of NEPA definitions is inappropriate. NEPA is a statute that applies to Federal projects, not private projects.
        iv. It is not possible nor reasonable to require that "proposed developments" be evaluated, at least not under the draft definition
    2. "Proposed Development". The draft definition is so broad that an application for a met tower would comprise a "proposed development". Recommend that "proposed development" be defined as a formally proposed project with an accepted SEC application.
    3. "Scenic Viewpoint". Under the extremely broad draft definition virtually the entire state would be considered a scenic viewpoint. The definition should be based on established standards rather than attempting to create new criteria. A reasonable definition of a "Scenic Viewpoint" is a *location that is on accessible public land (such as in a state or Federal park) that is accessed*

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*primarily for its scenic qualities.*

4. "Significant Visual Impact". The proposed definition attempts to impose a subjective interpretation as criteria. The established precedent has been a comprehensive VIA that includes ratings from registered landscape architects. Visual effects evaluations standards have been promulgated by the US Department of Transportation, Federal Highway Administration (1981); the US Department of the Interior, Bureau of Land Management (1980); US Department of Agriculture, National Forest Service (1974); and have been in use for decades. These standards for evaluating visual effects have been applied and accepted in previous SEC dockets and we recommend that they be adopted formally. These standards recognize that visual effects are by nature subjective and based on the viewer's own opinions and feelings. The ratings criteria that have been regularly used in VIA analyses employ these standards to evaluate an existing viewshed, the range of potential viewers' expectations of the viewshed, and the relative effect of a new development on that viewshed.

Application Requirements

2. The proposed requirement has no basis in regulation or precedent. We agree with the comments submitted by Mr. Needleman that this entire section is not needed. It has been a de facto requirement to produce and submit a VIA as part of an SEC application, and we support formalizing that requirement. However the draft attempts to redefine the contents of a VIA and add a number of new elements that are not traditionally part of VIAs. The SEC has reviewed and evaluated VIAs for a number of projects. We are not aware that the SEC, in any application, has determined that a VIA was inadequate. As Mr. Needleman points out, the issue has been one of interpretation of effects – the conclusions of the VIA.
    i. Many of the proposed additional requirements for a VIA are new and have not been part of a VIA report in the past. There is no justification or citation for any of these proposed new requirements. Numbers 5 through 12 all seek to add substantial new elements to a VIA that have never been part of the analysis in the past.
    ii. One can look to past SEC applications to clearly determine what the expected contents of a VIA should be, and apply the evaluation standards and methodologies developed by Federal agencies, as referenced above.
    iii. Given the substantial number of purported "simulations" provided by non-experts, the VIA requirements should include a clear definition of the acceptable methodology for simulations, and direct that all other alleged simulations not be considered legitimate by the SEC.

Siting Criteria

- #1(a) is unworkable and entirely inconsistent with RSA 162:H
- #1(b) is overly broad and unnecessary as the statute already requires the SEC to find that a proposal does not have an "unreasonable adverse effect"

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- #2 seeks to impose a new requirement that has been sought by certain groups, yet the SEC has never found required FAA lighting to constitute an unreasonable adverse effect.
- #3 seeks to impose new requirements far beyond what the SEC has considered necessary in the past. The draft requirement also does not recognize established electrical, safety, and utility standards that projects have to meet.

Thank you for your consideration of these comments.

Yours Sincerely,

Edward Cherian

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