Bill as Introduced

HB 536 – AS INTRODUCED

1999 SESSION

99-0784
09/01

HOUSE BILL ***536***

AN ACT authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power.

SPONSORS: Rep. Bradley, Carr 8; Rep. Thomas, Belk 3; Sen. Below, Dist 5; Sen. F. King, Dist 1; Sen. Hollingworth, Dist 23

COMMITTEE: Municipal and County Government

ANALYSIS

This bill authorizes municipalities to exempt from the local property tax any portion of personal property employed in the generation and production of electric power that would otherwise be subject to taxation.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 536 – AS INTRODUCED

99-0784
09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power.

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

1 Purpose. In order to further the state's policy of promoting the development of a competitive electric supply market in New Hampshire and to give municipalities the ability to attract new electric generation facilities and retain existing generation facilities that have become subject to the economic pressures of a deregulated market, the general court believes that it is desirable to give municipalities the authority to exempt from taxation certain personal property that is used in the manufacture of electricity.

2 Personal Property Used in Manufacture of Electricity; Exemption from Property Tax Authorized. Amend RSA 72:8 to read as follows:

72:8 Electric Plants and Pipe Lines.

I. All structures, machinery, dynamos, apparatus, poles, wires, fixtures of all kinds and descriptions, and pipe lines employed in the generation, production, supply, distribution, transmission, or transportation of electric power or natural gas, crude petroleum and refined petroleum products or combinations thereof, shall be taxed as real estate in the town in which said property or any part of it is situated; provided that no electric power fixtures which would otherwise be taxed under this section shall be taxed under this section if they are employed solely as an emergency source of electric power.

II. A municipality may exempt from taxation under this section any portion of the personal property employed in the generation and production of electric power that would otherwise be subject to taxation under paragraph I. If a municipality exempts any such property from taxation, the exemption shall apply to all owners of such property within the municipality.

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

Committee Minutes

Notes:

Amendment by McCorkle # 1999-0507 h
adopted 4/27/99 by committee

Asked for: by Committee
Another amendment(s) by Bradley
to:

(1) Reflect legislative body vote, specify terms
and ~~conditions of exemptions~~, duration of exemptions, compensation
in lieu of taxes, let people know value of exemptions and
(2) length of time of contract (20 yrs.?)

Kim

No action needed
at this time
4/11/00

This bill may become moot
perhaps due to political climate change
in Londonderry -

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # 536 Date 3-11-99

Committee M&C Gov't.

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
ROBERT UPTON	Concord	224-7791	Bow, Newington		X
Timothy Fortier	Concord	224-5388	BIA	X	
Sen. Hollingworth	SH Room 120	271-3073	Dist. 23	✓	
KENNETH J BARTON	LONDONDERRY	437-1941			X
SUSAN A Barton	Londonderry	437-1941			X
LISA Evarts	Londonderry	437-8455			X
Roland Gousreault	Londonderry	432-4418			X
Rosemary Sautter	5 Castle Court	Londonderry NH 432-8194			X
Richard Bielinski	89 Hall Rd	Londonderry 432-0819	Log		X
Rep. Giovanni Verani	80 Peckham Rd,	Londonderry 434-2377			✓
Blette Gabbidon	7 Woodside	Drive 437-6185			X
Mary McCarthy	90 Litchfield Rd.	Londonderry 434-1084			X
Patrick Sautter	5 castle court	Londonderry 432-8194			Y
Bridget Sautter	5 castle court	Londonderry 432-8194			Y

Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 536

BILL TITLE: authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power.

DATE: March 11, 1999

LOB ROOM: 301 **Time Public Hearing Called to Order:** 10:00

Time Adjourned: 12:47

(please circle if present)

Committee Members: Reps. Hess, Patten, Golden, P. Cote, Rice, Brundige, Sabella, Griffin, Leone, Noyes, Hagen, Akins, Lovejoy, Lockwood, Foster, Fraser, McGuirk, Salatiello, St. Cyr, Sarette, Simon and Zerba.

Bill Sponsors: Rep. Bradley, Carr 8; Rep. Thomas, Belk 3; Sen. Below, Dist 5; Sen. F. King, Dist 1; Sen. Hollingworth, Dist 23

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

The intent of this bill is to allow municipalities to exempt property tax for certain equipment used in the generation and production of electric power.

Rep. Bradley testified that he sponsored the bill at the request of AES for a public policy and not necessarily for a yes or no.

The personal properties are equipment and generator as opposed to real property like buildings and land.

Because of high costs of electricity in NH, the state has tried to promote (ch. 374-f) competition. In order for competition to work, there has to be sources of generation from which to choose. Combined plants offer that choice (other than PSNH). Attracting this type of plant in NH creates a chance to abate electricity costs. It also promotes construction and maintenance jobs. It also gives the state a better property tax base. It also provides a new generation of plants to replace the old ones.

In reference to Londonderry, 2400 people voted against this in their community and it failed. However, as far as the state is concerned, it feels it should have a policy in place to build them.

Rep. Bradley claims it is in the public's interest to promote these plants.

Rep. Hess wanted to know if, when the bill says the municipality should exempt, does that mean the governing body or legislative body of a town. Rep. Bradley said he understood it as the governing body but would be open to an amendment.

Rep. Hess asked if he sees a problem with just and proportionate taxation? Rep Bradley said towns that have plants appear to handle them fairly.

* Rep. Hess gave us a list of proposed projects in New England. Not all will be built.

Rep. Foster wanted to know what the policies are in other states re: power plants.

Rep. McGuirk wanted to know what possible sites are possible in this state. Rep. Bradley said they will probable be nearer transmission lines. He listed Londonderry, Bow and Newington as good locations. They are also near gas lines. In the future Seabrook could be a site.

Rep. Noyes wanted to know if we haven't created that local option so communities can decide and also set the taxation policy. This has been a state option but now a local option?

Rep. Bradley said he was looking at the big picture, trying to present a competitive atmosphere to bring down rates and at the same time, do it for clean energy. He reiterated that we need new forms of providing electricity to replace old.

Rep. Simon wanted to know if this bill needs a better definition of real property as personal property. Rep. Bradley said as far as he knows it does.

Rep. Thomas supports the bill because if contributes to economic development. He alluded to how a factory near his region (Lakes) left because of electricity costs. He also supports the idea of having local control.

Rep. McKinney testified against the bill. It boils down to "show me the money." She questioned whether AES would keep its promises (i.e. $5,000,000 per year in taxes). It is a bad policy to create a special case for these power plants. People or companies who come to Londonderry know the tax rate is $36-38/1000.

Another issue is that AES doesn't have a site plan review. AES hasn't even gotten permission as yet, but are already coming to the legislature for a tax break.

Rep. Hess wanted to know if Rep. McKinney would be favorable to have the legislative body decide. She was in favor of that aspect. She said Londonderry was dealing with a 900 lb. Gorilla.

Rep. Foster wanted to know if this was in a "slippery slope of exemption." Rep. McKinney said she has voted against a similar bill.

Rep. Sarette wanted to know if the AES request was setting a precedent. Rep. McKinney said yes.

Rep. Varoni registered against the bill.

Rep. Upton, Attorney representing Bow and Newington, testified against the bill saying it was setting a dangerous precedent. He also questioned the constitutionality of this bill, creating the chance that other residents have to share the costs. If this is passed, it will create "taxation blackmail" of the worst kind. Ex., "You make a deal with us or we'll leave." Taxes don't make or break these plants. If they do we don't want them. We shouldn't be the ones improving their profits. Once exemptions are given, you must give the same to PSNH and others.

There isn't enough gas in New England or NH to drive all the plants proposed. The idea of 20-30,000 megawatts is a major...

Payment in lieu of taxes is another issue. Massachusetts has a statute but they aren't talking about reduced taxes.

Another concern is the valuation of these plants. If we set conditions for towns to evaluate these plants differently, we could be in trouble.

Another issue is environmental;. An example would include noise pollution.

If this is going to be passed, include the legislative body. Don't let the governing body make deals behind the scenes. He hopes we do not pass this bill.

Richard Bielinski, Londonderry Neighborhood Groups, testified against the bill. He said the people who did vote for the AES project did it for the revenue. He wants the local legislative body to decide. He said it is too easy for companies to buy their way.

Rep. Zerba asked if it were to require that the legislative body decide, would the governor accept this bill? Mr. Bielinski said it would be better, but he doesn't approve of it anyhow.

Rep. Fraser wanted to know if the residents of Londonderry thought the town council was in collusion with the AES. Mr. Bielinski stated it was said by many that it was.

Charles Drinkwater is a citizen who has lived in Londonderry for 30 years. He was primarily concerned about competition and fairness. It adversely affects the existing plants, and it unfair.

Lisa Evarts of Londonderry testified in opposition. She was specifically concerned about the exemptions as we don't have a lieu of taxes policy. She thinks a power plant coming into many of our communities would create many problems on many fronts. She thinks its too different for a town

council to negotiate a tax. She urges the committee to not endorse this legislation. If you do, go to legislative body and not governing body.

* **Colette Gabbida** of Londonderry, President of Londonderry Neighborhood Assoc. testified against and provided information about the financial condition about AES Company. She thinks under the circumstances, we have given the company the power to do what they wish. This would open up Pandora's Box by having just a few people making the decision.

Roland Goudreault testified against and said in lieu of the situation, AES should pay more taxes. With the impact on the environment (ex. gas line going across 16 streams in 6.5 miles) they should pay more taxes. Why should they be tax exempt?

Ken Barton, Londonderry was against but didn't testify.

* **Allen Williams,** Brook Park Estates, Londonderry testified against AES is asking for special consideration with an advantage over other power providers, tax wise. There is a need for power generation facilities, but we need to be responsible in doing that. The local legislative body should have control if this is to go forward.

Twenty per cent of the money in electricity is generation, 80% distribution. Deregulation is going to help the big guys and not the little person.

James Monohan, representative of Cabletron and Enron Electric, supports the bill because it begins an energy policy for NH. He would like to see it sent to a sub-committee. I echo what Rep. Bradley has to say. It's important that we get new energy to sustain economic development. It is important that the committee be concerned about property tax programs. He suggests that the committee look at payment in lieu of taxes. He said his vision of AES is that it is a very good company.

Gregory Smith, Attorney for AES, testified in favor of the bill, saying much of the testimony today is imcomplete. He is keenly aware that this is a very complex issue. There is much good in what is proposed here.

We have a public policy in this state in reference to deregulation. We have a viable market for electricity generation and we need that market. There is now a "foot race" to reduce electric rates. The state adopted this to drive rates down. If these plants don't come, you won't get the benefits of reduced rates. It is in our interests to get some of these new plants.

He says the present system in place is more effective rather than having a town referendum decide every time. He is against enabling the legislative body to make the decision. Keep in mind electric generation plants have costs that other plants don't have. We need a state poling to. . .

The existing generating facilities are already depreciated. The new plants will keep or increase the revenue stream for the towns.

Southern NH is an importer of electricity and not an exporter. We need to produce cheaper energy. We need predictability for investors, i.e. Claremont reform, legislative policy, etc.

Rep. Hess wanted to know if it was correct that any portion of the personnel prop. Could be exempt. Mr. Smith said yes. He said the issue with the power companies is that their xxxment is taxed as real estate, which it is not in other industries. Buildings and land are not exempt.

Tim Fortier, Vice President of BIA testified in support. He claims the NH advantage reflects many aspects such as tax poling, electric rates, availability, labor, and infrastructure. If we have uncertainty in these areas, businesses won't come. NH is considered a very busy, friendly state. We'd like to keep it that way.

Rep. Noyes asked Mr. Fortier to elaborate on how the tax structure change has positively affected the business environment over the years. Mr. Fortier didn't have the facts but did know it certainly has helped the state to maintain a friendly climate.

Mr. Drinkwater stated that Londonderry has a rubbish problem, and the elderly didn't create the issue.

Respectfully Submitted,

Richard C. Leone

Richard C. Leone, Clerk

Testimony

McLane

McLane, Graf,
Raulerson &
Middleton

Professional Association

FIFTEEN NORTH MAIN STREET • CONCORD, NH 03301-4945
TELEPHONE (603) 226-0400 • FACSIMILE (603) 224-8180

GREGORY H. SMITH
Internet: gsmith@mclane.com

OFFICES IN:
MANCHESTER
CONCORD
PORTSMOUTH
NASHUA

March 22, 1999

The Honorable David W. Hess, Chairman
Municipal & County Government Committee
Lesiglative Office Building, Room 301
State Offices
Concord, NH 03301

Re: HB 536, relative to authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power

Dear David:

In accordance with our conversation this afternoon, I am sending you draft language of a severability clause. It seems to me it might be a good idea to insert this into this Bill. I would be glad to talk with you and anyone else on the Committee about it.

Yours sincerely,

Gregory H. Smith

GHS:sr
Attachment

Severability:
If any provision of this [section] or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or the application of such provision to other persons or circumstances, and to this end the provisions of this [section] are severable.

UPTON, SANDERS & SMITH
10 CENTRE STREET
P.O. BOX 1090
CONCORD, NEW HAMPSHIRE 03302-1090
TELEPHONE (603) 224-7791
FACSIMILE (603) 224-0320
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ROBERT UPTON, II
GARY B. RICHARDSON
JOHN F. TEAGUE
RUSSELL F. HILLIARD
JAMES F. RAYMOND
BARTON L. MAYER
CHARLES W. GRAU
BRIDGET C. FERNS
DAVID P. SLAWSKY
KIMBERLY KIRKLAND
LAUREN SIMON IRWIN

ROBERT W. UPTON
(1884-1972)
JOHN H. SANDERS
(1909-1987)
RICHARD F. UPTON
(1914-1996)
J. GILBERT UPTON
(1930-1998)

OF COUNSEL
FREDERIC K. UPTON

March 16, 1999

Hon. David W. Hess, Chair
Municipal and County Government Committee
Legislative Office Building
Concord, New Hampshire 03301

Re: House Bill 536

Dear Chairman Hess:

As requested, I am enclosing a Memorandum to your committee concerning the constitutional deficiencies of House Bill 536 and the ability of the legislative body a municipality to consider exemptions. I would appreciate it if you would distribute the Memorandum to your committee for its consideration.

Thank you for your courtesies extended in this regard.

Very truly yours,

Robert Upton II

RUII/jhb
Enclosures

March 13, 1999

Representative David Hess, Chairman
Municipal and County Government Committee
Legislative Office Building
Concord, NH

Dear Committee Members,

I am writing in opposition to House Bill 536 as sponsored by Representative Bradley. I am a resident of Londonderry and I attended the public hearing on March 11 and spoke to the committee at that time. It was a challenge to avoid specific references to AES and to avoid repeating others' comments. After AES's Attorney Greg Smith spoke, however, I was able to crystallize my thoughts on this proposed legislation. I hope you will consider the following points as you examine this Bill.

Attorney Smith spoke of the unfairness of the current taxation of energy facilities. Few other businesses are taxed on personal property and he felt that was an impediment to attracting power plants to New Hampshire. The premise is that locating plants in NH will provide lower cost electricity and significant tax revenue. The solution AES has proposed to Rep. Bradley is to allow towns, specifically the governing bodies, to negotiate tax obligations with power companies. I believe there are several flaws in this proposal.

I have been in touch with ISO-New England, the organization formed to manage bulk power generation and transmission for members of the New England Power Pool (NEPOOL) of which NH is a member. They have stated that locating power plants specifically in NH does not mean that electricity in the state will be less costly to consumers. Power plants will sell to the "grid" on the wholesale market. Only when sold outside the NE zone will additional charges apply. NEPOOL is set up to both import and export power to New York. That brings into question the theory that 'excess' power produced by new plants coming on line will force older 'dirtier' New England plants out of business. On the contrary, it's likely that excess power can be sold to New York without retirement of the existing plants in New England.

If the committee feels that taxing equipment is an unfair burden for power companies, please consider the following points. Power companies currently proposing to site plants in New England claim that the alleged cheaper energy generated from these plants will be bought up quickly and completely. What other business is assured of selling all its product from day one? Perhaps the current tax structure is not as unfair as asserted.

If the committee decides that some energy generation equipment should be tax-exempt, that exemption should be applied on a statewide basis. It is crucial that the reduction in tax obligation be a known quantity when a power company chooses NH. HB 536's goal is to give towns bargaining power to attract power plants (read tax dollars) away from other communities. In

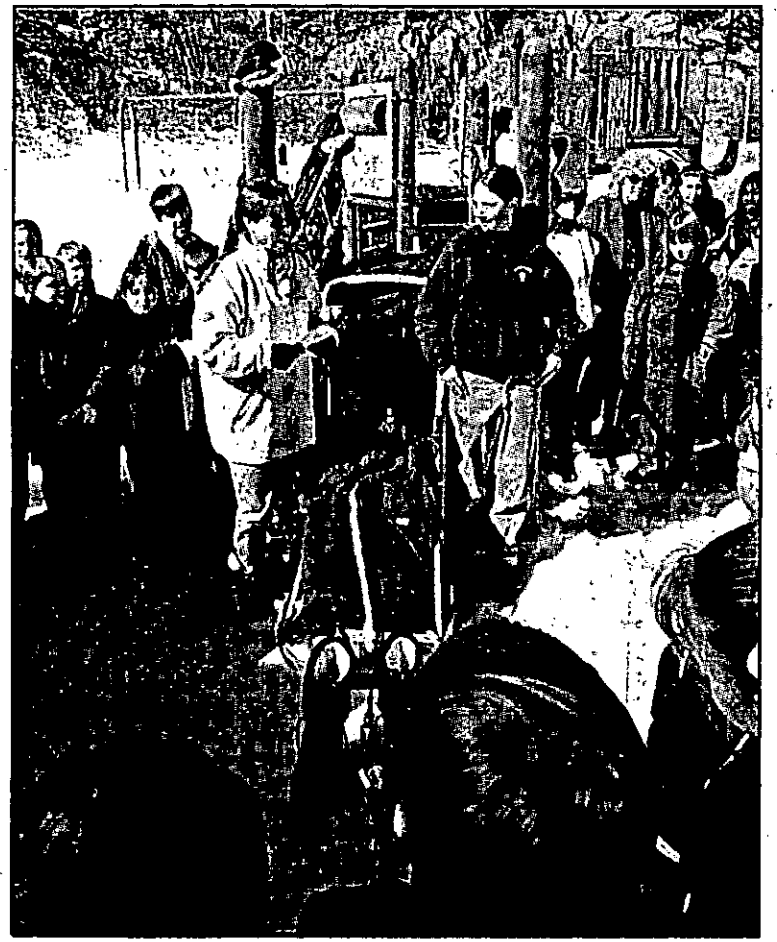
reality, what has happened here in Londonderry is that the power company came to town and told the town what its tax obligation would be and threatened to pull out unless its terms were agreed to. That puts the negotiating 'power' in the hands of multi-billion dollar corporations and puts NH towns at a severe disadvantage. The tax relief so keenly sought would be lost as towns would be forced to accept far less revenue to meet the power company's demands.

I hope the committee will consider the still unanswered questions regarding this proposed legislation and recommend that it needs further review. I appreciate the time you allowed citizens of Londonderry to voice their concerns about this Bill. Thank you for your attention to my additional comments.

Sincerely,

Lisa J. Evarts
Londonderry resident

...Northwest Elementary School got a treat yesterday when Joyce Matott and Emily Moquin of Sendaishi Kennels brought their Alaskan Malamute sled dog, Dottie, top photo, to the school. Students got to hug and pat the dog, and Matott showed students racing sleds, below. Northwest students are following the Iditarod Sled Dog race on the Internet at www.dogsled.com. New Hampshire native Judy White Currier is participating in the race.



and a renter's credit as they testified yesterday before the Senate Finance Committee.

Meanwhile, Gov. Jeanne Shaheen, whose own plan for solving the state's school funding crisis drew praise from two economists, told the committee she is ready to work with the Senate to replace objectionable components and ease the burden in communities where taxes will rise.

"None-of-the-above is not an option," Shaheen told the committee.

"It's fine for everybody to say what they don't like. But we have to find something that we . . . like enough to adopt it. That's the choice we all have," Shaheen said. "We've got to make a decision that we're going to solve this problem."

Senate income tax sponsors Clifton Below,

EDUCATION, Page A22



Bob LaPree/Union Leader

SENATE PRESIDENT Clesson Blaisdell, House Democratic Leader Peter Burling, and state Sen. Lou D'Allesandro listen to Gov. Shaheen.

Tax plans have Seacoast cringing

By JODY RECORD
Union Leader Correspondent

PORTSMOUTH — No matter which plan it is or how it's eventually packaged, any solution to the school funding crisis that includes a statewide property tax will impact real estate values on the Seacoast.

An income tax, many long-standing practitioners say, would be deadly.

That was the consensus of real estate agents polled yesterday regarding the effects of creating new taxes to resolve the dilemma caused by the Supreme Court decision that charged the state to come up with a more equitable way to pay for public education by April 1.

"Any form of tax, period, can only be negative.

SEACOAST, Page A2

Fear, doubt fueled anti-AES vote

By DAN J. SZCZESNY
Union Leader Correspondent

LONDONDERRY — One day after town voters rejected a proposed AES Corp. power plant in a non-binding referendum vote, interviews with several citizens painted a clearer picture of why voters said no.

Most of those who opposed the facility said they either did not believe an AES promise to contribute $5 million in tax revenue to town coffers, or they feared that having the plant in town would be detrimental to the health of residents. Those who supported the plant said they did so in the hope of lowering property taxes.

Voters opposed construction of the plant by more than 500 votes (2,468, yes; 3,039, no).

"I'm disappointed because I thought this would be a chance for some tax relief," said north London

AES, Page A22

...axpayers shell out $383 million a year for rescues

WASHINGTON (AP) — The federal government ...ends more than $383 million a year to rescue capsized ...aters, stranded hikers and injured campers but doesn't ...ek reimbursement — even from people whose own risk-...ing puts them in danger.

In Michigan, where at least 95 ice fishermen have been ...scued from lakes in one area alone this winter, lawmak-...s are considering charging for rescues of people who ...re reckless or ignored warnings.

"One of the last things we want is somebody who would not want a rescue because of the potential of having to pay for it, and therefore losing a life," said Coast Guard Cmdr. Mike Lopinsky.

Even relatively simple rescues can be costly.

In December, the Coast Guard and local agencies spent a total $85,000 to rescue 18 fishermen from an ice floe that broke off in Michigan's Lake St. Clair and was sinking in a snowstorm. The ...

ice was safe.

The same month, the Coast Guard spent $130,275 to rescue three balloonists who failed in their attempt to circle the world and ditched their craft off Oahu, Hawaii, on Christmas Day. The balloonists included Richard Branson, the British chairman of the Virgin records, soda and airlines empire, and U.S. millionaire Steve Fossett. After the rescue, Branson said he would pay if asked. But the ...

The Coast Guard spent $380 million of its $4 billion budget in 1997 on search-and-rescue operations, while the National Park Service spent $3.4 million the same year, the most recent figures available. The Air Force also helped with rescues but did not have figures immediately available.

The totals include rescues of people who became endangered by unforeseen circumstances as well as those who were taking risks.

Tim Grimes recalled.

The rescues of at least 95 fishermen in the one area of Michigan prompted state lawmakers to introduce legislation requiring those who put themselves in danger by ignoring warnings to pay rescue costs, or perform community service.

"Some of these people just defy the laws of consequence," said Democratic state Rep. William Call-

AES

(Continued From Page A1)

derry resident Jane Clarke. "Now the plant will probably go to another town."

But Ken Pastore, whose home sits only one-eighth of a mile from the proposed site, felt differently.

"I have two kids and I don't think the plant will be safe for the neighborhood," he said. "I hope the town council will take this vote under consideration."

The non-binding referendum results will be considered by the state Site Evaluation Committee, a multi-departmental committee that will ultimately decide the fate of the plant.

AES has proposed construction of the 720-megawatt power plant on industrially zoned land about one mile south of Manchester Airport.

But if the result of the referendum was not bad enough news for AES, several Londonderry state representatives, silent on the issue until now, have come out in opposition to the plant.

"The vote means to me that the majority of people in town do not want a plant in Londonderry and I have to go with the constituents," said Rep. Walter Mikowlski.

Several representatives, including Mikowlski, Giovanni Verani and Betsy McKinney, said that they will now actively oppose proposed legislation that would give town officials the option to exempt any portion of personal property employed in the generation and production of electric power.

The bill will be discussed during a public hearing today by the House Municipal and County Government Committee.

Verani said that he felt most of the committee was supportive of the proposed bill, but that he would oppose the legislation.

"I plan on being vigilant in the State House in opposing legislation like this that would put citizens at a disadvantage," he said.

Rep. Sherman Packard said that he will write a letter to the SEC "asking them to accept the vote of the people."

"People have made their intent known that they do not want a plant in town and I will support that decision," he said.

Some representatives also criticized town councilors, who announced their support for the plant last month. Three councilors said that they will not change their decision, despite the results of the referendum. One councilor — Mark Oswald — just won the seat Tuesday, but he supports the plant. Only councilor Andy Greco said he will reverse his decision.

McKinney said that Londonderry "consistently votes for quality of life over lower taxes."

"Londonderry has no smokestack industries and I don't think we need one," said McKinney. "If the council were truly representatives of the people they would consider this referendum, but they all went lock-step to support the plant. I don't understand why they thought it was such a great idea."

Several town officials say council members were pressured into throwing their support behind the plant out of fear that AES would find another location.

Critics of the plant, such as Martin Bove who ran unsuccessfully for town council, said that AES wanted council to announce its support for the plant on the same day as a pro-AES banquet held in Manchester — and that is what the council did.

Bove said that he received his information from a town government source involved in the negotiations, but some of the story was backed up by councilors Greco and Larry O'Neill.

After receiving the final independent reports on the plant, council decided, in closed session, to support the plant on Jan. 20. Greco, who won re-election Tuesday, said AES had requested that council announce its support for the plant as soon as the decision had been reached. But Greco said members decided to wait for a formal announcement until the next town council meeting, which would have taken place Feb. 1.

Greco said that he then took that weekend off and was surprised upon his return to discover that chairman Arthur Rugg had announced council's support at a press conference on Jan. 26, only 30 minutes before the AES banquet was to begin.

Rugg, who lost his re-election bid Tuesday, denied AES ever made any threat or ultimatum. He said the press conference was held in order to release the announcement of council's support as soon as possible.

O'Neill confirmed "AES was interested in a decision as soon as possible rather than us waiting for the next town council meeting."

"If council did not support the project, the viability of the project was put in serious risk," O'Neill said.

Despite pressure, though, O'Neill said that council was not swayed by AES.

"We looked at what was best for the town, not at what was best for AES," he said.

NAMING

(Continued From Page A1)

guiding the project.

He expects to meet with representatives of at least some of the new interested companies.

Meanwhile, survey work should begin on the proposed site tomorrow. Soil testing is set to start next week on the Staples site at Lake Avenue and Elm Street. That will help architects select an exact spot to build the arena, a decision expected in late

for an up front investment and a guarantee against operating deficits. Ashooh said that may not end up being the final deal, especially if the naming rights fetch more than earlier expected.

Citizens Bank was one of two companies named Tuesday.

"We did have one preliminary discussion (about

Proposed/Planned Interconnection

(and Long Term Firm Point To Point Transmission Service)

(In order of application for study execution of study agreement)

Please note that application dates have been adjusted as a result of recent FERC Order (Docket # EL 98-69-000). Additional changes are expected as application dates are reviewed.

Date of Completed application		Project Description					Applicant Information						Study Status
Preliminary - dates are under review	Projects	MW	Town	State	In-Service Date	Proposed Interconnection Pt	Company Name	Address	City	State	Zip	Phone	Fnsh	Study report available from: (Check OASIS of these companies for detail)
** 6/7/96	Millennium	400	Charlton	MA	June 2000	W 123 115 KV	US Generating Company	One Bowdoin Square	Boston	MA	02114	(617)720-7654	Y	New England Electric Power
** 11/8/96	EMI-Tiverton	265	Tiverton	RI	2000	Near Tiverton 115 KV	Energy Management Inc.	One Energy Rd.	North Dartmouth	MA	02747	(508)998-8515	Y	Eastern Utilities
** 2/13/97	Androscoggin Energy Center	157	Jay	ME	October-99	Jay Substation	SkyGen Energy LLC	650 Dundee Rd Suite 150	Northbrook	IL	60010	(847)559-9800	Y	Central Maine Power
4/10/97	EMI Dighton Power Project	185	Dighton	MA	May 1999	EUA system on the U8 115 kV transmission line	Energy Management Inc.	One Energy Rd	North Dartmouth	MA	02747	(508)998-8515	Y	Eastern Utilities
** 5/9/97	Brayton Pt	477	Somerset	MA	2001	Brayton PT Station	USGen New England	One Bowdoin Square	Boston	MA	02114-2910	(617)720-7654	Y	New England Electric Power
** 6/12/97	Rumford Power Associates	265	Rumford	ME	April 2000	Will replace the current Rumford Substation	Energy Management Inc.	One Energy Rd.	North Dartmouth	MA	02747	(508)998-8515	Y	Central Maine Power
** 6/25/97	Bridgeport Harbor Station	520	Bridgeport	CT	June 1999	Use existing Bridgeport Hbr Station & interconnecting to the Pequonnock Subs	Bridgeport Energy, LLC	601 Bridgeport Ave.	Shelton	CT	06484	(203)926-4447	Y	United Illuminating
** 7/15/97	ANP Bellingham Energy Project	580	Bellingham	MA	2000	Bellingham adjacent to NEP's 303,345 KV Row-Brayton PT. X W. Medway.	American National Power	65 Boston Post Road West Suite 300	Marlborough	MA	01752	(508)786-7200	Y	New England Electric Power
** 7/15/97	ANP Blackstone Energy Project	580	Blackstone	MA	2000	Blackstone site near Beco's 345 KV, 336 ROW Sherman RD X NEA tap	American National Power	65 Boston Post Road West Suite 300	Marlborough	MA	01752	(508)786-7200	Y	New England Electric Power
7/22/97	IDC Bellingham	1035	Bellingham	MA	2001/2002	Beco 345 kV line between West Medway and Sherman Rd Substations	Infrastructure Develop. Corp.	350 Lincoln Place Suite 111	Hingham	MA	02043	(781)749-9800		
7/24/97	Maine Independence	500	Veazie	ME	April 1 , 2000	Located at the Graham Station in Veazie , ME	Casco Bay Energy Co.	79 Federal St.	Brunswick	ME	04011	(207)729-8255		Draft Report from CMP
* 8/5/97	Wareham		Wareham	MA	February 2001	Adjacent to the Tremont Substation	Energy Management Inc.	One Energy Rd.	North Darmouth	MA	02747	(508)998-8515		
8/15/97	Berkshire Power	276	Agawam	MA	1999	1782, 115KV line South Agawam JCT	PDC Berkshire Power LLc	200 High St 5th Floor	Boston	MA	02110	(617)747-9100	Y	Northeast Utilities
8/22/97	Milford Power	540	Milford	CT	1st Quarter 2000	Adjacent to Devon Substation	PDC Power Development Co. LLC	200 High St.	Boston	MA	-02110	(617)443-1900		
8/22/97	Summit Power	276	Westfield	MA	1st Quarter 2001	1302, 115 KV line Between Buck pond 348 & Agawam 18C Subs	PDC Power Development Co. LLC	200 High St.	Boston	MA	02110	(617)443-1900		
9/30/97	Cabot Power	350	Everett	MA	June 2000	Mystic 345 KV	Cabot Power Corp.	75 State St.	Boston	MA	02109	(617)526-8490		
10/9/97	South Norwalk	175	South Norwalk	CT	January 1 2000	Norwalk 115 KV	GKO INC.	7630 Little River Turnpike Suite 306	Annandale	VA	22003	(703)941-0532		
10/24/97	ANP Gorham	850	Portland	ME	July 1,2000	S.Gorham 345 KV	American National Power	65 Boston Post Road West Suite 300	Marlborough	MA	01752	(508)786-7200		Draft Report from CMP
12/12/97	Lake Road Generating	810	Killingly	CT	June 2001	345 kV Between towers 9260-9265 on line 347 of NU	Lake Road Generating Co. L.P.	One Bowdoin Square	Boston	MA	02114	(617)720-7615		
12/12/97	SEI Newington	525	Newington	NH	February 2000	345 KV Newington Substation.	Southern Energy , Inc.	900 Ashwood Parkway - Suite 500	Atlanta	GA	30338	(770)379-6953		
1/13/98	Piscataqua Power	700	Newington	NH	January 1 2000	Newington Station 345 Kv	Tractebel Energy Marketing,Inc.	1177 West Loop South, suite 900	Houston	TX	77027	(713)552-2248		
1/13/98	Versailles Energy Center	240	Versailles	CT	2000	Tunnel 115 KV	SkyGen Energy LLC	650 Dundee Rd. Suite 150	Northbrook	IL	60062	(847)559-9800		
* 1/13/98	White Mountain Cogen.Center		Groveton	NH	2000	Lost Nation 115 kV	SkyGen Energy LLC	650 Dundee Rd suite 150	Northbrook	IL	60062	(847)559-9800		
1/14/98	Livermore Falls	40	Livermore	ME	December 1,2000	Livermore Falls 115 KV	SkyGen Energy LLC	650 Dundee Rd. Suite 150	Northbrook	IL	60062-2753	(847)559-9800		
* 1/20/98	Housatonic Power		Sherman	CT	January 1, 2001	Interconnection to be on the 345 kV between Pleasant Valley, NY and Ln Mtn	Tractebel Energy Marketing, Inc.	1177 West Loop South, suite 900	Houston	TX	77027	(713)552-2248		
2/11/98	AES Londonderry	742	Londeonderry	NH	July 2001	Scobie 345 KV	AES Enterprise Inc.	233 Needham St.	Newton	MA	02164	(617)454-1288		
2/11/98	Wallingford Power	550	Wallingford	CT	2000/2001	Adjacent to Wallingford Substation 115 KV	Wallingford Department of Util.	100 John St.	Wallingford	CT	06492	(203)265-1594		
2/18/98	Meriden Power	544	Meriden	CT	3rd Quarter 2001	One unit on the 362 line , 1 unit on the 348 line.	PDC Meriden Power Co..	200 High St.	Boston	MA	02110	(617)747-9100		
2/19/98	HQ-Surowiec	600	Pownal	ME	2002	Surowiec 345 KV or MEPCO	Central Maine Power	83 Edison Drive	Augusta	ME	04336	(207)626-9750		
2/25/98	Orrington Generation	700	Orrington	ME	Mid 2001	Connected to Orrington Maine 345 KV bus	Orrington Generation Partners	250 West Pratt St.	Baltimore	MD	21202	(410)783-3654		
* 2/27/98	Patriot Power		Taunton	MA	1st Quarter 2001	Bridgewater 345 KV Line	Duke Energy Power Services	400 S. Tryon St.	Charlotte	N.C.	28201-1007	(713)627-6551		
* 3/6/98	S&P Cogeneration		Lynn	MA	4th Quarter 2001	Lynn 115 KV	West Lynn Creamery	626 Lynn Way	Lynn	MA	01905	(617)599-1300		
3/13/98	AES Carpenter	700	Southington	CT	2001	Southington 345 KV	AES Enterprise Inc.	233 Needham St.	Newton	MA	02164	(617)454-1288		
3/18/98	Newington Energy Center	520	Newington	NH	1st Quarter 2001	Newington 345 KV	Duke Energy Power Services	400 S. Tryon St.	Charlotte	N.C.	28201-1007	(704)373-6622		

	12/12/97	Lake Road Generating	810	Killingly	CT	June 2001	345 kV Between towers 9260-9265 on line 347 of NU	Lake Road Generating Co. L.P.	One Bowdoin Square	Boston	MA	02114	(617)720-7615
	12/12/97	SEI Newington	525	Newington	NH	February 2000	345 KV Newington Substation.	Southern Energy , Inc.	900 Ashwood Parkway - Suite 500	Atlanta	GA	30338	(770)379-6953
	1/13/98	Piscataqua Power	700	Newington	NH	January 1 2000	Newington Station 345 Kv	Tractebel Energy Marketing,Inc.	1177 West Loop South, suite 900	Houston	TX	77027	(713)552-2248
	1/13/98	Versaille Energy Center	240	Versaille	CT	2000	Tunnel 115 KV	SkyGen Energy LLC	650 Dundee Rd. Suite 150	Northbrook	IL	60062	(847)559-9800
*	1/13/98	White Mountain Cogen.Center		Groveton	NH	2000	Lost Nation 115 kV	SkyGen Energy LLC	650 Dundee Rd suite 150	Northbrook	IL	60062	(847)559-9800
	1/14/98	Livermore Falls	40	Livermore	ME	December 1,2000	Livermore Falls 115 KV	SkyGen Energy LLC	650 Dundee Rd. Suite 150	Northbrook	IL	60062-2753	(847)559-9800
*	1/20/98	Housatonic Power		Sherman	CT	January 1, 2001	Interconnection to be on the 345 kV between Pleasant Valley, NY and Ln Mtn	Tractebel Energy Marketing, Inc.	1177 West Loop South, suite 900	Houston	TX	77027	(713)552-2248
	2/11/98	AES Londonderry	742	Londeonderry	NH	July 2001	Scobie 345 KV	AES Enterprise Inc.	233 Needham St.	Newton	MA	02164	(617)454-1288
	2/11/98	Wallingford Power	550	Wallingford	CT	2000/2001	Adjacent to Wallingford Substation 115 KV	Wallingford Department of Util.	100 John St.	Wallingford	CT	06492	(203)265-1594
	2/16/98	Meriden Power	544	Meriden	CT	3rd Quarter 2001	One unit on the 362 line , 1 unit on the 348 line.	PDC Meriden Power Co..	200 High St.	Boston	MA	02110	(617)747-9100
	2/19/98	HQ-Surowiec	600	Pownal	ME	2002	Surowiec 345 KV or MEPCO	Central Maine Power	83 Edison Drive	Augusta	ME	04336	(207)626-9750
	2/25/98	Orrington Generation	700	Orrington	ME	Mid 2001	Connected to Orrington Maine 345 KV bus	Orrington Generation Partners	250 West Pratt St.	Baltimore	MD	21202	(410)783-3654
*	2/27/98	Patriot Power		Taunton	MA	1st Quarter 2001	Bridgewater 345 KV Line	Duke Energy Power Services	400 S. Tryon St.	Charlotte	N.C.	28201-1007	(713)627-6551
*	3/6/98	S&P Cogeneration		Lynn	MA	4th Quarter 2001	Lynn 115 KV	West Lynn Creamery	626 Lynn Way	Lynn	MA	01905	(617)599-1300
	3/13/98	AES Carpenter	700	Southington	CT	2001	Southington 345 KV	AES Enterprise Inc.	233 Needham St.	Newton	MA	02164	(617)454-1288
	3/18/98	Newington Energy Center	520	Newington	NH	1st Quarter 2001	Newington 345 KV	Duke Energy Power Services	400 S. Tryon St.	Charlotte	N.C.	28201-1007	(704)373-6622
	3/24/98	Bucksport Energy, L.P.	174	Bucksport	ME	1999	Belfast 115 KV bus	Preti,Flaherti,Beliveu & Pachios LLC	45 Memorial Circle	Augusta	ME	04332-1058	(207)623-5300
	3/25/98	Engage Energy LTF PtP	300			2000	Import from New Brunswick via MEPCO	Engage Energy US, L.P.	One Harbour Place suite 225	Portsmouth	NH	03801	(603) 433-6175
	3/25/98	Norwich Power Station	500	Norwich	CT	December 2000	Bean Hill Substation	Connecticut Mun.Elec..	30 Stott Ave.	Norwich	CT	06360	(860)889-4088
	3/26/98	Tuspani Power	350	North Smithfield	RI	2000/2001	W.Farnum 345 KV	INDECK	600 N.Buffalo Grove RD.Suite 300	Buffalo Grove	IL	60089	(561)575-1457
	3/30/98	Towantic Energy	540	Oxford	CT	2001/2002	Beacon Falls 115 KV	Arena Capital L.T.D.	16 Beachside Common	Westport	CT	06880	(203)221-7520
	3/31/98	Sithe Edgar Station Expansion	1500	Weymouth	MA	2001	Holbrook 345 KV	Sithe New England Inc.	Mystic Power Station 173 Afford St.	Charlestown	MA	02129	(617)369-6707
*	3/31/98	Sithe Framingham Station Expansion		Framingham	MA	2001	Framingham 230 KV	Sithe New England Inc.	Mystic Power Station 173 Afford St.	Charlestown	MA	02129	(617)369-6707
	3/31/98	Sithe Medway	540	West Medway	MA	2001	Existing Medway Station 345 KV	Sithe New England Inc.	173 Alford St.	Charlestown	MA	02129	(617)369-6707
	3/31/98	Sithe Mystic Station Expansion	1750	Charlestown	MA	2001	Mystic 345 KV	Sithe New England Inc.	Mystic Power Station 173 Afford St.	Charlestown	MA	02129	(617)369-6707

3/31/98	Westbrook Power	520	Westbrook	ME	March 2000	Spring St. Substation 115 KV	Westbrook Power L.L.C.	1040 Great Plain ave.	Needham	MA	02152	(781)444-5580
4/2/98	Wyman A	550	Wyman	ME	January 2 2000	Connected at the Wyman Substation	FPL Energy Inc.	700 Universe Blvd Box 14000	Juno Beach	FL	33408-2683	(561)691-7171
4/2/98	Wyman B	550	Wyman	ME	January 3 2000	Connected at the Wyman Substation	FPL Energy Inc.	700 Universe Blvd Box 14000	Juno Beach	FL	33408-2683	(561)691-7171
4/2/98	Mason	550	Wiscasset	ME	2000	Mason 345 KV	FPL Energy Inc.	700 Universe Blvd Box 14000	Juno Beach	FL	33408-2683	(561)691-7171
4/14/98	FPL Energy	250	New Bedford	MA	November 2000	Industrial Park 115 KV	ESI New Bedford L.L.C.	11760 US Highway One Suite 600	North Palm Beach	FL	33408	(561)691-3514
4/29/98	R.I. Hope Energy	500	Johnston	RI	Spring 2001	Kent 345 KV	Houston Ind. Power Generation	1111 Louisiana 16th Floor	Houston	TX	77002	(713)207-7731
5/8/98	Rocky River Power	530	New Mildford	CT	July 2001	Long Mountain 345 KV	Sempra Energy Resources	101 Ash St.	San Diego	CA	92101	(619)696-2925
5/28/98	CVPS/GMP LTF PtP	600	Plattsburg	NY	December 2001	Import from NY via PV20	Green Mountain Power Corp	25 Green Mountain Drive	Burlington	VT	05402	(802)660-5621
5/28/98	HQ Highgate2 HVDC	600	Highgate	VT	December 2001	Located on the Hydro Quebec sys. N. near Highgate, VT	Green Mountain Power Corp.	25 Green Mountain Drive	Burlington	VT	05402	(802)660-5621
6/1/98	Glen Charlie Unit One	500	Wareham	MA	Spring 2001	Wareham Substation	B-W Energy LLC	101 Rogers St.	Cambridge	MA	02142	(617)494-6133
6/4/98	Canal Unit 3	561	Sandwich	MA	2nd Quarter 2001	Canal Substation in Sandwich, MA	Southern Energy	900 Ashwood Parkway	Atlanta	GA	30338	(770)279-6953
6/5/98	Wiscassett	1400	Wiscassett	ME	Oct, 2001	Existing Maine Yankee Site	Stone & Websters Engineers	245 Summer St	Boston	MA	02210	(617) 589-1208
6/8/98	Tractebel LTF PtP	300			2002	Import from the New Brunswick System	Tractebel Energy Marketing	24 Bridge St,	Concord	NH	03301	(603)225-4523
7/10/98	Brockton Power Project	272	Brockton	MA	January 2001	Industrial Blvd.	Brockton Power LLC	142 Crescent St.	Brockton	MA	02402	(508)586-1115
7/17/98	Kendall Repowering Project	172	Cambridge	MA	Third Quarter 2001	Kendall Station in Cambridge	Southern Company	900 Ashwood Parkway	Atlanta	GA	30338	(770)379-7000
8/18/98	Campello Power Co.	285	Brockton	MA	2 nd Quarter 2002		Generation Venture Associates	73 Tremont St.	Boston	MA	02108	(617)720-2240
8/26/98	Merrimack Energy Project	750	Dracut	MA	Mid 2001	Connected to the Tewksburry 230 KV Bus	Constellation Power Development Inc.	250 W. Pratt St. 23rd Floor	Baltimore	MD	21201	(410)783-3619
9/9/98	Bennington Energy Park	270	Bennington	VT	November 2001		Vermont Power & Energy Develop. Corp.	Box 2	Rutland	VT	05702	(802)223-3080
9/9/98	Rutland Energy Park	1080	Rutland	VT	November 2001		Vermont Power and Energy Develop. Corp.	BOX 2	Rutland	VT	05702	(802)223-3080
9/14/98	Irving Oil LTF PtP	250			April 1,2001	Import from NB Via MEPCO	Irving Oil Limited	P.O. Box 1421 , 10 Sydney St.	Saint John	NB	e0g 1z0	(506)632-7167
10/29/98	Patriot Cabot Street Station	300	Holyoke	MA	2000/2001	Holyoke Substation	Patriot Power LLC	917 Willow Ave. Suite 2 R	Hoboken	NJ	07030	(201)222-7980
11/13/98	Haddam Station Phase I	600	Haddam Neck	CT	2001/2002	Site of the Former CT Yankee Plant	Connecticut Yankee Atomic Power CO.	362 Injun Hollow Rd	East Hampton	Ct	06424	(860) 267-3601
11/13/98	Haddam Station Phase II	600	Haddam Neck	CT	2001/2002	Site of the Former CT Yankee Plant	Connecticut Yankee Atomic Power CO.	362 Injun Hollow Rd	East Hampton	CT	06424	(860) 267-3601
1/5/99	Redington Mountain Wind Farm	30	Carrabassett	ME	Dec 2001/Dec 2002	Bigelow Substation	Redington Mountain Windpower, L.L.C	9 Castle Rd.	New Gloucester	ME	04260	(207)926-4898
1/21/99	Cross Sound Cable	600	New Haven	CT	May 1, 2002	HVDC to Shoreham, NY New Haven CT adjacent to UI East Shore Station	TransEnergie U.S. Ltd.	110 Turnpike Rd. Suite 300	Westborough	MA	01582	(508)870-9900
	WEG-Norwich		Norwich	CT	2001	Montville 345 KV	Williams Energy Group	Box 3448 One Williams Center	Tulsa	OK	74101-3348	(918)588-3380
		32376										

*
Withdrawn

** Denotes
Date of
Study
Agreement

Last Updated on 2/2/99
By OSanchez



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AES REPORTS FIRST QUARTER EARNINGS OF $65 MILLIO

$0.37 per share is 48% Increase Over Previous Year's First Quart

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ARLINGTON, VA, April 21, 1998 -- The AES Corporation (NYSE: AES) announced today that net income was $65 million for the quarter ended 31, 1998. Net income increased 63% compared to net income of $40 milli the first quarter of 1997. Fully dilluted earnings per share were $0.37 for quarter, compared to $0.25 for the same quarter in 1997. Revenues for th were $575 million, up 120% compared to $261 million reported in the sa period last year.

Dennis W. Bakke, President and Chief Executive Officer, commented, "V extremely pleased with our strong first quarter performance. Outstandir results were achieved in a number of areas, including:

- excellent plant operations throughout the world, including our Lal Pak Gen facilities in Pakistan where start-up and operations have l strong;
- significant progress with plants in construction in the UK(230 MW US (180 MW Warrior Run), China (2100 MW Yangcheng), Brazil (6 Uruguaiana), Argentina (830 MW Parana), and Mexico (484 MW M III); and
- major milestones on large low-cost greenfield natural gas-fired cor cycle plants in the US (720 MW Ironwood) and Bangladesh (360 M Haripur).

Furthermore, I am pleased with the steps that are being taken by the five leaders in AES who have assumed new responsibilities. The leadership transition that is underway will allow us to better serve selected new ma around the world while we more effectively run and expand existing businesses."

Roger W. Sant, Chairman, stated, "We are also excited by the more recen where our affiliate, Light, was the successful bidder for Metropolitana, t distribution company that serves 4.3 million customers in San Paulo, Bra Going forward, AES people around the world continue to pursue over 1

business ideas, including significant greenfield plants and acquisitions."

Business development successes in the first quarter of 1998 include the following:

- In January, AES acquired the CLESA distribution company in El S for $96.5 million.
- In January, AES won a bid to build, own and operate a 360 MW ga plant in Haripur, Bangladesh.
- In April, AES Caracoles signed a 40 year concession for a 230 MW project in Argentina and has taken over the operation of Quebrada Ullum, an existing 45 MW hydroelectric plant.

AES is a leading global power company that currently owns or has an in eighty-seven power facilities totaling over 23,000 megawatts in the Unit Canada, Australia, Argentina, Brazil, Dominican Republic, Pakistan, the Netherlands, Hungary, Kazakhstan, China and the United Kingdom. In to having assets in excess of $8 billion, the Company has more than $5 b projects in construction or late stages of development. AES is dedicated providing electricity worldwide in a socially responsible way.

THE AES CORPORATION
CONSOLIDATED STATEMENTS OF
OPERATIONS FOR THE PERIODS ENDED
MARCH 31, 1998 AND 1997

($ in millions, except per share amounts)	Three Months Ended 03/31/98	% of Sales	Three Months Ended 03/31/97	% of Sales	Change From Previous Year
REVENUES:					
Sales and services	$ 575	100%	$ 261	100%	$ 31
OPERATING COSTS AND EXPENSES:					
Cost of sales and services	397	68%	167	64%	(23
Selling, general and administrative expenses	15	3%	9	3%	(
Provision to reduce					

contract receivables	15	3%	7	3%	(:
Total operating costs and expenses	427	74%	183	70%	(24
OPERATING INCOME	148	26%	78	30%	7
OTHER INCOME AND (EXPENSE):					
Interest expense	(101)	-18%	(44)	-17%	(5'
Interest income	14	2%	8	3%	
Foreign currency exchange loss	(2)	0%	-	0%	(:
Equity in earnings (before income tax)	57	10%	19	7%	3
INCOME BEFORE INCOME TAXES AND MINORITY INTEREST	116	20%	61	23%	5
Income taxes	33	6%	19	7%	(1
Minority interest	18	3%	2	1%	(1
NET INCOME	$ 65	11%	$ 40	15%	$ 2
BASIC EARNINGS PER SHARE:	$ 0.37		$ 0.25		$ 0.1
DILUTED EARNINGS PER SHARE:	$ 0.37		$ 0.25		$ 0.1

* * * * *

For more information contact: investing@aesc.com

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Business & Industry Association of New Hampshire

To promote and preserve the economic well-being of New Hampshire.

March 11, 1999

The Honorable David W. Hess, Chairman
HOUSE MUNICIPAL & COUNTY GOVERNMENT COMMITTEE
Room 301, LOB
Concord, NH 03301

RE: HB 536 - Authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power.

Dear Mr. Chairman and Members of the Committee:

Thank you for the opportunity for the Business & Industry Association (BIA) of New Hampshire to provide comments on the above-referenced bill.

The BIA supports this enabling legislation and see it as a carefully-designed economic development tool for municipalities to attract new electric generating facilities to their localities. The bill essentially allows a city or town, at its sole discretion, to exempt personal property (equipment and machinery) currently captured under existing taxation laws. In light of the uncertainty surrounding the Claremont school-funding issue, providing this creative economic development tool to municipalities is prudent public policy at this time.

In order to ease the transition to free markets, municipalities should be granted the authority and flexibility to attract these new power generating facilities. HB 536 provides municipalities the transitional support in a pre-deregulation environment which would otherwise be deemed non-economic by electric power firms seeking to locate in New Hampshire.

New Hampshire is in the process of transitioning into a deregulated marketplace. Although we have yet to see competition, customer choice, and generally lower electric rates, the BIA is confident these public policy goals will prevail. As we head towards competition, the electric industry, their customers, and the energy services sector will have to reexamine the way they do business in New Hampshire. Similarly, the state will have to reexamine the way its taxes private business versus the way its now taxes regulated utilities in such a changing environment.

In sum, HB 536 is motivated by the need to survive the twin thrusts of deregulation and privatization. The introduction of new electric generating facilities in New Hampshire offers significant benefits to business and industry by driving down power costs and offering alternative sources of power. We hope that you will demonstrate support for these outcomes by supporting HB 536.

Thank you for your time and consideration on this important issue.

Sincerely,

Timothy W. Fortier, Vice President

122 N. Main St. Concord, NH 03301 603/224-5388 FAX 603/224-2872 NH WATS 800/540-5388 www.nhbia.org

11 March 1999

I like to take this opportunity to thank Chairman Hess and the members of the Committee for allowing me to address the committee today on House Bill 536.

My name is Allen Williams and I'm a resident of Londonderry New Hampshire. I sit here before you today representing the neighborhood of Brook Park Estates. A neighborhood of over one hundred homes and nearly four hundred residents. As the President of Brook Park Estates I speak today not for myself but for my Neighborhood.

The residents of Brook Park Estates are opposed to House Bill 536 which would allow municipalities to grant tax exemptions to electric generation facilities.

This Bill is before you today not to benefit the electric generation business or even to foster growth within the electric generation business but to benefit one Company AES.

AES is a 10 billion dollar company which by their own claims is the largest electric generation business in the world with over 100 facilities in 17 countries.

AES hired McLane Law firm to generate this proposed legislation and the firm of James Demers to lobby this legislation for one reason and one reason only, to lower the taxes it would have to pay on the electric generation facility it is proposing for Londonderry, whose product, electricity will not be sold in New Hampshire but to the New England Power Pool in which an environment of surplus electricity currently exists.

If it is the intent of the state of New Hampshire to develop a business environment which fosters the economic growth we all seek it would be unfair to show special interest for one type of business and not for all. It should be noted that only AES is seeking this legislation, not PSNH, not a Consortium of electric producers, just AES a 10 billion dollar company. Based on AES's own numbers the proposed facility is valued at 300 million dollars. At Londonderry's current tax rate AES would pay approximately 11 million dollars in taxes. With this legislation AES seeks to cut its taxes by more than 7 million dollars to 5 million dollars.

With the issue of how the State of New Hampshire will funding education now before the State it would be unwise to approve any tax exemption legislation for legislative approval for any business which could in the long run end up on the backs of the citizens of New Hampshire to make up the difference.

I and the residents of Brook Park Estates respectfully urge the Committee to release this legislation to the New Hampshire Legislature at most as "inexpedient to legislate" and at least to amend House Bill 536 to only allow any tax exemption to be granted by approval of two thirds of the registered voters of Londonderry and not by a simple majority of the five member Town Council.

Thank you Chairman Hess and the members of the committee for your time and consideration in This matter.

Respectfully Submitted By



Allen R. Williams
President, Brook Park Estates
Londonderry, NH.

MEMORANDUM

TO: Municipal and County Government Committee

FROM: Robert Upton II

DATE: March 16, 1999

RE: House Bill 536

At the public hearing on House Bill 536 on March 11, 1999, the Chair requested further comments in writing, particularly focusing on the constitutional deficiencies of the statute. This Memorandum is submitted on behalf of the towns of Bow and Newington, New Hampshire, which oppose House Bill 536.

I. Constitutional Deficiencies.

A. Disproportionality

The New Hampshire Constitution requires that every tax imposed be proportional and reasonable. N.H. Const. Pt. II Art. 5. To the extent that electric generation property may be exempted under House Bill 536 from taxation at its full and fair value, other taxpayers in the municipality will pay a greater share of the burden of municipal government than they otherwise should. This is classic disproportionality.

Tax abatements and exemptions are not explicitly recognized in the New Hampshire Constitution. The Supreme Court has, however, granted the legislature wide discretion in selecting and classifying certain property for taxation and exempting other property. *Felder v. Portsmouth*, 114 N.H. 573, 577 (1974). The Court has also made it clear that exemptions necessarily result in a disproportionate tax burden on the remaining property in the taxing district. *Opinion of the Justices*, 105 N.H. 22, 23 (1963). These disproportionalities are constitutionally tolerated only where they are supported by just reasons and "reasonably promote some proper objects of public welfare or interest." *Opinion of the Justices*, 142 N.H. 892 (900) (1998) (hereinafter "Claremont III").

The argument that has been made in support of this legislation is that companies constructing new electric generation plants need the competitive edge that not paying taxes would give them. The competitive edge they seek is the ability to expand their profits and it is hard to imagine that insuring the profitability of some private developer

constitutes a just reason or reasonably promotes a proper object of public welfare or interest.

Proponents of the legislation have also argued that it is needed to insure that there is adequate electric generation in New Hampshire and that if it is not passed, the electric generation facilities will be built in surrounding states where electric generation property taxed under RSA 72-8:A is not taxed. While such an argument still does not create a just reason for the exemption, it is disingenuous.

In Massachusetts, "property used or held for uses for the storage, transmitting and generating of utilities" is taxable under MGLA 59 §2A. In Maine and Vermont, personal property, including electric generation property equivalent to that taxed in New Hampshire under RSA 72:8, is taxed at the same rate as real estate (36 MRSA § 602; 32 VSA § 3482).

Whether an electric generating plant is sited in New Hampshire, Massachusetts, Maine or Vermont, the same property will be taxed. Taxes are not the issue, profits are. This legislation will not level the playing field, but rather will tip the competitive balance in favor of a New Hampshire facility granted such an exemption, at the expense of all other taxpayers in the community.

The argument made by the electric generation of utilities that they will not come to New Hampshire without legislation of this type is also disingenuous because the location of such a plant is often driven by reasons unrelated to tax cost. The primary reason plants will be located in New Hampshire is because rates are high and the expectation is that they will remain higher than in other parts of the country because of transmission constraints. It is very difficult to import electricity into New Hampshire, and therefore, a plant located here will have little competition from outside New England. Moreover, there are existing plants in New Hampshire which are outdated and in a competitive environment may not continue to operate. There will be a need for additional capacity and developers like AES are seeking to fill the void. It must be remembered that AES made the decision to come to New Hampshire and Londonderry with no expectation that this bill would be passed. It is unlikely that such a decision would have been made if the extent of taxes in Londonderry would have killed the project.

Plants such as AES will locate in New Hampshire because their personal property will be taxed, regardless of where they locate in northern New England. Through this legislation they seek a competitive advantage over other similar plants which may not qualify for an exemption, and they are attempting to do so at the expense of New Hampshire taxpayers. The "purpose of ... an exemption can never be to achieve disproportionality for disproportionality's sake." *Claremont III*, 142 N.H. at 901.

B. Equal Protection

All taxes in the same category of property must result from a uniform valuation and must be subject to a uniform rate. *Opinion of the Justices*, 117 N.H. 749, 755 (1977). While the legislature has broad discretion to classify property for taxation purposes (New Hampshire Const. Pt. II Art. 6), "[t]he constitutionality of a taxation classification depends upon the physical and functional characteristics of the property itself." *Opinion of the Justices*, 142 N.H. 102, 107 (1997). Moreover, the New Hampshire Constitution requires that similarly situated taxpayers be treated the same. *Smith v. New Hampshire Department of Revenue Administration*, 141 N.H. 681, 686 (1997). "Our constitution demands that classifications be made between types of property, not taxpayers. *Ibid* at 686.

House Bill 536 does not even attempt classification based on the type of property. The same property which is taxable in one town under RSA 72:8 may be exempt in another town. The only difference is the capacity of the taxpayer to convince the municipality to grant the exemption. It is a classification based upon the owner of the property not the type of property. Because the legislation offers no reason for the distinction other than the identity of the taxpayer, it is unconstitutional under Pt. I Art. 12 and Pt. II Art. 5 & 6 of the New Hampshire Constitution.

C. Lack of Definiteness or Certainty

"It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined." *Grayned v. City of Rockford*, 408 U.S. 104, 108 33 L.Ed.2d 222, 227 (1972). A vague law impermissibly delegates basic policy matters to some third party, such as a policeman, a judge, or an administrative agency "on an ad hoc and subjective basis with the attendant dangers of arbitrary and discriminatory application." *Ibid* at 109.

House Bill 536 permits a municipality to exempt from taxation of property which was otherwise taxable and, in fact, in other communities in the state is taxable, thereby creating disproportionality and establishing improper classifications based on absolutely no standard whatsoever. The governing body of the municipality, whether it be a city council, board of selectmen, or town council, may for any reason or for no reason grant or refuse to grant the exemption. The act provides no basis to challenge the action of the governing body and no standard for a court to review in assessing the conduct of that governing body. When the legislature uses indefinite words, such as "adequate" and "reasonable," it is understood that the legislature is giving boards discretion in making their judgments. *Patenaude v. Town of Meredith*, 118 N.H. 616, 618, 619 (1978). Here there are not even indefinite words for the governing body to interpret. The ability to

impose arbitrary or unreasonable restraint on the exercise of rights and private property and its taxation is unrestrained.

Not only are there no standards for determining whether an exemption should be granted, House Bill 536 is also silent on how the governing body should determine the amount of the exemption to be granted. The bargaining strength of the applicant will be everything and lead clearly to arbitrary and discriminatory application. Deal making is promoted. An electric generating company will be able to either exempt property to this level or we will go elsewhere. The location will be based on who gives the lowest taxes.

A review of the Adjusted Elderly Exemption and Optional Adjusted Elderly Exemption set forth in RSA 72:43-e *et seq* and RSA 72:43-h respectively show the extent to which House Bill 536 lacks certainty and standards. Both of those exemptions provide a procedure for the town to follow, spell out the amount and extent of the exemptions and attach conditions. The silence of House Bill 536 in dealing with such matters is deafening.

II. Definition of Municipality

At the March 11, 1999 public hearing, a number of speakers suggested that in the event the committee believed there was a legitimate public policy which justified authorizing exemptions of the property used in generation and production of electric power, the decision of whether to grant the exemption and the amount thereof should be made by the legislative body of the municipality as opposed to the governing body. It has been suggested that the legislative body may not, however, have authority to grant the exemption or determine the amount. Bow and Newington have been unable to find any prohibition that would limit the authority of the legislative body in this fashion, but if the committee is concerned, they suggest a procedure similar to that followed in Massachusetts in which the governing body negotiates the exemption and amount thereof in the first instance, and that agreement is then presented to the legislative body for ratification. This procedure is not unlike the ratification of a collective bargaining agreement with a union, where the selectmen or a school board negotiate the agreement and the cost items are then ratified by the legislative body of the town or district.

That the legislative body has the power to authorize an exemption or the amount of an exemption can hardly be subject to challenge in light of the Adjusted Elderly Exemption set forth in RSA 72:43-e *et seq*.

Bow and Newington urge the committee to not only require ratification of any exemption by the legislative body, but given the potential for huge disproportionality, to require a super majority similar to that required under RSA 33:8 for the issuance of bonds

and notes by a municipal corporation.

II. Conclusion

Bow and Newington respectfully urge the committee to find House Bill 536 inexpedient to legislate. The bill has questionable constitutional validity and is founded on a public policy argument which, when peeled away, is also of questionable validity. Electric generation plants compete against each other and not with other manufacturers and they should all be treated the same. The states surrounding New Hampshire tax both as real estate and personal property the same property taxed in New Hampshire under RSA 72:8. To the extent exemptions were permitted, the only sure result is that the profits of the facility to whom the exemption was granted would increase and it would gain a competitive advantage over any facility which was unable to obtain such an exemption. The whole point of deregulation of the electric industry is to make these plants survive on their own merit. Legislation such as House Bill 536 runs completely contradictory to that notion. The legislature should let deregulation run its course and see whether the electric generating companies will stay away as industry proponents of the legislation have predicted. If they do, a more reasoned approach to curing that problem could be considered. House Bill 536 is nothing more than special legislation to benefit one company seeking to be bailed out from a decision to locate in a high tax rate community. Bow and Newington urge the committee to see through this effort.

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
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February 8, 1999

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Subject: Application by AES Londonderry, L.L.C. for Property Tax Exemption Pursuant to RSA 72:12-a

Gentlemen:

We are in receipt of an application by AES Londonderry, L.L.C. dated December 13, 1998 for a property tax exemptiont pursuant to RSA 72:12-a for air and water pollution control systems and devices to be installed at its proposed cogeneration facility in Londonderry. We subsequently received motions to dismiss this application on behalf of the Town of Londonderry and later on behalf of the Towns of Bow and Newington. The Town of Londonderry later withdrew its motion to dismiss in a letter dated January 27, 1999.

Our Water and Air Resources Divisions have begun their "investigation" of the merits of the application, as required by RSA 72:12-a. However, before devoting the substantial time that would be necessitated by a full review of the application and decision on its merits, I would like further guidance from you on whether we should complete our review of the application at this juncture. In your filings to date, you each have addressed the Department's legal authority to render its decision at this time. We are mindful of the overriding purpose of the statute, and the legislative desire to encourage construction of pollution control facilities by mitigating the impact of property taxation. We are also mindful of the certain practical limitations on our ability to make a binding determination at a time when the design of the facility is not final and no permits have been issued by the state or local authorities. On the other hand, we also understand that the applicant may have a need for some clarity on its property tax exposure. In addition, the local taxing authority - the Town of Londonderry - has now withdrawn its motion to dismiss the property tax exemption application. What is not clear from the recent letter from the Town of Londonderry, however, is whether the Town and AES have reached an agreement on the overall level of property taxation.

To help us in our decision on whether to proceed with a final determination on the tax exemption applications at this time, would you please provide further information to us on the need by AES Londonderry and the Town of Londonderry for us to do so. As part of that explanation, would you also please explain whether it is necessary at all for a decision on the application if, in fact, AES and the Town have reached an agreement. Responsive correspondence from counsel for the Towns of Newington and Bow is encouraged as well.

Thank you for your consideration and assistance.

Very truly yours,

George Dana Bisbee
Assistant Commissioner

GDB/hyv/gdb/aesexmpt.wpd

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FREDERIC K. UPTON

February 16, 1999

RECEIVED
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DEPARTMENT OF
ENVIRONMENTAL SERVICES

George Dana Bisbee
Assistant Commissioner
Department of Environmental Services
6 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

Re: Application by AES Londonderry, LLC for Property Tax Exemption Pursuant to RSA 72:12-a

Dear Mr. Bisbee:

I enclose herewith on behalf of the Towns of Bow and Newington a Memorandum in Opposition to the above-referenced application.

If the Department is considering moving forward on the application, please consider this a request on behalf of Bow and Newington for a public hearing to give the towns an opportunity to make a full and complete record on the issue of ripeness and whether the property qualifies for exemption.

Thank you for your anticipated cooperation and assistance.

Very truly yours,

Robert Upton II/jhb

Robert Upton II

RUII/jhb
Enclosure
cc: Gregory H. Smith, Esq.
John J. Ratigan, Esq.
Albert St. Cyr
Selectmen, Town of Newington

THE STATE OF NEW HAMPSHIRE

DEPARTMENT OF ENVIRONMENTAL SERVICES

In Re: Application of AES Londonderry, LLC
Pursuant to RSA 72:12-a

Memorandum of Towns of Bow and Newington in Opposition to AES Londonderry, LLC's Application for an RSA 72:12-a Tax Exemption

Introduction

This Memorandum is filed on behalf of the Town of Bow and Newington in response to AES's Memorandum dated January 26, 1999. Bow and Newington submit that AES's application is overreaching, misinterprets New Hampshire law and, finally, premature. Some of the equipment AES proposes to install will likely satisfy the requirements of RSA 72:12-a, but it is obvious that AES is using its exemption application to achieve a lower assessment in a manner inconsistent with New Hampshire law. RSA 72:8 makes all structure, machinery, dynamos, apparatus, poles, wires and fixtures of all kinds and descriptions employed in the generation, production, distribution or transmission of electric power taxable at its full and true value. Because AES is aware it cannot achieve the level of assessment it believes it must have under normal assessing and abatement processes, it has attempted to subvert those processes by claiming in a sweeping and general fashion that virtually all of its equipment, including all of the property described in RSA 72:8 is exempt as pollution control facilities.

RSA 72:8 was amended in 1997 to make certain that the electric generating property of merchant plants such as that proposed by AES did not escape taxation. Previously, such property was taxable only to public utilities and with the advent of deregulation, the legislature recognized that all generators of electricity should be treated the same. At no time did the electric industry,

AES, or any other entity argue that such property was exempt as pollution treatment facilities. Moreover, AES is not the only proposed generation facility, and no other petitions for exemption have been filed. AES's petition is novel, but it is contrary to New Hampshire's taxation scheme and should be denied.

Moreover, if AES is permitted to succeed in its attempt to achieve exemption for all this property, it will have far reaching implications and impose on the citizens of communities where these types of plants are located a disproportionate share of the burden of paying for town government. That disproportionate share will be borne by all real estate taxpayers if a state property tax and state utility tax as proposed in HB 117 or a state property tax in combination with some other tax currently being considered by the House and Senate become law. In short, by seeking to avoid taxation on virtually all of its generation property, AES is attempting to shed responsibility for its share of governmental expense. That is not the purpose of RSA 72:12-a and the Department should not permit the statute to be used by AES to thwart the provisions of RSA 72:8.

The role of Londonderry in this proceeding is curious and must be considered by the Department. The abrupt 180° turn by the Town to fully support the application is transparent. Londonderry has struck or is attempting to strike a deal with AES on its assessment, which it does not believe can be supported as the full and fair value of the property. Facing political opposition to the location of the plant, Londonderry is aware that an appeal of any assessment below fair market value is probable. Faced with the loss of the plant and any tax revenue from it, Londonderry has chosen to accede to AES's application. Bow and Newington fully recognize and sympathize with the pressures placed on Londonderry. These are precisely the pressures any

town or city where a new generation plant is proposed will confront if AES is permitted to succeed. Either support the application or the plant will be relocated and all tax revenue from it lost.

The Seven Pollution Control systems

1. Low NOx Combustors

Bow and Newington agree that if the two Westinghouse 501G combustion turbines as proposed by AES are equipped with dry, low NOx combustors, the actual combustors would be exempt. Bow and Newington note, however, that all turbines require combustors and only the difference in cost between a normal combustor and a low NOx combustor should qualify. Bow and Newington further note that in its application for a Certificate of Site and Facility to the New Hampshire Energy Facility Site Evaluation Committee, AES declares that it has not chosen a final turbine vendor. Because it is not clear that the Westinghouse turbine will be used, the Department should not attempt to determine whether such devices are exempt in a vacuum. The application for exemption is premature.

2. Water Injection in the Combustion Turbine

Bow and Newington agree that the water injection system for the Westinghouse 501 G turbines are exempt subject to the same qualifications contained in the discussion relative to the low NOx combustors above.

3. Selective Catalytic Reduction (SCR)

Bow and Newington understand that an SCR is just a box at the end of the exhaust route where the exhaust is injected with watered down ammonia (19%) which reacts with NOx creating emissions which do not contribute to ozone depletion. The device could be added to any existing

natural gas facility or to any fossil burning generation facility in cycle with precipitators, which remove sulphur, and other heat reducing devices.

Subject to the qualifications contained in the discussion relative to the low NOx combustors above, Bow and Newington agree that the SCR would be exempt.

4. Continuous Emissions Monitoring System

Although the monitoring system clearly is not a device which treats something for the purpose of air pollution reduction, control or elimination, Bow and Newington do not contest its exemption, subject to the qualifications set forth above.

5. Cooling Tower Drift Eliminators

Subject to the qualifications set forth above, Bow and Newington agree that the cooling tower drift eliminators would be exempt.

6. Noise Mitigation

AES's conclusion that it is entitled to an exemption for noise mitigation equipment and property is based on the faulty assumption that noise is pollution under New Hampshire law. Noise does not qualify as air pollution. There are no cases or statutes or regulations which include it as air pollution. To the contrary, taken as a whole, the law says there must be contamination of the air caused by the discharge of noxious substances. Noise may be many things, including a nuisance, but it is not a substance. Moreover, it does not change the condition of the air. Noise acts solely on the person who hears it. Bow and Newington submit that none of the noise mitigation property qualifies for exemption. See Appeal of the Town of Hampton, 126 N.H. 805, 809-811).

In the unlikely event, noise was determined to be air pollution, Bow and Newington submit that only those devices which treat or act upon the noise to eliminate it at its source or as it is created would appear to qualify for exemption. By using such devices, the noise is not created in the fist instance or its level is reduced. A device which merely blocks or changes the perception of noise after it has been created does not qualify. The device does not treat the noise to eliminate it or reduce its level. It merely blocks the noise.

If noise is air pollution, the following property may be exempt: combustion turbine and other intake silencers, low noise motors and fans, and acoustic intakes. The balance of the property should remain taxable.

AES's attempt to exempt the heat recovery steam generator (HRSG) building as noise mitigation property deserves mention. Many combined cycle facilities do not house their HRSGs. The decision by AES to do so appears to be driven by its location in a populous area and a desire to reduce opposition to the plant rather than a desire to block the noise for the sake of blocking the noise.

7. Combined Cycle Technology

Because AES has not yet chosen a final turbine vendor, the Department should not make any determination concerning exemption in a vacuum. The application is premature.

Bow and Newington submit that even if AES chooses the Westinghouse 501 G combustion turbines, the combined cycle technology is not exempt under RSA 72:12-a.

The purpose of the combined cycle technology is not pollution control, but rather cost effective electric generation. Turbines and generators simply do not treat emissions, and turbine emissions can be treated without the HRSG. An HRSG is really nothing more than a boiler which

is fired by hot exhaust gas rather than fuel. The decision to use a HRSG is driven by economics, not pollution control. It produces more electricity without any additional fuel cost. Moreover, the HRSG does not treat the emissions but rather merely funnels it to the SCR. AES has emphasized that without the combined cycle technology, the SCR could not be used. As noted above, that simply is not true. An SCR can be used with any existing generation technology with the appropriate engineering modifications. For example, Merrimack Station is fitted with a type of SCR. Moreover, there is more than one SCR system available for these purposes.

AES says the combined cycle of technology should be exempt because it burns less fuel. Because the combined cycle technology is more efficient does not make it a pollution control facility. The fact that the plant will burn less fuel is irrelevant to the determination of whether or not it is exempt. By way of example of how irrelevant (and absurd) this argument is, under the AES reasoning, the generators located at Newington Station and Merrimack Station would be exempt because they burn less fuel per KW hour than Shiller Station. The decision to use combined cycle technology is influenced by economic and generation efficiencies, not by a desire to reduce pollution.

AES also argues that combined cycle technology will have a significant beneficial impact on regional air quality. This argument is totally speculative. The utilization of generation plants is a function of locational demand, the technical ability of the generation plants to meet that demand, and the variable operating costs of the generation plants. All of these factors are out of the control of AES. Even if the AES plant had the lowest emissions in the region, there is no guarantee that it would be dispatched to the extent that regional air quality would be improved. Moreover, AES's argument is premised on the false assumption that its more efficient generation

will displace the energy generated by older fossil plants. In fact, because of gas transmission, constraints only approximately 6,000 MW of new gas fired technology can be constructed in New England. That level of energy will only replace the aging nuclear units which obviously emit less pollutants than the combined cycle technology. As the aging nuclear units come off line and are replaced with combined cycle technology, regional air quality will likely deteriorate rather than improve.

Ripeness of the Application

Until AES receives all necessary state and federal permits, there is no certainty that it will be able to construct its facility. Any determination by the Department concerning the exemption of any of the property from taxation therefore would necessarily be only advisory. However, there is no authority in RSA 72:12-a or elsewhere for the Department to issue advisory opinions or to provide clarity to AES on its real estate tax exposure.

AES has urged that where the purpose of the facility is readily ascertainable, the Defendant can make its determinations, citing Appeal of Hampton Falls, 126 N.H. 805 (1985). In no case cited by AES was a facility still in the planning stage as is the AES facility. In no case cited by AES was the applicant still without state and federal permits and approvals. In all cases cited by AES, the facility was at least partially constructed with approved schematic and design drawings. The AES proposal to locate its facility in Londonderry is still in its infancy; and not only is its location not a certainty, it has also reserved the right to change turbines and reconfigure its setup. There simply is nothing for the Department to investigate other than concepts and that is beyond the scope of its authority under RSA 72:12-a.

Finally, without, at a minimum, plans and specifications for the construction of the plant, it will be impossible for the Department to make the allocations required of it under RSA 72:12-a(III). Clearly, there are foundations and other superstructure for even those devices which may be exempt which would remain taxable. There is simply no way the Department can make any determination about the amounts allocated to pollution devices and other taxable property without more. Any attempt to do so would be nothing more than speculation.

Conclusion

Because the AES proposal is still in the planning state and has not received any state or federal permits, it is difficult to respond to its application for exemption. Everything is discussed in the abstract rather than the concrete. Bow and Newington have no doubt that there will be equipment and property at the plant, if it is built, which will be exempt, but the breadth of the application is beyond all comprehension. The Department should refuse to make any determination unless and until AES receives all necessary state and federal permits and approvals to construct its facility in Londonderry. If the Department believes it has adequate information on which to make a determination, it should conclude that only the following property is exempt:

1) Low NOx combusters;

2) Water injection in the combustion turbine;

3) Selective catalytic reduction;

4) Continuous emissions monitoring system;

5) Cooling tower drift eliminators.

Respectfully submitted,

TOWN OF BOW, NEW HAMPSHIRE
TOWN OF NEWINGTON, NEW HAMPSHIRE
By their Attorneys
UPTON SANDERS & SMITH

Dated: February 16, 1999

Robert Upton, II
P.O. Box 1090
Concord, NH 03302-1090
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CERTIFICATE OF SERVICE

I certify that a copy of the within Memorandum of Law has been mailed to Gregory H. Smith, Esq. and John J. Ratigan, Esq.

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FREDERIC K. UPTON

February 18, 1999

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FEB 19 1999
DEPARTMENT OF
ENVIRONMENTAL SERVICES

George Dana Bisbee
Assistant Commissioner
Department of Environmental Services
6 Hazen Drive
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Concord, NH 03302-0095

Re: Application by AES Londonderry, LLC for Property Tax Exemption Pursuant to RSA 72:12-a

Dear Mr. Bisbee:

I enclose herewith on behalf of the Towns of Bow and Newington a Supplemental Memorandum in Opposition to the above-referenced application.

Very truly yours,

Robert Upton II

RUII/jhb
Enclosure
cc: Gregory H. Smith, Esq.
John J. Ratigan, Esq.
Albert St. Cyr
Selectmen, Town of Newington

THE STATE OF NEW HAMPSHIRE

DEPARTMENT OF ENVIRONMENTAL SERVICES

In Re: Application of AES Londonderry, LLC
Pursuant to RSA 72:12-a

Supplemental Memorandum of Towns of Bow and Newington

Bow and Newington submit this Memorandum to supplement its Memorandum dated February 16, 1999.

Noise Mitigation

Bow and Newington assert that the Department lacks jurisdiction to consider the exemption of any noise mitigation, equipment or property under RSA 72:12-a. The Department is nowhere by statute or regulation authorized to deal with or require the abatement of noise. Noise is not defined in Env-A and the definitions of air pollutant and air pollution (Env-A 101.14 and 101.15) clearly do not cover noise. By statute, only cities and towns are authorized to regulate noise by ordinance or bylaw (RSA 47:17, RSA 31:39). The only statutory authority for any state agency to regulate noise is with respect to off-highway recreational vehicles and motor boats (RSA 215-a:12, 13; RSA 270:25).

The Department is without jurisdiction to even consider AES's application for exemption as it relates to noise mitigation.

Bow and Newington further note that if noise is air pollution and the building that houses the HRSG is exempted, all industrial buildings will likely qualify for exemption. Such a result evidences the extreme nature of AES's position.

Respectfully submitted,

TOWN OF BOW, NEW HAMPSHIRE
TOWN OF NEWINGTON, NEW HAMPSHIRE
By their Attorneys
UPTON SANDERS & SMITH

Dated: February 18, 1999

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CERTIFICATE OF SERVICE

I certify that a copy of the within Memorandum of Law has been mailed to Gregory H. Smith, Esq. and John J. Ratigan, Esq.

January 6, 1999

NH Energy Facility Site Evaluation Committee
c/o Robert W. Varney, Chairman
NH Department of Environmental Services
6 Hazen Drive, Concord, NH 03301

To the Site Evaluation Committee:

The Londonderry Neighborhood Coalition is an organization composed of residents representing all areas of Londonderry. We formed our group to promote diverse discussion regarding the development within the community of Londonderry.

Recent events and the deregulation of public utilities have led to a proposal by the AES Corporation to build a 720-megawatt power plant in Londonderry. While this was just a proposal, we did some investigating to ensure that we were looking at this objectively. It is important to note that we, as citizens and taxpayers of both the town of Londonderry and the State of New Hampshire, have tried to keep an open mind to the information, but not to forget the health and safety of our community and state. Throughout our evaluation process, we have kept an open dialogue with the Conservation Law Foundation, AES, and the Town of Londonderry.

Our investigation has included direct discussions with AES representatives, participation in the AES collaborative process, extensive review of the AES application for Certificate of Site and Facility, and gathering information from individuals and organizations who have dealt with AES in the past or who may have information which would assist us in examining various aspects of the AES proposal. We have also collected and reviewed information from various state government agencies as well as information from Federal agencies including the US Environmental Protection Agency.

Through our ongoing investigation of AES Corporation, we have discovered overwhelming evidence which leads us to the conclusion that AES lacks the technical and managerial capability to assure construction and operation of the proposed facility in continuing compliance with the terms and conditions of the certificate.

AES has repeatedly demonstrated inadequate or unscrupulous managerial practices and lack of employee oversight at its existing facilities. This has led to numerous violations of permit conditions or terms of certificate issued by state and federal agencies and violations of state and federal regulations designed to protect the environment and public health.

Connecticut

At the AES Thames plant in Montville, CT, poor oversight and management led to the release of caustic waste into the local sewage system. This illegal discharge of caustic waste killed the bacteria used in the sewage treatment process at the local wastewater treatment plant. As a result, the plant was forced to shut down for two days and to discharge untreated sewage directly into the Thames River. AES paid $80,000 in penalties and cleanup costs related to this spill.

California

Due to mismanagement and poor oversight by AES Corporation at its AES Placerita plant in California, a large spill of lime impacted private property near three houses there. Not only was AES responsible for the spill, but they failed to notify proper state authorities when the spill occurred. AES was later fined $10,000 by the state of California for failure to report a the spill When state officials inspected the site of the spill, they determined that it had not been cleaned up adequately.

In 1990 the LA Regional Air Quality Management District cited AES for failure to obtain a permit for constructing new facilities on the AES Placerita site. The same year AES was again fined $10,000 for failure to repair or install an air pollution device on an acid tank.

Oklahoma

At the AES Shady Point Plant in Oklahoma, inadequate management practices led to numerous violations of proper procedures and wastewater permit conditions.

The violations at Shady Point included

Overflowing waste pits into navigable waters
Disposing of wastewater by dumping it onto roads within the plant.
Pumping waste from waste pits into ditches that lead to the Poteau River.
Illegally landfilling waste treatment sludge on the plant site.
Disposing Hydrazine into the Poteau River.

Diverting waste streams without proper permitting or EPA notification.
Failure to report chemical spills.
Management failing to use proper procedures and equipment in its environmental program because it was not economically feasible.

These violations resulted from actions which AES knew, or should have known were violations of the law and would result in environmental harm.

For example, a work order from a Shady Point water treatment superintendent to two operators clearly instructs them to make predictions regarding various runs of "B" train to determine "if we'll lie about our effluent pond." The same work order adds, "The plant would also like us to put SO2 scrubber on filt. H2O...so that we can hide the hoses for Dennis' inspection" (emphasis in original). The author of this work order went on to become the head of the environmental program for Shady Point.

These violations were ordered and routinely covered up by AES management through intimidation of lower level employees and by submission of falsified wastewater reports to the Oklahoma Water Regulatory Board. According to information submitted to the US Department of Labor, plant managers at AES Shady Point used demotion, a pay cut and deferred future stock options, as well as threats of termination, to intimidate an Environmental Support Specialist working at Shady Point after he reported environmental violations to his supervisor. AES management did not report those violations to the proper authorities as they were required by law to do.

When the AES Shady Point plant General Manager eventually exposed the illegal practices, he was fired by AES. AES then hired a private law firm to conduct an internal investigation into the alleged violations. The investigation quickly charged that a low level conspiracy was responsible for all of the violations and that management was unaware of the problems. AES submitted these findings to the EPA and received a Clean Water Act Class II penalty. AES was forced to pay a $125,000 fine and to improve its procedures for water monitoring and sampling.

AES sanctioned the lower level employees who were accused of wrongdoing with demotions and pay cuts. When low level workers sought legal counsel to protect themselves, they were threatened with termination.

Repeated disregard for environmental regulations and permit conditions, repeated failure to report violations, and active participation in coverup of environmental violations make AES unfit to operate and manage a facility in continuing compliance with the terms and conditions of the certificate.

Accidents and Toxic Releases

AES mismanagement and poor oversight is apparent in its poor maintenance which has led to numerous equipment failures or accidents at its existing facilities which have impacted the environment and human health both on and off site.

Hawaii

At its facility in Hawaii, poor maintenance and oversight led to the contamination of the local environment . A breakdown in a cooling tower gearbox caused a mist of hydraulic oil to be emitted into the environment. The hydraulic oil mist drifted off site and impacted at least two adjacent properties. AES was also concerned that the equipment failure may have contaminated their injection wells. AES failed to notify the State Department of Health's Clean Air Branch about the release. An employee of an adjacent property notified the state authorities about an oily substance coating their equipment. The Department of Health investigation revealed AES as the source of the contamination. AES agreed to pay for cleanup of the contaminated equipment.

At the same facility, during chemical cleaning of its boiler, AES spilled 422,400 pounds of citric acid solution (containing 12 ppm chromium). AES contained and transferred the leaked material to a storage tank before injecting it into underground wells.

Connecticut

AES released hydraulic oil into the water at its plant in CT when a line on a barge unloader failed. Approximately 2 pounds of hydraulic oil spilled into the Thames river covering a surface water area of 22,500 square feet. Booms and absorbents had to be deployed to contain and clean up the spill. On a separate occasion an hydraulic wrench was dropped into the Thames River, releasing a small amount of hydraulic oil.

In November 1996 a tanker truck at the AES Thames plant spilled 150 pounds of Sodium Hypochlorite when a hose connection failed. The chemical contaminated the ground and was contained with booms and absorbents before being treated with sodium sulfite to neutralize it.

California

According to a report from OSHA, the AES Placerita plant was inspected in January, 1993 after an accident in December, 1992.

The accident as described in the OSHA report:

> Summary Nr: 170150536 Event: 12/25/1992 Exposure Hydrogen Chloride
>
> An employee at an electric utility plant was making his evening rounds when he noticed a stream of water shooting 40 feet in the air from a broken recirculation line. a 0.5-inch polyvinyl chloride nipple on the hydrogen chloride pump had broken and caused the leak. the employee went to the control room; and. as he came back outside the room, he was exposed to hydrogen chloride vapor. without donning a respirator, he then went to the main actuator valve of the hydrogen chloride tank. while he was turning the valve, he again inhaled hydrogen chloride vapor, which caused him to become nauseated, to vomit, and to become short of breath. the employee was treated by an emergency room physician and was released the same day.

The victim is described as a 21 year old male in the report.

The subsequent January inspection revealed 7 violations including 2 serious violations (5144G 1 instances, 39 exposed, 3220 B 3 instances/39 exposed). A fine of $4010.00 was assessed for these violations.

Pennsylvania

In adequate maintenance led to the failure of a pipe in the wastewater system of the AES Beaver Valley power plant in Pennsylvania in 1994. The pipe failure caused the release of an unknown quantity of low PH wastewater containing sulfuric acid. This release led to contamination of the soil, a wastewater pond and the Ohio River.

These repeated toxic releases, spills and accidents make AES unfit to operate and manage a facility in a manner which guarantees the health and safety of local residents and the adequate protection of the local environment.

Misrepresentations to Public Officials and Community Residents

AES mismanagement is not restricted to plant operations but extends to misleading and deceitful attempts to obtain permits for proposed facilities, and to gross disregard for the wishes of the local government and residents.

Florida

When AES applied for a permit to build a power plant in Jacksonville, Florida, their partner, Seminole, Kraft (with full knowledge of AES) told the site certification committee there that if the power plant was built, Seminole Kraft would shut down its five dirty boilers, partially compensating for the pollution that the new plant would produce. The permit was granted to AES by the site certification committee based in part on this promise. When the plant was under construction, a secret memo between AES and Seminole Kraft surfaced which revealed that Seminole Kraft had planned to continue operating three of its boilers indefinitely.

This prompted a backlash against the project including charges from Florida's Attorney General that AES "grossly misled" the state in applying for a site permit. Lawton Chiles, who was then Governor of Florida said, "if someone knew [that the boilers would continue operating], that's material misrepresentation." On a vote of 7-0 the Governor and his cabinet began proceedings to revoke the AES permit.

In addition to misleading the site certification committee, AES pushed forward with its proposal over the objections of local government. The Jacksonville Town Council passed six resolutions against the project, but AES was determined to push its project through.

AES co-founder Roger Sant admitted to AES' role in the misrepresentations made to the site certification committee in a recent magazine article, "Frankly we had been a bit unscrupulous about what we told people there about our intentions. We had to reexamine our definition of integrity." (Forbes, 11/2/98, p179).

AES was forced by public and private pressure to sell its half built plant.

Hunter's Point (CA)

When AES proposed a power plant for Hunters Point in San Francisco, they used deceptive tactics to convince the Port Commission to rezone waterfront land to allow for the power plant. Seventy five to one hundred people were bussed by AES to the meeting to show support for the rezoning, and the Port Commission approved the rezoning. These people had no particular interest in the AES proposal, but were lured to the meeting through the promise of money. It was only when twelve of the AES 'supporters" commandeered a bus on their way home, after the driver refused to bring them on a tour of local bars and liquor stores, that the truth became known. AES had paid 75 homeless people $10 each to attend the meeting and support the proposal. The revelation prompted Port Commissioner Preston Cook to state, "I feel

they've lost their credibility," and local residents to decry the staged demonstration as "outrageous" and "unscrupulous".

Partly as a result of such deceptive practices, the AES proposal for Hunters Point was rejected by residents, local government and state agencies and was never built.

Maine

When AES proposed the construction of a coal burning power plant in Bucksport, ME, it pledged to be a good neighbor and to not proceed with the project if it was not wanted. The residents of Bucksport held a non-binding referendum on the AES proposal and the proposed plant was rejected 1,260 to 920. The Bucksport Town Council then asked AES to abandon the proposal in a 4 to 3 vote but AES refused. When the Bucksport Board of Zoning appeals rejected AES' application for a shoreline permit, AES responded not by honoring its pledge to abandon the proposal if it was not wanted, but by suing the town. Before the lawsuit reached completion, AES did finally withdraw the proposal.

The use of deceptive practices in order to obtain local support, zoning changes or site permits further expose the poor management practices of AES Corporation.

Conclusion

Poor management practices by AES have led to violations of permits, laws, and procedures designed to protect the environment and human health. Inadequate oversight and management have resulted in poor maintenance practices leading to toxic releases and accidents which have placed human health and the environment at great risk. AES has demonstrated that it will use deceptive practices to obtain support from local residents, public officials and certification boards.

For these reasons, AES does not meet the criteria mandated by NH state law for the approval of a permit of site and facility. Namely, AES does not have the technical and managerial capability to assure construction and operation of the proposed facility in continuing compliance with the terms and conditions of the certificate as required by RSA 162-H:16.IV(a).

Unreasonable Adverse Effects

The power plant proposed by AES will have unreasonable adverse effect on aesthetics, air and water quality, the natural environment, and public health and safety.

The selection of the proposed site in Londonderry poses significant negative effects on the natural environment, public health, and safety. The site is too close to Manchester Airport (the third largest airport in New England), too close to vital wetlands, too close to residential areas, and too far from suitable interconnections to be developed in a manner which protects the environment, air quality, water quality, aesthetics, and the health and safety of the people of the Londonderry area.

Site Selection Process

The proposed site in Londonderry is significantly poorer, in terms of negative environmental, health, and aesthetic impacts, than many alternative sites. This came about because AES compromised its site selection process by being led to the Londonderry site for reasons other than objective analysis of siting criteria.

According to section 6.3.1 of the AES application, "It is important to understand the particular circumstances under which AES undertook a site evaluation study. AES was brought specifically to the proposed Project site by the Conservation Law Foundation and the individuals and groups helping to form the Londonderry Eco-Industrial Park. The initial selection of the Project site, therefore was fundamentally not the result of a corridor-based alternative sites evaluation, but rather an opportunity." (p 6-8)

After completing analysis of the Londonderry site, AES determined that its interconnections were "geographically poorer than all alternative sites." that the site is "relatively constrained," and "the proximity to Manchester Airport will impact site layout significantly," and it includes drawbacks "such as the need to upgrade the Tennessee Gas Pipeline." (p 6-23).Despite all this, AES concluded that "the Project site was worth pursuing, on the strength of the site's known positive attributes and backing."(p 6-24).

It appears that AES chose the site first then, despite its knowledge of substantial negative impacts, tried to make it appear to be the best site. In doing so, AES has created a situation where environmental, health, and aesthetic impacts are greatly increased.

Proximity to Manchester Airport

The proximity of the selected site to the Manchester Airport has resulted in significant obstacles to development of a clean and safe proposal. The selected site sits at the edge of the approach path to the main runway of the Manchester Airport. Because of its proximity to the airport and the approach path, AES was forced to limit the height of the two exhaust stacks to 132 feet (432' above sea level).

The emissions from the proposed power plant are known to be hazardous to human health and the environment. Pollutants including Particulates, Sulfuric Acid Mist, Volatile Organic Compounds, and Lead are known to contribute to asthma attacks, emphysema, lowered IQ, central nervous system disorders, impaired fetal development, cancer and death.

While pollutants will be emitted from the proposed plant at a height of 432' above sea level, ground level in Londonderry rises to a height of at least 520', and ground level in surrounding towns rises to 600' above sea level. The lower stacks mandated by the proximity to the Manchester Airport, will impose unreasonable negative impacts to aesthetics, air and water quality, human health and the environment in Londonderry from air pollutants emitted by the power plant.

Siting the proposed plant near the Manchester Airport significantly increases the risk of a catastrophic accident which would cause substantial and otherwise avoidable damage to the environment and to the health of the citizens of Londonderry.

The proposed location for the storage of 7,000,000 gallons of jet fuel on the Londonderry site unnecessarily places it at risk for accident. The proposed site is situated at the edge of the approach path to the main runway at the Manchester Airport, departing flights pass directly over the site and direct overflights by small planes are common. At least one aircraft, flown by an experienced pilot, has crashed on approach to the Manchester Airport in the last few years.

In addition to the catastrophic accident risk posed by the storage of jet fuel on the site of the proposed power plant, other plant processes and chemicals pose a similar risk. The selection of the Londonderry site also places a gas compression facility and chemicals including acid, caustic, sodium hypochlorite and 30,000 gallons of aqueous ammonia, in the flight path of many aircraft from the Manchester Airport.

The visible vapor plume from the power plant cooling tower and stacks is predicted to rise as high as 1000 feet and interfere with the designated

flight path for the main runway at the Manchester Airport for 220 hours per year. The additional water vapor also poses an increased threat of icing on the runways and aircraft at the Manchester Airport, impacting flight safety on the ground and in the air.

Distance from suitable interconnects

The proposed power plant poses unreasonable negative impacts to the environment, human health and the aesthetics of Londonderry due to its excessive distance from suitable interconnects.

The proposed electric interconnection configuration, which AES unilaterally selected despite strong opposition from local residents as well as opposition from members of AES' own "collaborative" process, will have unreasonable impacts on forest habitat, significant trees, forested wetlands, and noise. AES has chosen the electric interconnection option which will require a 195' wide cleared right-of-way through healthy forests, the greatest impact of all available options. The 195 foot wide, 1.3 mile corridor (to the PSNH lines), followed by a 120 foot wide, 1.6 mile corridor (to the NEP lines), will permanently alter approximately 43 acres of forest and forested wetlands habitat, and will destroy significant trees, all of which are important to the health of the Londonderry environment, its wildlife and are aesthetically important.

The wider corridor will act as a funnel, channeling noise from the proposed power plant as well as existing and increasing noise from the Manchester Airport to neighborhoods which currently are significantly buffered from current noise levels by the existing trees. This additional noise will potentially result in unreasonable negative impacts to the quality of life in Londonderry, negatively impacting property values, and causing unnecessary human health impacts including loss of sleep. The electric transmission poles proposed by AES will mar aesthetically pleasing views and will likely decrease property values at abutting residences.

The proposed power lines will introduce a new source of electromagnetic fields, which were recently determined to be a possible carcinogen by a National Institutes of Health working group, to numerous residences abutting the proposed power line corridor.

Despite strong support from abutters for burying the transmission lines, including support from members of the AES "collaborative," AES unilaterally rejected this option. Burying the transmission lines would have dramatically reduced all of these environmental, aesthetic and health impacts. AES rejected the option of least impact in favor of the option of greatest impact.

The site chosen by AES for its proposed power plant is 22 miles from a suitable source of natural gas. The selection of the Londonderry site will mandate a 19.3 mile physical upgrade of the existing Tennessee Gas Pipeline Company's gas line (the "Concord Lateral") from Dracut, Massachusetts to Londonderry, NH. This pipe replacement, which will be requested under a separate application, will cross 18 streams and impact approximately 12 acres of wetlands. In addition, the necessary gas line replacement will impact 30 streets in Londonderry.

The reconstruction of the Concord Lateral pipeline in order to serve the proposed power plant offers unacceptable negative impacts to the local environment. The construction of the new Joint Pipeline in New Hampshire had to be temporarily shut down last fall when contractors failed to protect streams and wetlands. At least one worker has been killed working on the joint Pipeline project in NH. Without the proposed power plant, the existing pipelines will have ample capacity to supply a growing market without any significant physical upgrade. Poor site selection by AES has served to maximize negative environmental impacts.

Even with the replacement of the Concord Lateral pipeline, the natural gas supply will still be 2.7 miles from the proposed power plant and will lack sufficient pressure. According to the AES application a new compression facility will have to be constructed on the Concord Lateral pipeline, "at a point north of Dracut" (section 4.6.4.1). In addition, AES will have to construct a 2.7 mile lateral connecting pipeline to bring natural gas to the proposed power plant.

These extensive upgrades and new pipelines and compression stations, and the environmental and aesthetic disruptions they bring, are unacceptably excessive due to poor site selection and AES' clear subordination of environmental and aesthetic impacts in its site assessment process. AES chose the Londonderry site despite their own admission that "Sites requiring significantly long new laterals and/or substantial new mainline or existing lateral loops will be more costly and disruptive..." (Sec. 6.3.2.3, p 6-11). AES knowingly chose a site which not only did not minimize impacts from the electric and gas interconnects, but significantly increased environmental impacts from electric and gas interconnects.

Air pollution

The air pollution from the proposed power plant imposes an unacceptable additional burden on the local area. Londonderry is already significantly burdened by pollution producing infrastructure which offer significant benefits to the state of New Hampshire. It would be grossly unfair to impose an additional major air pollution burden on the town of Londonderry.

According to AES, the proposed power plant will emit up to 49 tons per year of Volatile Organic Compounds (VOC). This amounts to one half of the VOC currently emitted by all of the existing power plants in New Hampshire according to information compiled by NH State Representative Jeffrey C. MacGillivray. Volatile Organic Compounds, which may contain a variety of harmful and cancer causing toxins including benzene, are a contributor to the formation of ground level ozone. Without this major new source of VOC, Londonderry, and much of southern NH, is already in violation of federal health standards for Ground Level Ozone, and the standards were tightened last year in order to better protect human health. Last year the state of NH violated the new federal standards at least 6 times.

Ground level ozone is an irritant to the lungs throat and nose and can cause nausea, coughing and chest pain. It aggravates conditions such as asthma, allergies and emphysema and can have pronounced health effects on healthy individuals. Ground level ozone is also believed to harm forests and farm crops and may cause deterioration in tires, paints and fabric dyes. The introduction of this major new source of VOC in Londonderry poses an unacceptable negative impact to aesthetics, the environment and the health of the citizens of Londonderry and the citizens of New Hampshire.

According to AES, the proposed power plant will emit up to 128.7 tons per year of fine Particulate matter (PM10). This amounts to three fifths of the PM10 currently emitted by all of the existing power plants in New Hampshire. Fine particulate matter has many of the same negative respiratory effects as Ground Level Ozone. This will compound negative health effects for residents of Londonderry and individuals living downwind of the proposed plant. According to the Conservation Law Foundation, "A sizable portion of the particulates from fossil fuel fired power plants are emitted in the form of NOx or SO2," and are often as small-as 1.0 micron in diameter enabling them to penetrate deep into the lungs. "Ultrafine particulates have been implicated in the deaths of more than 60,000 Americans each year," (CLF, Electricity Generation and Air Pollution, 1997). The introduction of this major new source of deadly particulate matter in Londonderry, in addition to the other new pollutants, poses an unacceptable negative impact to the environment and the health of the citizens of Londonderry and the citizens of New Hampshire.

According to AES, the proposed power plant will emit up to 928.8 tons per year of Carbon Monoxide (CO). This amounts to one and one half times the Carbon Monoxide currently emitted by all of the existing power plants in New Hampshire. The city of Manchester, NH is currently designated as a Nonclassifiable Non-attainment Area for Carbon Monoxide by the US Environmental Protection Agency. The State of NH is presently requesting that the EPA change Manchester's designation for Carbon Monoxide to

attainment. At best the City of Manchester is on the margins for non-attainment for Carbon Monoxide. But with the Manchester airport expanding (recent numbers reveal the airport is nearing the 2 million passenger total for 1998), maintaining an attainment designation for Manchester may be difficult. If you add the massive amounts of CO from the proposed power plant, the air quality in Manchester, Londonderry and southern New Hampshire will be further compromised.

The Manchester Airport is expanding at a phenomenal and largely unforeseen rate. The Airport is in the midst of major upgrades on its runways which will allow for even greater expansion. The terminal building, which is only a couple of years old is already in need of expansion. This expansion poses numerous negative impacts to the environment and the residents of the town of Londonderry. One of the greatest impacts posed by the Airport expansion is on air quality. The airport expansion is already apparent to anyone living in the town of Londonderry. More aircraft, and particularly more large jets, pass over our heads and our homes daily. More jet traffic means more jet fuel exhaust fouling our air and settling down on our gardens, our apple orchards, our forests, and our children. Air traffic, which set records for both passengers and cargo in 1998, will likely double in the next several years.

On top of the additional air pollution from aircraft, the Airport expansion has, and will continue to, cause a considerable increase in automobile traffic in the Londonderry area. This additional automobile traffic will compound the air pollution problems in the local area. Traffic has become such a significant concern that an association, Manchester Airport Area Transportation Management Association, has been established to mitigate the problem. In addition to the growth at the Manchester Airport driving increases in traffic related air pollution, business and residential development has also been expanding in the region. This expansion leads to more traffic as residents commute to and from their workplaces. There are also plans to expand interstate route 93 from its current two lanes to 3 (or possible 4) lanes from Salem, NH to Manchester to accommodate traffic growth. The existing and projected additional traffic will cause additional deterioration in air quality in the Londonderry area.

The state of NH reaps tremendous benefits from both the Manchester Airport and Interstate 93, both of which impose significant health and environmental burdens to the town of Londonderry. It is unreasonable and unacceptable to impose another major environmental burden, in the form of the proposed power plant, on the town of Londonderry.

The cumulative impacts from the proposed plant on top of the major existing sources of local pollution, which are either currently expanding or are

expected to expand, poses unreasonable and unacceptable negative impacts to aesthetics, the environment, and human health in the Londonderry area.

Wetlands Corridor Impacts

One of the major obstacles to development near the Manchester Airport in Londonderry is the presence of numerous ecologically important wetlands. Extensive work has been done in the area by the US Army Corps of Engineers and others working on airport expansion projects to identify ecologically important sites.

The US Army Corps of engineers identified a vital wetlands corridor running from the Merrimack River easterly towards the Little Cohas Brook. The proposed power plant will be situated at one end of this wetlands corridor which crosses north Londonderry (near numerous residences), to the wetland mitigation project for the Manchester Airport and on to the Merrimack River. The proposed power plant will effectively block the corridor from linking the Merrimack River area to the Cohas Brook area. This wetlands corridor may include vernal pools, which are particularly sensitive areas. (there is at least one vernal pool on the AES site itself). The site selected for the proposed power plant poses significant threats to this ecologically sensitive area.

Pollution from the proposed power plant will threaten the wildlife that depends on these wetlands. Sulfuric Acid Mist (up to 23.5 tons per year) will be emitted from the proposed power plant and some of it will settle on local vegetation and in the local surface water and soil. Sulfuric acid will interrupt the natural processes in local vegetation, and will impact the natural cycles of wildlife dependent upon clean water. Sulfuric acid can leach toxic heavy metals out of the soil and into ground and surface water. As the Northeast has seen time and again in ponds and lakes affected by acid rain, this process can destroy aquatic life In addition to damaging these vital wetlands, heavy metals may be stripped from the soil and may percolate into the groundwater from which local residents with wells get their drinking water.

Where the proposed plant interferes with the wetlands corridor, AES proposes to store 7 million gallons of distillate fuel(jet fuel) to be used as a backup fuel supply. The storage of this fuel adjacent to the wetlands corridor poses unacceptable and unreasonable risks to the local environment.

In 1992, at a power plant in Bellingham, MA owned (at the time) by Northeast Energy Associates, 20,000 gallons of fuel oil was spilled from their backup fuel storage tank into surrounding wetlands. "They assured us

that it couldn't happen," said Bellingham Town Administrator Dennis Fraine. "It's hard to argue you can never have a spill when we had one." Since the spill the town of Bellingham has banned oil backup systems for power plants both because of the risk of spills and because, according to Mr. Fraine, "they do not run nearly as cleanly as gas fired plants do."(Record-Journal, Oct 7, 1998).

AES also proposes to store thousands of gallons of other toxic chemicals on site, including acid, caustic, sodium hypochlorite and 30,000 gallons of ammonia. Pipelines will travel throughout the site to distribute the chemicals to various processing areas in the proposed plant. In 1996, 150 pounds of sodium hypochlorite was spilled at the AES Thames plant. AES' record of accidents, leaks, and spills, caused by poor management and poor maintenance, reveal that the risk of contamination of this vital wetlands corridor is significant.

Backup Fuel

The decision made by AES to design a power plant to run on jet fuel as well as natural gas is destructive of the environment and is a path of greater impact on air quality, water quality, and human health. Rather than selecting the processes that minimize health and environmental impact, AES has, once again, opted for the alternative that increases negative impacts.

The use of jet fuel as backup fuel for the proposed power plant dramatically increases the air pollution emitted from the plant. This is proven by the data supplied in the AES application and by the fact that air pollution limits force AES to limit its use of backup fuel to 30 days per year.

The use of backup fuel at the proposed power plant significantly increases the local traffic necessary to maintain operations at the power plant. This poses additional pollution from diesel trucks, additional unnecessary risks to other drivers, additional risks of accident and environmental contamination, and additional risks of spills associated with loading and unloading tanker trucks.

The storage of 7 million gallons of jet fuel at the proposed site poses serious, significant and avoidable risks of catastrophic accidents. An accident such as an airplane crash, a gas explosion, or a major spill pose unacceptable risks to the health and safety of the residents of Londonderry, and to the local environment.

While AES maintains that they have no option but to store backup fuel in order to ensure reliable operation of the proposed plant, there are indeed

other options available. AES could pay for upgrades to the Concord Lateral pipeline which would guarantee a firm supply of natural gas to the proposed power plant. AES could design its proposed plant to require less gas to operate (by reducing the proposal to a single gas generator perhaps). AES could design its proposed power plant to run on a limited gas supply when necessary. AES could shut down its proposed plant when no gas is available. It is not lack of options, but economic factors which motivate AES to make choices which increase the negative impacts of this proposal on the environment and human health.

There are numerous power plant proposals throughout New England which will run exclusively on natural gas without provisions for burning distillate backup fuels. These proposed plants have selected sites in which there is an ample supply of natural gas for them to operate year round. AES' flawed site selection process and poor management decisions have led it to a site where operating exclusively on natural gas is in their opinion not cost effective. AES has chosen to pay less and pollute more.

Evaporative Cooling with Wastewater Effluent

The design of the cooling system for the proposed power plant increases negative impacts to aesthetics, the environment and human health, which could have been mitigated by the choice of alternative designs.

The proposed power plant will consume 4.4 million gallons of wastewater effluent from the Manchester Wastewater Treatment Plant per day. The effluent will be filtered and used in the cooling tower for the proposed plant where 3.5 million gallons per day will evaporate into the air in Londonderry. The remaining .9 million gallons will be released into the local sewage system and returned to the Manchester Wastewater treatment plant. According to the Manchester Wastewater Treatment Plant, "The return flow will include essentially all the contaminants in the water withdrawn, but more concentrated. The return flow will also have been treated with sulfuric acid, sodium hydroxide, biocide and dispersant." (Evaluation of the Impact on Operation of the Manchester Wastewater Treatment Plant of Effluent Reuse Proposed by the AES Londonderry Energy Project, Appendix C, AES application). In addition, the effluent from the proposed power plant will surpass wastewater screening levels for Sulfate and Chloride, and will increase the levels of pollutants in both the sewage sludge byproduct and the effluent from the Manchester Wastewater Treatment Plant which is discharged into the Merrimack River.

The high levels of Sulfate in the return flow from the proposed power plant may damage the concrete in the sewage system . The sulfates and the high temperature of the wastewater from the proposed power plant may increase

odors at the Manchester Wastewater Treatment Plant.

Wastewater effluent has the potential for harboring harmful microorganisms in addition to the heavy metals and toxins it contains. Additionally, some wastewater facilities are contaminated by radionuclides from permitted dischargers or from hospitals (we are unaware of any studies done in Manchester to test for radionuclides). The use of wastewater effluent in the cooling towers of the proposed power plant can release pathogens and other toxic substances into the air in Londonderry in the form of micro-aerosol droplets or mist.

Because of the enormous size of the proposed power plant, the quantity of water vapor released into the local environment will have a number of negative effects. Depending upon the local weather conditions, the release of 3.5 million gallons of water vapor daily will at times cause: a 1000 foot high cloud of condensed water vapor which will interfere with air traffic at the Manchester Airport; increased icing on cars, airport runways, aircraft, roads and power lines; increased snowfall in the local area; and increased fog and mist leading to effects such as lower visibility on local roads and highways. The increase in damp conditions in the local area may negatively impact the local farms and apple orchards by increasing mold and fungus growth.

Dry cooling technologies exist which would eliminate all of these negative impacts associated with evaporative cooling. But in another example of poor management decisions in which cost considerations have overruled environmental considerations, AES has opted for evaporative cooling, which it considers, "by far the most cost-efficient method of cooling a combined cycle plant." (AES application p 6-2). This decision poses unreasonable negative impacts to the local environment, quality of life, and human health.

Sludge

The proposed power plant will generate sludge, the disposal of which may cause negative impacts to the local environment and human health.

According to the AES application, "During the clarification process of the treated effluent, residual sludge will be produced by the addition of non-toxic chemicals to the effluent. ... alum sludge is difficult to dewater and may require the addition of a bulking agent, which would increase the quantity of sludge generated." (p 5-137/8). "The maximum estimated solids volume will be approximately 3000 lbs./day. If dewatering is so difficult that only 15 percent of the volume is solids, the estimated volume would be approximately 10 tons per day." (p 5-139).

Under existing NH laws, sewage and industrial sludges can be spread on land including gravel pits, forest land, farm land (even dairy farms), or other open land. Sludge has been spread in Londonderry in the past. The land application of sludge causes negative impacts to the environment, wildlife, water quality, and human health. Wells have been contaminated by land application of sludge and in Pelham, a sludge site was found to be contaminated by toxins including methyl-ethyl ketone.

The potential for AES to land apply its sludge on its own property or on other property in NH poses an unacceptable negative impact to the environment and human health.

Conclusion

The AES proposal has selected a site which can not be developed in a clean and safe manner. It is too close to the Manchester Airport, which increases negative impacts on the Airport, the plant design, and the local environment and increases safety risks. It is too far from fuel sources and electric transmission routes which increases negative impacts on the environment and local residents. It is too close to local residents (over 380 homes within one mile), which will increase the nuber of individuals exposed to local negative effects of the plant such as pollution, power lines, and noise. The decisions made in the design of the plant and the interconnection infrastructure tend to increase rather than mitigate many negative impacts to the environment, asthetics, air and water quality and human health.

For these reasons, AES does not meet the criteria mandated by NH state law for the approval of a permit of site and facility. Namely, RSA 162-H:16,IV(a) requires that the proposal "Will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety."

Cordially,

The Londonderry Neighborhood Coalition

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MAUREEN C. KENDA
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GLENN A. PERLOW
JESSICA E. SCHEINMAN
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** Admitted in NY only

March 16, 1999

The Honorable David W. Hess
Chairman, and Members of the
Municipal & County Government Committee
Legislative Office Building, Room 301
State Offices
Concord, NH 03301

RE: HB 536, relative to authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power

Dear Chairman Hess and Honorable Members of the Committee:

As you will recall at the Committee hearing on HB 536 last Thursday, March 11, 1999, we were asked to provide information on the following issues. Each of these issues is addressed in the attachments 1-4 to this letter.

(1) A Discussion of the Constitutionality of HB 536
(2) The History of the Elimination of the Machinery Tax, Leaving the Electric Equipment Tax as an Artifact. RSA 72:8
(3) The Tax Treatment of Machinery and Equipment in other New England States
(4) Suggested Procedure for Tax Exemption Under the Proposed HB 536.

If I can provide you with any further information, please do not hesitate to contact me at our Concord office. Thank you for your consideration in this matter.

Respectfully submitted,

Gregory H. Smith

GHS:sr
Enclosures

I. A DISCUSSION OF CONSTITUTIONALITY OF HB 536

The Legislature has broad discretion in classifying property as taxable, and the classification need only be just, and not made arbitrarily or for the sole purpose of preferring some taxpayers over others. See Opinion of the Justices, 137 N.H. 270, 275 (1993). Correspondingly, the Legislature has broad power to create tax exemptions which need only nonarbitrarily promote some proper object of public welfare or interest. See Eltra Corp. v. Town of Hopkinton, 119 N.H. 907, 912 (1979). "The basic principal that all taxpayers shall share the public expenses equally . . . is not violated by a legislative exemption of a certain class of property from taxation, in whole or in part, provided the exemption serves the general welfare." Opinion of the Justices, 142 N.H. at 95, 99 (1997)(quoting Eltra Corp., 119 N.H. at 912).

The Legislature may constitutionally delegate to cities, towns, and municipalities the authority to create tax exemptions. See Opinion of the Justices., 142 N.H. at 100; Opinion of the Justices, 115 N.H. 228, 230 (1975). "No unconstitutional delegation of authority results when the Legislature establishes the terms of the general act, but leaves the determination of whether it shall have the force of law to the governing bodies of the localities to be affected or to the people themselves." Opinion of the Justices, 115 N.H. at 230-31.

In fact, New Hampshire's governing statutory framework is replete with examples of constitutionally permissible delegations of the authority to create tax exemptions to local governments. See, e.g., RSA 72:36-a (Certain Disabled Servicemen Exemption); RSA 72:36-b (Procedure for adoption; Exemption for the Blind); RSA 72:37-a (Exemption for the Improvements to Assist Persons with Disabilities); RSA 72:37-b to -c (Exemption for the Disabled and Procedure for Adoption); RSA 72:38 (Exemption for Aviation Facilities; Partial Reimbursement for Taxes Paid); cf. RSA 72:28 - :28-a (Veterans' Tax Credit and Procedure for Adoption); RSA 72:35 - 35-a (Tax Credit for Service Connected Total Disability and Procedure for Adoption); RSA 72:38-a (Tax Deferral for Elderly and Disabled); 72:39-a to -b (Conditions for Elderly Exemptions and Procedure for Adoption).[1] More specifically, the Legislature currently authorizes local governments to adopt real estate tax exemptions for solar energy systems, see RSA 72:61 - :63, wind-powered energy systems, see RSA 72:66 - :67, and wood heating energy systems, see RSA 72:70 - :71. That some local governments adopt these exemption while others do not, does not violate the constitutional requirements of uniform and equal taxation because the tax imposed is uniform and equal within each taxing district. See Opinion of the Justices, 115 N.H. at 231.

The New Hampshire Supreme Court recently scrutinized a House Bill providing for certain municipal tax exemptions, similar to House Bill 536, and found the Bill to pass the constitutional requirements imposed by part I, article 12 and part II, article 5 of the New Hampshire Constitution. See Opinion of the Justices (Municipal Tax Exemptions for Industrial Construction), 142 N.H. 95 (1997). The Bill provided that a town or city could by vote of the local legislative body adopt a new construction property tax exemption for industrial uses. Id. at 97.

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[1] Note that the Legislature repealed RSA provisions allowing for various elderly tax exemptions, RSA 72:43-a to c, e to g, and h, in 1996, effective January 1, 1998.

In analyzing that House Bill, the New Hampshire Supreme Court first considered whether the Bill's classification of the taxable property was based on a reasonable distinction which promotes a proper object of public welfare and does not require any taxpayer to pay more than his fair share of the tax burden as required by part I, article 12 of the New Hampshire Constitution. Id. at 99. The stated purpose of the Bill is "to foster the economic development of the state by enabling municipalities to encourage new construction, rehabilitation and improvement of property for industrial use by granting tax exemptions for a limited period of time." Id. at 100. The Court reasoned that the State and its citizens benefited from economic growth created by the exemption. See id. Accordingly, the Court concluded that just reasons exist for providing a limited tax exemption for industrial construction, and that the Bill reveals a purpose of promoting the public welfare. See id.

Next, the Court turned to part II, article 5 of the New Hampshire Constitution. The Court stated that the "[L]egislature may constitutionally delegate to cities and towns the authority to create tax exemptions." Id. Here, the proposed legislation would allow either the municipalities or the towns people to determine whether to give the legislation the force of law. See id. According to the Bill, "once a town or city adopts a construction property tax exemption for industrial uses and specifies the percentage rate and duration of the exemption, the exemption shall be granted uniformly within the municipality to all new construction for which a proper application is filed." Id. at 101. The Court opined that if less than all the cities and towns adopted the legislation, the constitutional requirements of uniformity and equality would not be violated because the tax imposed would be uniform and equal within each municipal taxing district. See id. at 100-01. Accordingly, the Court held the legislation would satisfy the constitutional requirements of part II, article 5. See id. at 101.

Similarly, House Bill 536 also satisfies constitutional muster. The Bill's purpose is "to further the state's policy of promoting the development of a competitive electric supply market in New Hampshire and to give municipalities the ability to attract new electric generation facilities and retain existing generation facilities that have become subject to the economic pressures of a deregulated market." New Hampshire and its citizens will receive direct benefits from the exemptions by attracting new electric generating companies to New Hampshire which would create a competitive electric supply market. The Bill would also spur economic growth in New Hampshire. The Bill requires that once a municipality grants an exemption, that exemption must be granted across the board in that municipality. As such, the exemption satisfies the constitutional requirements of equality and uniformity because the exemption would apply equally and uniformly within the municipal taxing district.

Considering that New Hampshire's methods of taxation is currently being reconsidered because of the Claremont decision, any effect of these changes could be the subject of an amendment to this Bill.

II. RSA 72:8 AN ARTIFACT OF THE OLD MACHINERY TAX

Not only is the exemption contained in House Bill 536 constitutional, it provides relief from an antiquated, unfair, and disproportionate tax on personal property (machinery) delineated in RSA 72:8.

Prior to 1970, New Hampshire's tax structure focused on a machinery tax contained in RSA 72:7.[2] New Hampshire abandoned the machinery tax in 1970 as part of tax scheme restructuring, which featured the enactment of a business profits tax. With the creation of the business profits tax and the simultaneous extraction of the machinery tax from RSA 72:7, the focus of New Hampshire's tax structure changed from taxing machinery to taxing business profits. See Crown Paper v. City of Berlin, 142 N.H. 536, 567 (1997).

The rationale for the adoption of the business profits tax was that the tax structure at the time was neither fair, nor easy to administer, and lacked growth potential. See Baxter Int'l, Inc. v. New Hampshire, 140 N.H. 214, 218 (1995); see i.d. Further, the business profits tax would raise enough revenue to allow for the repeal of taxes universally condemned as unfair and discriminatory: the machinery tax and the stock in trade tax.

RSA 72:8 was in effect during this time, but it only taxed personal property owned by public utilities. In 1997, the Legislature amended RSA 72.8 so that the personal property taxed pursuant to RSA 72:8 would not depend on whether the property taxed was owned by a utility but instead the criteria for taxation became whether the property was employed in the generation, production, supply, distribution, transmission, or transportation of electric power or natural gas, crude, petroleum and refined petroleum, or combinations thereof. This recent amendment to RSA 72:8 is not conducive to the state policy of a deregulated and open electric supply market. HB 536 facilitates the shift of New Hampshire's electric supply market from a regulated, closed market to an open, competitive market.

With the forced application of RSA 72:8 beyond public utilities, New Hampshire's statutory scheme of taxation has regressed to the days of the highly criticized machinery tax previously embodied in RSA 72:7.

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[2] The statute provided that buildings, mills carding machines, factory buildings and **machinery**, wharves, ferries, toll bridges, locks and canals would be taxed as real estate. See Crown Paper Co. v. City of Berlin, 142 N.H. 563, 567 (1997).

III. THE TAX TREATMENT OF MACHINERY AND EQUIPMENT IN OTHER NEW ENGLAND STATES

You will recall we explained at the hearing on this Bill, that in other New England states, electric generating equipment either isn't included in the property tax in the first place, or there are mechanisms to eliminate the effects of such taxes by exemptions or pilots. Competitive energy suppliers proposing to build in New Hampshire are competing in a deregulated regional market. The State's energy policy which seeks the benefits of deregulation will be frustrated if the economic disadvantage of our electric generating equipment tax cannot be mitigated. Maintaining it, puts new facilities in an uneconomic position because of the widely disparate tax treatment of electric generating equipment, among New Hampshire municipalities, and between the New England states.

We attach in response to your request for information on this, a chart surveying the laws in other New England states. This chart supports our description of the negative effects of higher taxation based on the New Hampshire electric generating equipment tax in comparison with regional tax policy. This negative effect, in turn, will tend to frustrate New Hampshire policy, promoting deregulation in order to achieve lower cost of electric energy for the citizens of New Hampshire.

Because we have not been able to obtain all the information which may be available on this topic, given the short time period since the Committees' request last Thursday. We believe the information we have been able to compile should be helpful.

State	Machinery, Equipment, and Stock and Trade Taxes	Tax on Electric Generating Personal Property
Connecticut	Exempts machinery and equipment used in manufacturing facilities from taxation for five years. See Conn. Gen. Stat. § 12-80 (72)	Taxes real and tangible personal property owned by any company, including a foreign municipal electric utility, employed in the manufacturing, transmission or distribution of gas or electricity or both to be used for light, heat or power. Connecticut allows for municipalities to enter into PILOT Agreements. See Conn Gen. Stat. § 12-81(63).
Rhode Island	Exempts new manufacturing machinery and equipment. See R.I. Gen. Laws § 44-3-3 (22). Further, R.I. Gen. Laws § 44-3-3.1 provides that municipalities may exempt other personal property (i.e. equipment) used for manufacturing or commercial purposes not otherwise exempt.	Taxes the lines, cables, conduits, ducts, pipes, machines and machinery, equipment and other tangible personal property within the state of telegraph, cable and telecommunication corporations and express corporations at a local level but apparently taxes these pieces of property at the state level. See R.I. Gen. Laws § 44-13-13. Nevertheless, companies taxed pursuant to this subsection may file a request with the Public Utilities Commission to recover the additional tax expense. Of note, pursuant to R.I. Gen. Laws § 43-30, the town counsel of Burrilliville is authorized to tax real or personal property used in connection with any electric generation facility located in the town. Most importantly, Rhode Island allows municipalities to exempt from taxation, real and personal property used for manufacturing and commercial purposes and to determine a stabilized amount of taxes to be paid on said property. See R.I. Gen. Laws § 44-3-9.

State	Machinery, Equipment, and Stock and Trade Taxes	Tax on Electric Generating Personal Property
Maine	Exempts stock-in-trade and industrial inventory from taxation, see Me. Rev. Stat. Ann. 36 § 655, and only levies a tax on equipment if the owner of the property did not pay the personal property tax, see Me. Rev. Stat. Ann. 36 § 611.	Maine has a Business Property Tax Reimbursement Program, which is a way the State can basically cancel out the affects of the personal property tax at the local level. See 36 Me. Stat. Ann. 36 § 6652. The reimbursement for certain energy facilities is, however, limited to some degree, or the reimbursement will extinguish depending upon the amount of energy sold in relationship to the amount of energy produced. Maine also allows municipalities to use "Tax Increment Financing" as an economic development incentive within the community. The program enables a municipality to designate a TIF district where new or expanding businesses can receive financial support based on the new property tax revenues generated by their project. The municipality may choose to fund a portion of the project or to return a percentage of the tax revenues to the company to offset the costs of development.
Vermont	While it appears that manufacturing machinery is taxable, see Vt. Stat. 32 § 3602, towns can exempt business personal property, see Vt. Stat. 32 § 3218.	Except for the property of utilities, all personal and real property not used as residential property, farmland, and vacant land zoned recreation, conservation and open space is taxable. See 24 V.S.A. 24 App. Part I § 381. Nevertheless, Vermont has statutory authority allowing municipalities to enter into agreements with electric generating facilities fixing the valuation of real and personal property subject to taxation , fixing the rate of taxation, and fixing the amount of tax liability. See Vt. Stat. 24 § 2741; see also Vt. Stat. 24 § 1505 (Tax Stabilization Agreements)

State	Machinery, Equipment, and Stock and Trade Taxes	Tax on Electric Generating Personal Property
Massachusetts	Exempts from local taxation the machinery of foreign and domestic manufacturing corporations, see Mass. Gen. Laws Ch. 63, § 38C, 42B. Nevertheless, no such property shall be exempt if it is used to generate electricity unless it received a manufacturing classification before January 1, 1996 or generates no more than 30 megawatts. See Mass. Gen. Laws ch. 59, § 5, cl. 16(3).	Mass. Gen. Laws Chap. 59, § 38H authorizes towns to enter into binding PILOT Agreements.

IV. PROCEDURE FOR TAX EXEMPTION PURSUANT TO HB 536

The Committee has expressed concern regarding the procedure for tax exemptions pursuant to HB 536. Accordingly, the following should be inserted into HB 536 to alleviate any concerns that the procedure for exemptions is not adequately delineated.

III. Procedure for Adoption

The governing body of each municipality shall make the determination to exempt personal property, pursuant to Section 2, II above, for so much of the equipment and such a term of years as the governing body determines will attract new construction of electric generation facilities, retain existing electric generation facilities, or foster economic development.

or add:
[Such determination should be subject to approval of the Legislative body of a town.]

MEMORANDUM

TO: REP. DAVID HESS, CHAIR
FROM: JIM MONAHAN
SUBJECT: HB 536
DATE: MARCH 30, 1999
CC: MUNICIPAL AND COUNTY GOVERNMENT COMMITTEE

the Dupont Group

I appeared before the House Municipal and County Governments Committee to support HB 536 An Act authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power, on behalf of Cabletron Systems Inc., and Enron, both clients of mine that are working on the electric industry restructuring issues. In addition to my work on these issues in NH, I am also a member of the New England Independent Systems Operator's Board Advisory Committee. The ISO manages the New England Power Pools regional transmission tariff.

In light of the volume testimony the day of the public hearing is I thought it might be helpful to the Committee if I summarized my testimony in writing: If you have any questions, feel free to contact me at the Dupont Group at 228-3322.

Summary of testimony:

- For whatever reason, manufacturing equipment in NH that happens to produce electricity (as opposed to widgets or paper) is taxed differently. As a result, it is appropriate to consider allowing other aberrations in our public policy concerning this type of manufacturing and how it is taxed.

- The exemption to any portion of the equipment tax of an electric generation plant option envisioned by HB 536 will help NH attract some of the anticipated combined cycle gas generation facilities that will be developed in the New England power pool over the next several years. All of the other New England states have the ability to enable towns to issue these tax payment methods and for NH to be competitive, we should have the same local option for tax contracts.

- It would be harmful to NH's energy policy if towns are not able to use tax payment contracts. Because of the way the New England power pool is planning to price transmission, based on distance and capacity constraints; if less generation is sited on the other side of the NH bus-bar, prices for power could be

increased because we must purchase it from the other side of the constrained transmission facilities.

- The value added economic benefits of turning gas into electricity are many. They range from employment to business tax revenue. Of the 30,000 megawatts of power proposed, about 7,500 to 10,000 will be built. It would be unfortunate if NH was not able to attract and site some of that new generation and receive the economic benefits associated with it.

- Payment in lieu of tax payment contracts already exists in NH today for the six wood-to-energy power plants. To the best of my knowledge, these tax payment contracts have not lead to a constitutional or revenue sharing problem.

- Without HB 536, if any new generation is going to be developed it will likely be attracted to low-tax towns, Bow and Newington, for example, which will become electricity plant magnets. This type of clustering brings with it a host of difficulties including increasing the existing transmission congestion that is driving transmission rates up.

May 2, 2000

Town councilors agreed with AES on a plant to be built in Londonderry. Residents were not consulted and subsequently vehemently objected to AES. A referendum vote was allowed after protest and residents voted down AES. However, councilors then declared the vote non-binding.

Residents formed a coalition group in opposition to AES.

Voters at new election ousted the old councilors and elected a new board. The present councilors **DO NOT SUPPORT** AES in Londonderry.

The coalition has filed an appeal in the Supreme Court to prohibit AES. This past week the new town councilors have filed an Amicus Curia brief in support of the coalition appeal to Supreme Court.

Therefore, with all the dissent about this bill, I question whether this is the appropriate time to pursue passage of HB 536. More communication is needed.

I hope my colleagues will support a motion to ITL or continue Interim Study. I would prefer ITL

With the present investigatory procedure in progress, should we the legislature force a town to accept something the do not want? I think not!

Rep. Mary Griffin.

Mary Griffin 5/2/00

Mr Chairman Re HB536 AES

Town Councellors agreed with AES on a Plant to be built in Londonderry. Residents were not consulted and subsequently vehemently objected to AES. A Referendum Vote was allowed after Protest, and Residents voted down AES However, Councellors then declared the Vote non-binding.

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Therefore With all the dissent about this Bill, I question whether this is the appropriate time to pursue passage of HB536. More communication is needed!

I hope my Colleagues will support a motion to ITL or continue Interim Study. I would prefer ITL

With the present investigatory procedure now in process, should we the Legislature force a Town to accept something they do not want. I think not!

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 536

BILL TITLE: **authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power.**

DATE: May 11, 1999, 1999

LOB ROOM: 301

Amendments:

Sponsor: Rep. Hager/Patten	OLS Document #:	1999	1063h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Patten

Seconded by Rep. Zerba

Vote: 11-4 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Richard C. Leone, Clerk

1999 SESSION

Bill # HB 536

Public Hearings _____ Executive Session 5/11/99

COMMITTEE REPORT: OTP/A

	YEAS	NAYS
Hess, David W, Chairman	1	
Patten, Betsey L, V Chairman	1	
Golden, Paul A		
Cote, Patricia L		
Rice, Thomas E P		1
Brundige, Robert W		2
Sabella, Norma A		3
Griffin, Mary E		4
Leone, Richard C, Clerk	2	
Noyes, Richard A	3	
Hager, Elizabeth S	4	
Akins, Ralph L		
Lovejoy, Marian E		
Lockwood, Priscilla P	5	
Foster, Linda T		
Fraser, Marilyn A	6	
McGuirk, Paul A	7	
Salatiello, Thomas B		
St Cyr, Gerard L	8	
Sarette, John C		
Simon, Anthony F	9	
Zerba, Roger T	10	
TOTAL VOTE		

Appeared in Favor	Appeared in Opposition
11	4

1999 SESSION

Bill # HB536

Public Hearings _____ Executive Session 3/11/99

COMMITTEE REPORT: Ought to Pass w/ Amendment 1063h

	YEAS	NAYS
Hess, David W, Chairman	9	
Patten, Betsey L, V Chairman	1	
Golden, Paul A		
Cote, Patricia L		
Rice, Thomas E P	2	
Brundige, Robert W		1
Sabella, Norma A		2
Griffin, Mary E		3
Leone, Richard C, Clerk	3	
Noyes, Richard A	4	
Hager, Elizabeth S	5	
Akins, Ralph L		
Lovejoy, Marian E		
Lockwood, Priscilla P		4
Foster, Linda T		
Fraser, Marilyn A		5
McGuirk, Paul A	6	
Salatiello, Thomas B		
St Cyr, Gerard L	7	
Sarette, John C		
Simon, Anthony F		6
Zerba, Roger T	8	
TOTAL VOTE		

Appeared in Favor	Appeared in Opposition
9	6

1999 SESSION

Bill # 536

Public Hearings _____ Executive Session 5/11/99

COMMITTEE REPORT: Amendment # 1067 (1067)

	YEAS	NAYS
Hess, David W, Chairman		
Patten, Betsey L, V Chairman		1
Golden, Paul A		
Cote, Patricia L		
Rice, Thomas E P		2
Brundige, Robert W		3
Sabella, Norma A		4
Griffin, Mary E		5
Leone, Richard C, Clerk		6
Noyes, Richard A		7
Hager, Elizabeth S	1	
Akins, Ralph L		
Lovejoy, Marian E		
Lockwood, Priscilla P		8
Foster, Linda T		
Fraser, Marilyn A		9
McGuirk, Paul A		10
Salatiello, Thomas B		
St Cyr, Gerard L		11
Sarette, John C		
Simon, Anthony F		12
Zerba, Roger T		13
TOTAL VOTE		

Appeared in Favor	Appeared in Opposition
1	13

Committee Report

COMMITTEE REPORT

COMMITTEE: **Municipal and County Government**

BILL NUMBER: **HB 536**

TITLE: authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power.

DATE: May 11, 1999 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

In order to further the state's policy of promoting the development of a competitive electric supply market in New Hampshire and to give municipalities the ability to attract new electric generation facilities and retain existing generation facilities that have become subject to the economic pressures of a deregulated market, the general court believes that it is desirable to give municipalities the authority to exempt from taxation certain personal property that is used in the manufacture of electricity.

HB 536 gives the governing body the authority to determine an exemption. The amendment sets up that the determination requires approval by the legislative body of the municipality.

The determination for exemption may be applied to new construction of electric generating facilities, to retain existing electric generation facilities or to foster economic development.

At least four items must be disclosed to and approved by the legislative body: fair market value of equipment exempted, the term of the exemption, any agreement for payments of taxes, and/or agreement for payment in lieu of taxes.

An additional amendment to sunset the availability of this option on July 1, 2004 was adopted by the Committee. If an exemption is granted by the legislative body, the agreement is not subject to the sunset date.

Vote 11-4.

Rep. Betsey L. Patten
FOR THE COMMITTEE

Original: House Clerk

OFFICE OF THE HOUSE CLERK OTP/A 2000 SESSION

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: 536 Title: McQuirk / Zerba

PH Date: 01/20/00 Exec Session Date: 1/20/2000

Motion: OTP/A Amendment #:

MEMBER	YEAS	NAYS
Hess, David W, Chairman		6
Patten, Betsey L, V Chairman	1	
Cote, Patricia L		
Rice, Thomas E P		1
Brundige, Robert W	2	
Sabella, Norma A		
Griffin, Mary E		
Leone, Richard C, Clerk	3	
Noyes, Richard A		
Hager, Elizabeth S		2
Akins, Ralph L		3
Lovejoy, Marian E		
Lockwood, Priscilla P	4	
Kelley, William J		4
Foster, Linda T	5	
Fraser, Marilyn A		
McGuirk, Paul A	6	
Salatiello, Thomas B		
St Cyr, Gerard L		
Sarette, John C		
Simon, Anthony F		5
Zerba, Roger T	7	
TOTAL VOTE: Printed: 12/30/1999	7	6

Majority

Need blurb from Rep. Hager (minority) on HB 536

OFFICE OF THE HOUSE CLERK 2000 SESSION

MUNICIPAL AND COUNTY GOVERNMENT OTP/A Simon / Kelly

Bill #: 536 **Title:**

PH Date: 01/20/00 **Exec Session Date:** 01/20/2000

Motion: ITL **Amendment #:**

MEMBER	YEAS	NAYS
Hess, David W, Chairman	6	
Patten, Betsey L, V Chairman		1
Cote, Patricia L		
Rice, Thomas E P	1	
Brundige, Robert W		2
Sabella, Norma A		
Griffin, Mary E		
Leone, Richard C, Clerk		3
Noyes, Richard A		
Hager, Elizabeth S	2	
Akins, Ralph L	3	
Lovejoy, Marian E		
Lockwood, Priscilla P		4
Kelley, William J	4	
Foster, Linda T		5
Fraser, Marilyn A		
McGuirk, Paul A		6
Salatiello, Thomas B		
St Cyr, Gerard L		
Sarette, John C		
Simon, Anthony F	5	
Zerba, Roger T		7
	6	7

TOTAL VOTE:
Printed: 12/30/1999

Hager
Minority

COMMITTEE REPORT

COMMITTEE: **Municipal and County Government**

BILL NUMBER: **HB 536**

TITLE: authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power.

DATE: February 2, 2000 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☒ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

In deference to a member who was absent during the executive session on HB 536, the Committee voted unanimously to re-consider its vote. The subsequent motion was to send the bill to interim study. The Committee realizes that the statewide policy implications of this bill were somewhat localized by the issues surrounding the proposed AES power plant in Londonderry. Among other issues which the Committee wishes to examine are the bill's implications as the last ~~XXXXXX~~ coming the stock and trade tax and any findings regarding the taxing of utilities brought forth by the Tax Equity and Efficiency Commission. Interim Study will allow the Committee to fully examine the many aspects and implications of this proposed legislation.

Vote 15-1.

Rep. Linda T. Foster
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

COMMITTEE REPORT

COMMITTEE: **Municipal and County Government**

BILL NUMBER: **HB 536**

TITLE: authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power.

DATE: February 2, 2000 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☒ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

In deference to a member who was absent during the executive session on HB 536, the Committee voted unanimously to re-consider its vote. The subsequent motion was to send the bill to interim study. The Committee realizes that the statewide policy implications of this bill were somewhat localized by the issues surrounding the proposed AES power plant in Londonderry. Among other issues which the Committee wishes to examine are the bill's implications as the last remnant the stock and trade tax and any findings regarding the taxing of utilities brought forth by the Tax Equity and Efficiency Commission. Interim Study will allow the Committee to fully examine the many aspects and implications of this proposed legislation.

Vote 15-1.

Rep. Linda T. Foster
FOR THE COMMITTEE

2/3/

OK

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Municipal and County Government

HB 536, authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power. REFER TO COMMITTEE FOR INTERIM STUDY

Rep. Linda T. Foster for Municipal and County Government: In deference to a member who was absent during the executive session on HB 536, the Committee voted unanimously to re-consider its vote. The subsequent motion was to send the bill to interim study. The Committee realizes that the statewide policy implications of this bill were somewhat localized by the issues surrounding the proposed AES power plant in Londonderry. Among other issues which the Committee wishes to examine are the bill's implications as the last remnant the stock and trade tax and any findings regarding the taxing of utilities brought forth by the Tax Equity and Efficiency Commission. Interim Study will allow the Committee to fully examine the many aspects and implications of this proposed legislation. Vote 15-1.

HB 536

In deference to a member who was absent during the executive session on HB 536, the committee voted unanimously to reconsider its vote. The subsequent motion was to send the bill to interim study. The committee realizes that the state-wide policy implications of this bill were somewhat localized by the issues surrounding the proposed [redacted] AES power plant in Londonderry. Among other issues which the committee wishes to examine are the [redacted] tie implications to HB 11/5 as the last vestige of the stock and trade tax and any findings [redacted] regarding the taxing of utilities brought forth by the Tax Equity and Efficiency Commission.

Interim Study will allow the committee to fully examine the many aspects and implications of this proposed legislation.

Rep Linda T. Foster

Reconsideration —

OFFICE OF THE HOUSE CLERK 2000 SESSION

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 536 **Title:** Authorizing municipalities to deduct from loan payments personal property taxes assessed on property employed in generation of electricity

PH Date: 01/20/00 Interim Study → **Exec Session Date:** 02/02/00

Motion: Foster / Patten **Amendment #:**

MEMBER	YEAS	NAYS
Hess, David W, Chairman	13	
Patten, Betsey L, V Chairman	1	
Cote, Patricia L		
Rice, Thomas E P	2	
Brundige, Robert W	3	
Sabella, Norma A	3	
Griffin, Mary E	4	
Leone, Richard C, Clerk	5	
Noyes, Richard A		
Hager, Elizabeth S	6	
Akins, Ralph L	7	
Lovejoy, Marian E	8	
Lockwood, Priscilla P	9	
Kelley, William J		1
Foster, Linda T	10	
Fraser, Marilyn A		
McGuirk, Paul A		
Salatiello, Thomas B		
St Cyr, Gerard L	11	
Sarette, John C	12	
Simon, Anthony F	13	
Zerba, Roger T	14	

Interim Study

Regular Calendar

TOTAL VOTE: 15 1

Printed: 12/30/1999

INTERIM STUDY
COMMITTEE REPORT

COMMITTEE: Municipal + County Government

BILL NUMBER: HB 536

TITLE: _____

DATE: May 2, 2000

☐ **RECOMMENDED FOR FUTURE LEGISLATION**

LSR No._____ **(If legislation is already filed, please list LSR no.)**

☐ **NOT RECOMMENDED FOR FUTURE LEGISLATION**

STATEMENT OF INTENT: (May be handwritten)

COMMITTEE VOTE: _____ (Attach Committee Voting Sheet)

PLEASE NOTE:
- Reports are due _____, at the House Clerk's Office with the committee voting sheet attached.
- Place a copy of the committee report and all subcommittee work documents in bill file.

Rep. _____
For the Committee

Rev. 2000

May 2, 2000

Full committee work session-Interim Study on

HB 536-notes

No one in attendance wished to be heard from the audience.

Rep. Simon: Recommended that a statutory study committee be formed to study taxation of electric generation properties on an output basis and study the allocation of these proceeds.

Rep. Hager: recommend ITL – inappropriate for legislation and then recommended what Rep. Simon wants.

Respectfully submitted,

Rep. Richard Leone, Clerk

Note

Re: HB 536

5/2/05
Work Session

~~[redacted]~~

No one in audience wished to be heard from the audience

Rep:

"Recommendation by Simmons that a statutory study committee be formed to study taxation in electric deregulation prepare an report that an study the allocation of these proceeds"

Rep Hagan recommends ① TID ② Then recommend to appropriate committee for Op Session

Work

OFFICE OF THE HOUSE CLERK

2000 SESSION

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 536 Title: Recommendation of Committee (1) to accept and adopt Ought to Pass (2) (See attached)

PH Date: ____/____/____ Exec Session Date: ____/____/____

Motion: _____ Amendment #: _____

HB 446

MEMBER	YEAS		NAYS
Hess, David W, Chairman	15	16	
Patten, Betsey L, V Chairman	1	1	
Cote, Patricia L			
Rice, Thomas E P	2	2	
Brundige, Robert W			
Sabella, Norma A			
Griffin, Mary E	3	3	
Leone, Richard C, Clerk	4	4	
Noyes, Richard A	5	5	
Hager, Elizabeth S	6	6	
Akins, Ralph L		7	
Lovejoy, Marian E			
Lockwood, Priscilla P	7	8	
Kelley, William J			
Fraser, Marilyn A	8	9	
McGuirk, Paul A	9	10	
Salatiello, Thomas B			
St Cyr, Gerard L	10	11	
Sarette, John C	11	12	
Simon, Anthony F	12	13	
Zerba, Roger T	13	14	
Rosenfield, Jay	14	15	
		16	0
TOTAL VOTE:	15		0

Printed: 2/3/2000

INTERIM STUDY
COMMITTEE REPORT

COMMITTEE: Municipal + County Government

BILL NUMBER: HB 536

TITLE: AUTHORIZING MUNICIPALITIES TO EXEMPT FROM THE LOCAL PROPERTY TAX PERSONAL PROPERTY EMPLOYED IN THE GENERATION AND PRODUCTION OF ELECTRIC POWER

DATE: 10/3/2000

☐ **RECOMMENDED FOR FUTURE LEGISLATION**

LSR No._____ **(If legislation is already filed, please list LSR no.)**

☒ **NOT RECOMMENDED FOR FUTURE LEGISLATION**

STATEMENT OF INTENT: (May be handwritten)

The committee spent a great deal of time on this bill, both this year and last. As a result of our work in interim study, the committee determined that this proposal, as drafted, was inappropriate for further legislative consideration. However, the committee respectfully recommends to the next legislature that it establish a study committee to consider the taxation of power production facilities on a power output basis. This should additionally address the question of how the proceeds of any such tax should be allocated.

COMMITTEE VOTE: 13-0 (Attach Committee Voting Sheet)

PLEASE NOTE:
- Reports are due **November 1, 2000**, at the House Clerk's Office with the committee voting sheet attached.
- Place a copy of the committee report and all subcommittee work documents in bill file.

Rep. _____
For the Committee

Rev. 6/5/00

HB 536 authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power

Rep. Anthony F. Simon for Municipal and County Government: The committee spent a great deal of time on this bill, both this year and last. As a result of our work in interim study, the committee determined that this proposal, as drafted, was inappropriate for further legislative consideration. However, the committee respectfully recommends to the next legislature that it establish a study committee to consider the taxation of power production facilities on a power output basis. This study should additionally address the question of how the proceeds of any such tax should be allocated. Vote 13-0.

VOTE 13-0

10/3/00

OL

Simm Motion

OFFICE OF THE HOUSE CLERK 2000 SESSION

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB536 Title: An Act relative to exempt from the local property tax personal property employed in generation and production of electrical power.

PH Date: / Exec Session Date: 10/03/00

Motion: Inexpedient for further legislation Amendment #:

MEMBER	YEAS	NAYS
Hess, David W, Chairman	13	
Patten, Betsey L, V Chairman		
Cote, Patricia L		
Rice, Thomas E P	1	
Brundige, Robert W	2	
Sabella, Norma A		
Griffin, Mary E	3	
Leone, Richard C, Clerk	4	
Noyes, Richard A		
Hager, Elizabeth S		
Akins, Ralph L		
Lovejoy, Marian E	5	
Lockwood, Priscilla Parmenter	6	
Kelley, William J	7	
Fraser, Marilyn A	8	
McGuirk, Paul A		
Salatiello, Thomas B		
St Cyr, Gerard L		
Sarette, John C	9	
Simon, Anthony F	10	
Zerba, Roger T	11	
Rosenfield, Jay	12	
TOTAL VOTE:	13	0

Printed: 9/12/2000

HB 536 authorizing municipalities to exempt from the local property tax personal property employed in the generation and production of electric power

Rep. Anthony F. Simon for Municipal and County Government: The committee spent a great deal of time on this bill, both this year and last. As a result of our work in interim study, the committee determined that this proposal, as drafted, was inappropriate for further legislative consideration. However, the committee respectfully recommends to the next legislature that it establish a study committee to consider the taxation of power production facilities on a power output basis. This study should additionally address the question of how the proceeds of any such tax should be allocated. Vote/5- 0.