

# Senate Energy and Natural Resources Committee

*Joshua Schauer 271-3077*

**SB 518**, relative to asset condition projects.

**Hearing Date:** February 3, 2026

**Time Opened:** 9:01 a.m.

**Time Closed:** 10:03 a.m.

**Members of the Committee Present:** Senators Avard, Pearl, McConkey, Watters and Rosenwald

**Members of the Committee Absent :** None

**Bill Analysis:** This bill:

I. Establishes definitions and a certification process for qualified transmission asset replacement projects.

II. Modifies application and fee requirements.

III. Clarifies agency roles in site evaluation proceedings.

IV. Expands the site evaluation committee fund to include monitoring and enforcement costs.

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**Sponsors:**

Sen. Avard

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**Who supports the bill:** 4 individuals signed in support of the legislation. Please Contact Joshua.Schauer@c.nh.gov for more information.

**Who opposes the bill:** 16 individuals signed in opposition of the legislation. Please Contact Joshua.Schauer@c.nh.gov for more information.

**Who is neutral on the bill:** 1 Individual signed neutral on the legislation. Please Contact Joshua.Schauer@c.nh.gov for more information.

**Summary of testimony presented:**

**Kris Pastoriza**

- Ms. Pastoriza stated that she has studied and observed the asset condition problem for years and she was confused by the bill. She opposed the bill.
- Claimed that the bill provides the illusion of regulation while allowing Eversource to continue building asset condition projects and passing the cost to the ratepayers.

- She gave an example of DOE involvement in asset condition projects and said that in 2023 the Public Utilities Commission (PUC) was asked to conduct an investigation into Eversource’s spending on asset condition projects in NH. DOE and Eversource claimed the PUC did not have the authority to do this.
- DOE has approved all of the asset condition projects that have come before it despite the absence of documentation from Eversource that shows that new lines were needed. She stated that the best way for Eversource to recover the costs would be to get the PUC to investigate the more than 85 asset condition projects in NH.
- She commented on the amendment to RSA 162-H:16, specifically the line “provides additional capacity or capability that benefits New Hampshire citizens”.She claimed that this wording would violate the definition of an asset condition project as written by the Federal Energy Regulatory Commission (FERC). Fiber optics are not permitted on many of the current easements. The addition of fiber optics during an asset condition project would be a violation of homeowner’s rights
- She claimed that this bill does not address Eversource pursuing profit for shareholders by constructing new lines and passing the cost to rate payers. Ratepayers generate income for Eversource shareholders.

### **Art Cunningham, NH Sierra Club**

- Mr. Cunningham stated that asset condition projects have been a major problem for NH. Billions of dollars of projects have been proposed and built. Many of these projects are reasonable and fall under the jurisdiction of FERC and ISO New England.
- ISO New England or FERC have not evaluated any of the projects for need. He asked what “need” is and if the proposed and completed projects fit the definition. Specified that “need” means it is required for safety purposes.
- Claimed that there had been no investigation into the current demand for projects, or the prudence of the cost of projects, to ensure the cost to rate payers is fair and reasonable. He explained that automatic payments derived from formula rates are not overseen by any agency.
- He explained his experience in filing Federal lawsuits over similar issues with utility rates. Case was rejected because individuals cannot bring a case before the federal court. He then filed a case with FERC to challenge the costs being borne to rate payers.

### **Michael Licata, Eversource**

- Mr. Licata opposed the bill and explained that asset condition projects are designed to fix an underlying condition or issue with an existing transmission line. Transmission lines are made of wood and can be found all over NH, including the most rural parts.

- Eversource checks the condition of all lines every two years. When issues are found they prepare asset condition projects to address them. He added that transmission infrastructure, cost recovery and planning all fall under the jurisdiction of FERC.
- He said that this bill would radically shift and expand the responsibilities of the site evaluation committee. Siting will shift from looking exclusively at land use requirement to also investigating the financial impact.
- He argued that shifting the permitting process to look at “need” and financial impact will cause delays, increase cost, and decrease reliability for ratepayers.
- He emphasized that damage caused by natural disasters like wildfire or wildlife require immediate attention and repair. Changing the permitting process would impede Eversource’s ability to respond to those emergency situations.
- Highlighted the lack of personnel at the Site Evaluation Committee (SEC) to deal with the volume of work that would be required. Currently there is only one position at the SEC and it is vacant.
- He stated that this bill would create two new classifications of projects, asset condition projects and qualified transmission asset replacement projects. Claimed that qualified transmission asset replacement projects are projects that essentially can’t exist.
- Under the definition of qualified transmission asset replacement projects, it would not be required to obtain a permit. Mr. Licata stated that there are no other types of projects that don’t require a permit. He challenged the notion that this would streamline the process.
- He is concerned about the DOE and Consumer Advocate becoming full members of the SEC process. Stated that the Senate killed a bill last year that would have added a Consumer Advocate to the SEC process.
- He also countered the claim that transmission costs have skyrocketed by providing the committee with handouts that show regional transmission investments adjusted for inflation. He claimed that this proves that costs have risen in tandem with inflation.

**Senator Rosenwald** asked if routine maintenance needs to be approved by the SEC. **Michael Licata** explained that even routine maintenance projects required a permit from the Department of Environmental Services (DES). He said that ISO New England was responsible for reviewing proposed projects, and noted that this process had recently been strengthened to make it more transparent.

**Senator Rosenwald** asked whether damage caused by animals would require a permit.

**Michael Licata** stated that the threshold for requiring a permit was less than 5% replacement over five years. He explained the implications of this threshold for emergency situations.

**Senator Watters** asked if it’s possible to ensure there will be a set time limit for

review including appeals and refileing.

**Michael Licata** explained under the current statute there is a one-year deadline for filing. This is not a hard deadline as the SEC can suspend it at any time in the process. This is what happens most frequently. Shared concern that opponents of a project may use a hard deadline to their advantage by waiting out the process.

**Senator Watters** asked about the 5% over 5 years threshold. He asked if there was a percentage that would allow Eversource to get substantial maintenance work done without a permit.

**Michael Licata** claimed that the 5% over 5 years is a minor issue. He re-stated the main concern of Eversource is the shifting responsibility held by the SEC in the permitting process.

**Senator Watters** asked what opportunity the DOE or other government agencies have to intervene in the ISO New England review process.

**Michael Licata** explained that Eversource currently presents its plan to the Planning Advisory Committee which the DOE is a member of. The plans can be scrutinized by both government agencies and the general public. Projects are also evaluated by an independent reviewer.

**Senator Rosenwald** asked if both asset condition projects and qualified transmission asset replacement projects need to go through the SEC process.

**Michael Licata** explained that asset condition projects and qualified transmission asset replacement projects both need to go through the SEC process.

**Senator Pearl** asked a question about what agency deals with applications for asset conditional projects.

**Michael Licata** explained the current process Eversource goes through. After its determined that a project is needed, it is presented to the Planning Advisory Committee of ISO New England.

**Senator Pearl** clarified that the cost of FERC challenge is placed on the transmission owner not the ratepayer.

**Michael Licata** confirmed.

**Senator Pearl** asked about conflicting criteria between ISO New England and the SEC and how this relates to cost recovery.

**Michael Licata** responded that the proposed criteria for asset condition projects would be stricter than the process for building a new line. Raised concerns about the limitations this puts on Eversource.

**Senator Pearl** asked if other states have something similar to this legislation.

**Michael Licata** confirmed that other states have something similar but not to the extent of the proposed legislation.

**Senator Rosenwald** asked about the impact on taxpayers

**Michael Licata** explained that rising and falling demand for project applications makes revenue inconsistent year to year. Funding can be requested by the SEC from the general fund if there is a lapse.

**Senator Rosenwald** confirmed that this legislation would expand the work that the SEC needs to do; therefore, requiring more funds to be drawn from the general fund.

**Michael Licata** confirmed that this legislation would require a greater draw from the general fund. He expected this bill to have a fiscal note.

**Senator Watters** asked about the possibility that projects be reviewed prior to their presentation to ISO New England.

**Michael Licata** explained that he didn't feel this is necessary as ISO New England is sufficiently transparent in the process.

### **Donald Kreis, Consumer Advocate**

- Mr. Kreis said he was in support of the bill.
- He gave an example of damage done to transmission poles by woodpeckers. Forty out of four-hundred poles in the region had sustained enough damage to warrant a repair. Eversource wanted to replace all four-hundred poles at the cost of around four-hundred million dollars. The project was called X178
- The X178 project was not reviewed for need or purpose on any level. This makes it impossible to determine an appropriate method of cost recovery. This problem has ballooned in recent years, with over five billion dollars of asset condition projects.
- Previous interactions between the office of the Consumer Advocate and the SEC have left the Consumer Advocate out of the process. He was pleased to see that the office of the Consumer Advocate will be represented on the committee. He reiterated the goal of the Consumer Advocate is to ensure that utilities make prudent choices that benefit the ratepayers.

### **Barry Needleman, McLane Middleton Law Firm**

- Mr. Needleman highlighted his previous experience as an attorney leading Eversource and National Grid through five transmission projects applications via the SEC. He explained that there is a large amount of time and resource costs when filing with the SEC. The additional responsibilities given to the SEC under this legislation would bury the committee.
- He spoke to his experience with delays at the SEC, despite a large staff assisting him. Emphasizes that adding more staff to the SEC would not fix the delays. He then shared a concern over adding more actors to the process. Concerned that the Office of the Consumer Advocate will attempt to intervene and make the process more inefficient.

**Senator Avard** asked if the legislation will give more power to the Office of the Consumer Advocate to halt the process.

**Barry Needleman** confirms that would be the case. Explained that this would raise costs for the applicant.

### **Josh Elliot and Daniel Phelan, Department of Energy**

- Mr. Elliot said that the DOE is in support of the legislation.

- Mr. Phelan explained the role of the Planning Advisory Committee. Stated that the PAC does not have the ultimate authority to stop a project from going forward. The PAC's role is strictly advisory.
- He added that ISO New England is currently creating a process by which asset condition projects can be reviewed. This is a long way from being implemented.
- He corrected a statement made in previous testimony that claimed that Utilities were responsible for proving that a project is prudent. He stated that this is not the case and the burden of proof is on the challenger to prove that the project was imprudent.

**Senator Rosenwald** asked if this legislation was directed at the X178 project. **Daniel Phelan** confirms that this legislation was not meant to target the X178 project but targets the general problem with asset condition projects.

### **Natch Greyes, Business & Industry Association**

- Mr. Greyes opposed the legislation. He stressed the importance of utility reliability for healthy businesses to function. He then claimed that the legislation would increase energy costs due to the additional layers of governmental regulation.
- He would like to see Energy infrastructure repairs as fast as possible to keep the economy going strong.

### **Mark W. Dell'Orfano, NH Public Utilities Commission**

- Chairman Dell'Orfano gave no position on the bill.
- Mr. Dell'Orfano clarified previous testimony that claimed there is one employee working at the SEC. Currently there are zero employees working at the SEC and there are no positions. The administrator of the SEC would be a PUC employee.
- Mr. Dell'Orfano took the position that the proposed timelines for qualified transmission asset replacement projects are too aggressive.
- He was concerned that the SEC would not be able to handle the workload with their current staff. The role of the SEC is as a site evaluation board. Site transmission projects are the jurisdiction of the state. FERC only becomes involved in matters of economic costs and rates.
- He was worried that in its current form the bill will require the SEC to evaluate financial questions which they are ill equipped to answer and that there is a potential for a federal lawsuit.
- By adding the DOE and the Office of the Consumer Advocate as automatic members of the committee they risk government overreach.

**Senator Watters** asked if the Office of the Consumer Advocate is better equipped to defend the interests of the public rather than the DOJ.

**Mark Dell’Orfano** recognized the good work that the Office of the Consumer Advocate does but was concerned about financial questions being brought before a citing committee. He does not feel it is in the purview of the SEC to handle financial questions.

**Senator Watters** asked if he believed that citing would not impact the cost of the project.

**Mark Dell’Orfano** responded that citing may impact the cost of the project overall but should not impact the rate. Worried about the SEC’s ability to administer this legislation in its current form.

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Date Hearing Report completed: February 6, 2026