

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**Docket No. 2014-02**

**Application of New England Power Company d/b/a National Grid for  
Certificate of Site and Facility for Construction of a New 230kV Tap Line in Littleton,  
New Hampshire**

**DECISION GRANTING  
CERTIFICATE OF SITE AND FACILITY  
WITH CONDITIONS**

**August 29, 2014**

APPEARANCES: Barry Needleman of McLane, Graf, Raulerson & Middleton, for the Applicant; Senior Assistant Attorney General Lauren J. Noether, Counsel for the Public.

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## **I. APPLICATION**

On February 10, 2014, New England Power Company d/b/a National Grid (“Applicant”) filed an Application for a Certificate of Site and Facility (“Application”). Ex. App. 1. The Applicant petitions the Site Evaluation Committee (“Committee”) for a Certificate of Site and Facility (“Certificate”) in order to site, construct and operate a new 230kV tap transmission line (“Facility”) in the Town of Littleton, Grafton County. Ex. App. 1. The tap line would be off of the Applicant’s existing C203 transmission line to the Littleton Substation, located at 266 Foster Hill Road in Littleton, New Hampshire. Ex. App. 1.

The site where the Facility is proposed to be constructed is primarily zoned Rural with the northernmost portion of the site zoned as Commercial III. Ex. App. 1, at 4. The site comprises forested land located immediately to the west of an existing right of way that is currently occupied by three other transmission lines. Ex. App. 1, at 4. The existing right of way is approximately 450 feet wide and would be widened through tree clearing by approximately 135 feet to accommodate the new C203 tap line and to ensure proper clearances from falling trees. Ex. App. 1, at 4.

The new C203 tap line is proposed to be a 230kV line spanning from the existing C203 transmission line to the proposed bus structure inside the Littleton Substation. Ex. App. 1, at 11. The tap line will be approximately 1160 feet (0.2 miles) in length and will consist of four wood pole transmission structures. Ex. App. 1, at 11-12; Stipulated Facts, ¶1. These structures include a 35-foot, 3-pole terminal dead end structure, two H-frame suspension structures at 70 and 80-foot tall, respectively, and one guyed 80-foot H-frame dead end structure. Ex. App. 1, at 12. The spacing and height of the structures will be similar to the spacing and height of the structures on

the adjacent D204 tap line. Ex. App. 1, at 12. The conductor (795 ACSR “Drake” model) will span the structures in three phases beginning with the three-pole terminal dead end structure and ending at the bus. Ex. App. 1, at 12. Two 3/8” seven-strand extra-high strength steel shield wires will begin at the second tap structure and will terminate at the substation bus. Ex. App. 1, at 12, Appx. K.

The purpose of the Facility is to provide power to a second autotransformer in the Littleton Substation that PSNH will install in order to address the reliability needs for the New Hampshire and Vermont areas that have been identified by ISO-New England<sup>1</sup>. Stipulated Facts, ¶2-3; Tr. at 35-36.

## **II. PROCEDURAL BACKGROUND**

The Application was filed on February 10, 2014. See R.S.A. 162-H:7. As required by R.S.A. 162-H:6-a, I, and NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES SITE 301.01, copies of the Application were made available to each state agency having jurisdiction to regulate matters pertaining to the siting, construction, or operation of the Facility. Notice of the filing of the Application was also provided by Counsel to the Committee to the Select Board and Town Clerks for the Towns of Bethlehem, Dalton, Lisbon, Littleton, Lyman, Monroe and the Grafton County Commissioners. The Committee did not receive information from any state agency indicating that the Application lacked sufficient information to carry out the purposes of R.S.A. 162-H. See Order Accepting Application for Certificate and Site Facility, at 2 (issued April 25, 2014). The Application was deemed sufficient and accepted on April 25, 2014. Id. A

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<sup>1</sup> ISO-New England is the independent system operator for the New England Region electric power grid.

Subcommittee was then designated to consider the Application. See Order Designating Subcommittee Pursuant to R.S.A. 162-H:6-a (issued April 15, 2014).<sup>2</sup>

Pursuant to R.S.A. 162-H: 9, I, Senior Assistant Attorney General Lauren J. Noether was appointed as Counsel for the Public in order to “represent the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy.” R.S.A. 162: 9, I. Counsel for the Public is accorded all the rights, privileges and responsibilities of an attorney representing a party in a formal action.

On June 25, 2014, the Subcommittee issued a Report of Prehearing Conference and Technical Session and a Procedural Order scheduling discovery, hearings, and other procedural deadlines. See Report of Prehearing Conference and Technical Session and Procedural Order (issued June 25, 2014).

The Subcommittee held a Public Informational Hearing on April 7, 2014 at Littleton Opera House in Littleton, Grafton County, New Hampshire. At the informational hearing, the Applicant presented general information about the Facility and answered questions from the public.

A Prehearing Conference was held on May 9, 2014. A technical session was scheduled for June 6, 2014. However, after discovery, the technical session was cancelled in lieu of an informal meeting between the Applicant and Counsel for the Public. The pre-hearing process allowed the parties to consider and file stipulations of fact. On June 20, 2014, the Committee

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<sup>2</sup> The following members of the Committee (or statutory designees) were designated to serve on the Subcommittee in this docket: (1) Amy Ignatius, Chairman, Public Utilities Commission; (2) Martin Honigberg, Commissioner, Public Utilities Commission; (3) Kate Bailey, Engineer, Public Utilities Commission; (4) Craig Wright, Director, Air Resources Division, Dept. of Environmental Services; (5) Vicki V. Quiram, Assistant Commissioner, Dept. of Environmental Services; (6) Philip Bryce, Director, Division of Parks and Recreation, Department of Resources and Economic Development; (7) Craig Green, Administrator, Department of Transportation (designated by Christopher Clement, Commissioner, Department of Transportation pursuant to R.S.A. 162-H:4, V); (8) Brandy Chambers, Administrator, Office of Energy & Planning (designated by Meredith Hatfield, Director, Office of Energy & Planning pursuant to R.S.A. 162-H: 4, V).

received a document titled Stipulated Facts and Requested Findings of New England Power Company d/b/a National Grid and Counsel for the Public (“Stipulated Facts”). See Ex. App. 2.

### **III. ADJUDICATORY HEARING**

On March 13, 2014, the Committee issued an Order and Notice of Public Hearing stating that motions to intervene should be filed by April 18, 2014. The Order and Notice of Public Hearing were published in the Union Leader on March 19, 2014 and in the Caledonian Record on March 22, 2014. A display ad was published in the Caledonian Record on March 22, 2014. No motions to intervene were filed with the Committee.

The Subcommittee held an adjudicatory hearing on June 26, 2014. During the hearing, the Subcommittee heard testimony from Patrick Quigley, Project Manager, National Grid, and Peter Walker, a Director of Environmental Services for Vanasse Hangen Brustlin, Inc.

The Subcommittee did not receive any written comments from the public in regards to the Application. No member of the public appeared to speak at the adjudicatory hearing. Following the adjudicatory hearing, the Subcommittee met publicly to deliberate on the Application. During this time, the Subcommittee addressed the criteria for granting of a Certificate under R.S.A. 162-H: 16 and the arguments in support of and against the issuance of a Certificate. After careful consideration and deliberation, the Subcommittee voted to approve the Application and to issue a Certificate of Site and Facility for the Facility as set forth in the Application, as amended, subject to a number of conditions. See, R.S.A. 162-H: 4, I (b) (authorizing the Committee to grant a Certificate subject to conditions).

## **IV. POSITION OF THE PARTIES**

### **A. Applicant**

As a part of its Application, the Applicant submitted the pre-filed testimony of the following individuals:

- Patrick J. Quigley, Lead Project Manager for National Grid USA Service Company, Inc., Ex. App.1;
- Peter J. Walker, Director of Environmental Services, Vanasse Hangen Brustlin, Inc., Ex. App. 2.

The Applicant asserts that the Application, pre-filed testimony, and exhibits demonstrate that the Applicant has the financial, managerial and technical capacity to construct, manage, and operate the Facility in accordance with the conditions of the Certificate. The Applicant further asserts that the Facility will not unduly interfere with the orderly development of the region and will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, natural environment, or public health and safety. Therefore, the Applicant requests the Subcommittee grant the Application and issue a Certificate.

### **B. Counsel for the Public**

Counsel for the Public does not dispute that the Applicant has the necessary financial, managerial and technical capacity to construct and operate the Facility. Counsel for the Public further does not dispute that the Facility will not have an unreasonable adverse effect on the orderly development of the region or aesthetics, historic sites, air and water quality, natural environment, and public health and safety. Counsel for the Public and the Applicant filed a Stipulation identifying substantive facts that are not in dispute and are agreed to between the Applicant and Counsel for the Public. See Ex. App. 2.

## **V. ANALYSIS AND FINDINGS**

### **A. State Permits**

R.S.A. 162-H: 7 requires an applicant to file applications for all state permits that would normally be required for the Facility. The construction and operation of the Facility requires the Applicant to make application for three permits. The Applicant must apply for a Standard Dredge and Fill Permit, commonly known as a Wetlands permit. The Wetlands Permit is jointly administered by the New Hampshire Department of Environmental Services (DES) and the United States Army Corps of Engineers (USACE). The Facility also requires a Section 401 Water Quality certification administered by DES. The Facility is also subject to review by the New Hampshire Division of Historical Resources (NHDHR.) The Applicant will also obtain coverage under the United States Environmental Protection Agency (EPA) Construction General Permit by filing a notice of intent pursuant to the National Pollutant Discharge Elimination System (NPDES) program. The Applicant will proceed under the general permit and meet all requirements including the development of a Stormwater Pollution Plan. Tr. at 37-38, 63.

#### **1. Wetlands Permit**

The Standard Dredge and Fill Application, commonly referred to as the “Wetlands Permit” is issued under the authority of R.S.A. 458-A:3 and in accordance with administrative regulations promulgated by the New Hampshire Department of Environmental Services (“DES”). See NH CODE OF ADMINISTRATIVE RULES, ENV-WT 300, *et. seq.*

The Applicant filed a Wetlands Permit Application with the Wetlands Bureau of DES on February 6, 2014. See Ex. App. 1, Appx. D. The Applicant asserted that the construction of the Facility will have no permanent water quality impact. Ex. App. 1, at 18, 22. However, there are



potential temporary impacts to water quality related to erosion and siltation during construction of the Facility. Ex. App. 1, at 18, 22.

On June 12, 2014, after considering all provided documents and comments, DES issued its final decision, approving the issuance of a Wetlands Permit, subject to certain conditions. DES found that the project will have a permanent impact on 64 square feet of palustrine forested and scrub-shrub wetlands. The project will cause temporary impacts on 46,805 square feet of wetlands for timber matting and equipment access to construct the new pole structures. Because the project will have total wetland impacts greater than 20,000 square feet, it was considered a Major Project per New Hampshire Rule Env-Wt 303.02(c). Ultimately, DES approved the Applicant's Wetlands Permit Application subject to the following conditions: (i) all work shall be in accordance with plans by Vanasse Hangen Brustlin, Inc. dated January 16, 2014, as received by DES on February 12, 2014; (ii) any further alteration of areas will require a new application and further permitting by the Wetlands Bureau; (iii) within 120 days of the date of the approval of the Application, the Applicant shall make a one-time payment of \$43,916.01 to the DES Aquatic Resource Mitigation Fund, "Middle Connecticut River" watershed account; (iv) the Applicant should restore 46,805 square feet of temporarily impacted wetlands in accordance with plans received by DES on February 12, 2014; (v) appropriate siltation, erosion and turbidity controls must be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized; (vi) within three days of final grading, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1; (vii) where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching; (viii) where

construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack (slopes steeper than 3:1 should be stabilized by matting and pinning); (ix) construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands; (x) faulty equipment shall be repaired prior to entering jurisdictional areas; (xi) contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator should be trained in its use; (xii) all refueling of equipment shall occur outside of surface waters or wetlands<sup>3</sup>; (xiii) wetland areas that are temporarily impacted shall be re-graded to original contours following completion of work; (xiv) the Applicant shall designate a qualified professional who will be responsible for monitoring and ensuring that the restoration areas are completed in accordance with the approved plans; (xv) the Applicant shall attempt to control invasive, weedy species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*) by measures agreed upon by the Wetlands Bureau if the species is found in the restoration areas during construction and during the early stages of vegetative establishment; (xvi) a post-construction report documenting the status of the completed project with photographs of the restored wetlands shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

The Applicant agrees to follow all of the conditions set forth in the Final Decision of DES. The Applicant asserts, however, that the condition requiring the Applicant to refuel equipment outside of surface waters or wetlands is impractical. Tr. at 20-12. The Applicant further asserts that it discussed this condition with personnel from the Wetlands Bureau at DES. The Applicant asserts that the Wetlands Bureau had no objection to revising the permit condition to allow the Applicant to refuel in wetlands, when it would be impractical to relocate the

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<sup>3</sup> Please see discussion below regarding this condition.

equipment outside of the wetlands. Tr. at 21, 24-26. Counsel for the Public requested the Committee to accommodate the Applicant's request and allow it to refuel "the long-duration equipment" within the surface waters or wetlands, if necessary. Tr. at 57. As to the other equipment (e.g. logging trucks), Counsel for the Public asserted that the Committee should require the Applicant to refuel outside the surface waters or wetlands. Tr. at 57. Ultimately, Counsel for the Public and the Applicant agreed that it would be appropriate for the Committee to delegate its authority pursuant to R.S.A. 162-H:4, III and III-a allowing the Water Division of DES to decide which refuel practice should be implemented by the Applicant. Tr. at 58-59.

Pursuant to R.S.A. 162-H: 16, I, the Certificate in this docket will be conditioned upon the Applicant's compliance with the conditions and limitations identified within the Wetlands Permit. The Wetlands Permit is incorporated into the Certificate to be issued in this docket. Pursuant to R.S.A. 162-H: 4, III, the Subcommittee delegates to DES the authority to approve amendments to the Wetlands Permit.

## **2. NHDHR Request for Project Review**

On October 30, 2013, the Applicant filed a Request for Project Review with the NHDHR. On November 12, 2013, NHDHR determined that the Facility has no potential to cause effects to historic properties. See Ex. App. 1, Appx. G.

## **3. §401 Water Quality Certification Review**

Under §404 of the Clean Water Act (33 U.S.C. § 1344), the United States Army Corps of Engineers (USACE) may issue general permits for the discharge of dredged or fill material into the navigable waters at specified disposal sites to the States. See, 33 U.S.C. §1344 (a)(e). On July 2, 2007, USACE issued a statewide Programmatic General Permit ("PGP") for minimal-impact activities for the State of New Hampshire. Subject to certain exclusions and conditions,

the PGP eliminated the need to apply for separate approval from USACE under §404 of the Clean Water Act for minor work in New Hampshire when that work is authorized by the DES, Wetlands Bureau.

On June 12, 2014, DES determined that the project will be covered by the PGP. DES further found, however, that if USACE finds that the project requires an Individual Section 404 permit, DES will need to issue a separate 401 Water Quality Certification for the individual Section 404 permit.

#### **4. General Construction Permit – Notice of Intent**

The Subcommittee notes that the Applicant will be filing a Notice of Intent under the EPA/NPDES General Construction permit. Tr. at 63. As a condition of the Certificate in this docket, the Applicant is required to file with the Committee a copy of the Notice of Intent it will file under a General Construction permit.

#### **B. Consideration of Alternatives**

The Subcommittee is required to consider available alternatives in deciding whether the objectives of the statute would be best served by the issuance of a Certificate. See R.S.A. 162-H:16, IV. The Subcommittee normally considers alternatives presented by the Applicant, such as, (1) different site locations; (2) different size of the project; (3) interconnection alternatives; and (5) different road configurations. See Decision Granting Certificate of Site and Facility with Conditions, Application of Granite Reliable Power, LLC, 2008-04 (July 15, 2009); see also Decision Granting Certificate of Site and Facility with Conditions, Application of Groton Wind, LLC, 2010-01 (May 6, 2011).

In considering alternatives, the Applicant was constrained by the fact that three other transmission lines already exist within the right of way. See Ex. App. 1, at 17. Therefore, the

Applicant alleges that there are only two feasible alternatives to vertically tap off of the C203 mainline and construct the C-203 tap line to the north side of the Littleton Substation: (i) to construct the C203 tap line from the Littleton Substation on the eastern side of the right of way between the Q-195 tap line and the 345 kV 3315 line (“Eastern Alternative”) or (ii) to construct the C203 westerly of the existing D204 tap line (“Western Alternative”). See Ex. App. 1, at 17; Figure 4. The Applicant asserts that the Western Alternative is preferable based on a construction and engineering field assessment dated April 20, 2010. See Ex. App. 1, at 17. Specifically, the Applicant asserts that the existing lines located to the east of the existing D204 tap do not leave sufficient space to build an additional 230kV tap line safely while complying with standard right-to-way distances, distances between lines and clearance design specifications and codes. See Ex. App. 1, at 17.

The western side of the D204 tap line has adequate space for another tap line with clearing of the wooded area which will provide adequate access during construction without obstructing access to the lines or requiring the construction of a new access road. See Ex. App. 1, at 17; Stipulated Facts, ¶6. Therefore, the Applicant ruled out the Eastern Alternative and chose the Western Alternative for the Site location. See Ex. App. 1, at 17; Stipulated Facts, ¶6.

The Subcommittee finds that the Applicant considered available alternatives and chose a reasonable location and design considering the purpose and goals of R.S.A. 162-H. Tr. at 64.

### **C. Statutory Criteria**

In deciding whether to issue a Certificate to the Applicant, the Subcommittee must consider the following statutory factors: (1) whether the Applicant has adequate financial, managerial, and technical capability to assure construction and operation of the Facility in continuing compliance with the terms and conditions of the Certificate; (2) whether the Facility

will unduly interfere with the orderly development of the region having considered the views of municipal and regional planning committees and municipal governing bodies; and (3) whether the Facility will have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety. See R.S.A. 162-H:16, IV.

### **1. Financial, Managerial, and Technical Capability**

The Subcommittee must consider the Applicant's "financial, managerial and technical capability to assure construction and operation of the Facility in continuing compliance with the terms and conditions of the Certificate." R.S.A. 162-H: 16, IV (a).

The Applicant anticipates that it will cost approximately \$1.56 million to construct the Facility. See Ex. App. 1, at 19; Stipulated Facts, ¶8. The Applicant asserts that its principal, National Grid USA, has ample financial capability to undertake this construction. See Ex. App. 1, at 19. The Applicant further states that the audited balance sheet provided as Appendix C demonstrates that the Applicant holds approximately \$2.3 billion in assets and earned a net income of approximately \$84 million for the fiscal year ending March 31, 2013. Stipulated Facts, ¶9; Ex. App. 1, Appx. C. Therefore, the Applicant asserts that it has the financial capacity to construct and operate the Facility.

The Applicant contends that it has sufficient managerial and technical capabilities to construct and operate the Facility. The Applicant points to its comprehensive experience in planning, designing, engineering, permitting, constructing, operating and managing electric transmission infrastructure projects. See Ex. App. 1, at 19. The Applicant further asserts that it has resources to use in-house and contract labor as needed for the installation, operation, repair and removal of the Facility. See Ex. App. 1, at 19.

Counsel for the Public does not dispute that the Applicant's balance sheet demonstrates that the Applicant holds approximately \$2.3 billion in assets and earned a net income of approximately \$84 for the fiscal year ending March 31, 2013. Stipulated Facts, ¶9. Counsel for the Public further agrees that the Applicant owns the main line from which the proposed tap line will extend and a comparable tap line from the Applicant's D204 transmission line in the same right of way. Stipulated Facts, ¶11.

The Subcommittee reviewed all the exhibits and testimony regarding the financial, managerial, and technical capability of the Applicant and finds that the Applicant has proved that it possesses the financial, managerial, and technical capability to construct and operate the Facility in accordance with the terms and conditions of the Certificate. Tr. at 66. The Committee acknowledges that National Grid is an authorized public utility with good management practices and the ability to construct and operate the Facility. Tr. at 67. It is noted, however, that under R.S.A. 162-H, any transfer of the Certificate and amendments to the Certificate by the Applicant are required to be approved by the Committee. Tr. at 66. The Committee's authority to approve or deny a proposed transfer or amendment is set forth at R.S.A. 162-H: 4, R.S.A. 162-H: 5, I, and N.H. CODE OF ADMINISTRATIVE RULES, Site 203. Therefore, as a condition of the Certificate the Applicant shall immediately notify the Site Evaluation Committee of any change in ownership or ownership structure of the Applicant and shall seek approval of the Site Evaluation Committee for such changes. Tr. at 66. The Subcommittee further notes that the Applicant is in the process of securing an easement from the Northeast Utilities required for the construction of the Facility. As a condition of the Certificate, the Applicant is required to file with the Committee the final easement from Northeast Utilities.

## 2. Orderly Development of the Region

R.S.A. 162-H: 16, IV (b) requires the Subcommittee to consider whether the proposed Facility will unduly interfere with the orderly development of the region with due consideration given to the views of municipal and regional planning commissions and municipal governing bodies. R.S.A. 162-H: 16, IV (b). When considering this factor, the Committee has traditionally considered matters that have a direct impact on the economic development of the region. See Decision Granting Certificate of Site and Facility with Conditions, Application of Laidlaw Berlin BioPower, LLC, Docket No. 2009-02, at 58-59 (Nov. 8, 2010).

The Applicant asserts that the Facility will not unduly interfere with the orderly development of the region's economy and local employment. See Ex. App. 1, at 28. The Applicant further asserts that the Facility will support the development goals and policies of Littleton and the surrounding region. See Ex. App. 1, at 28. Specifically, the Applicant asserts that the Facility is driven by the need to resolve operational issues effecting electric transmission service. An outage of the existing 230/115 kV autotransformer at Littleton Substation causes overloads on the 115/13.8 kV transformer T7 at Moore Substation. See Ex. App. 1, at 29; Tr. at 68. The Applicant further asserts that the Facility will eliminate this operational problem and, consequently, will mitigate the risk of overloads in the service area. See Ex. App. 1, at 28. In addition, the Applicant asserts that the project will not adversely affect nearby recreational resource and will not produce any permanent noise, dust, odor, or emission impacts. See Ex. App. 1, at 7. The Applicant agrees to implement "Best Management Practices" (BMP) as set forth in its Construction BMP Guidance Manual to prevent non-point sources of pollution in connection with the project. Stipulated Facts, ¶15; Tr. at 68.



Although notified, the Town of Littleton and the other abutting communities submitted no comments. Tr. at 68.

Counsel for the Public acknowledges that the Applicant sent letters to the Littleton Town Manager, Board of Selectmen, Fire Department, Planning Department, and Zoning Board of Adjustments as well as to the North County Council and local recreational organizations. Stipulated Facts, ¶12. Counsel for the Public further acknowledges that the recipients of these letters chose not to intervene in this proceeding. Stipulated Facts, ¶13. Counsel for the Public agrees that the Facility will not increase the demand for municipal sewer, water, or police services. Stipulated Facts, ¶16. The Facility will be sited within privately held land that is managed for electrical transmission and community recreational resources associated with the Fifteen Miles Falls Recreation Area located at least 0.5 miles away from the site. Stipulated Facts, ¶6.

After considering the testimony, comments, and exhibits in this docket, the Subcommittee finds that the Facility will not unduly interfere with the orderly development of the region and, in fact, should assist with orderly development of the region by improving reliability when an outage of the existing 230/115 kV autotransformer at Littleton Substation causes overloads on the 115 to 13.8 kV transformer at Moore Substation. Tr. at 68.

### **3. Adverse Effects**

Under New Hampshire law, the Committee may issue a Certificate if it finds that the Facility will not have an unreasonable adverse effect on: (1) aesthetics; (2) historic sites; (3) air and water quality; (4) the natural environment; and (5) public health and safety. See R.S.A. 162-H: 16, IV (c).

**a. Aesthetics**

The Subcommittee must consider whether the Facility will have an unreasonable adverse impact on aesthetics. See, R.S.A. 162-H:16, IV(c). The Applicant asserts that the Facility will not have unreasonable adverse effects on aesthetics. See Ex. App. 1, at 19-21. In support, the Applicant submitted a Visual Impact Report (“VIR”) containing a viewshed analysis of the surrounding project site and three photographic simulations of representative viewpoints of the Facility. See Ex. App. 1, Appx. L. The Applicant asserts that the Facility will be visible only from a relatively limited area: (i) from the existing cleared right of way; and (ii) to a limited extent, from a portion of the adjacent I-93 highway. See Ex. App. 1, at 19-20. As to the view from the adjacent I-93 highway, the Applicant asserts that the effect of the tree clearing on the existing tree line is almost unnoticeable to the viewer taking into consideration the viewing distance, the fact that the background view remains as forested land cover and that a viewer’s observation would be limited to a few seconds due to travel at high rates of speed. See Ex. App. 1, at 20. As to the view from the existing cleared right of way, the Applicant asserts that visual effect from this viewpoint is relatively low partially because the proposed C203 tap line structures are identical in size and type as the adjacent D204 tap line. See Ex. App. 1, at 20. As a result, the Applicant asserts that the Facility will not be accessible by or visible to the general public except for limited views from I-93 and, therefore, will not have an unreasonable adverse effect on aesthetics. See Ex. App. 1, at 20. The Applicant further asserts that it did not receive any concerns or complaints from any organizations or individuals regarding the aesthetic impact of the project that have not been resolved. Tr. at 44.

Counsel for the Public acknowledges that the viewing distance from the I-93 highway to the Facility is approximately 1,300 feet. Stipulated Facts, ¶19. Counsel for the Public further

agrees that, according to the VIR, the Facility will only be visible to the public from a limited segment of I-93 and that motorists traveling north on I-93 will only have a brief view of the Facility, will not have a direct line of sight of the Facility, and will not have to divert their attention from the road to see the Facility. Stipulated Facts, ¶18. Counsel for the Public agrees that the VIR demonstrates that abutters to the project site will not have a view of the right of way and transmission structures, including the new C203 tap line, after construction of the Facility is completed. Stipulated Facts, ¶20. Finally, Counsel for the Public agrees that the Facility will be located in an area already developed as a transmission right of way and will appear in combination with existing tap line structures already viewable within the right of way. Stipulated Facts, ¶19.

The Subcommittee notes that the site is already identified as a utility infrastructure space and the Applicant simply seeks to add another transmission line element to the already developed transmission site. Tr. at 69. The Subcommittee further notes that although some clearing of trees may be required to establish the new right-of-way, given the location of the Site, the impact of such clearing on the aesthetics of the region will be limited. Tr. at 70. Therefore, the Committee finds that the Facility will not have unreasonable adverse impact on aesthetics.

**b. Historic Sites**

In order to issue a Certificate to the Applicant, the Subcommittee must decide that the Facility will not have an unreasonable adverse effect on historic sites in the region. See R.S.A. 162-H: 16, IV(c).

The Applicant asserts that a file review of the proposed site at the New Hampshire Division of Historical Resources (NHDHR) was completed on July 23, 2013. See Ex. App. 1, at 21. As a result, NHDHR indicated that there were no known above-ground historic resources

present within the site. See Ex. App. 1, at 21. The file review did indicate, however, that south of the site, there is an occupied home which might have been built in the 1850s to 1860s. See Ex. App. 1, at 21; Tr. at 45. This building has not been inventoried or listed in the National or State Historic Registers. See Ex. App. 1, at 21. Counsel for the Public stipulated to these facts. Stipulated Facts, ¶21.

The Applicant also commissioned a combined Phase IA-IB sensitivity assessment and intensive archaeological investigation of the site. See Ex. App. 1, at 21, Appx. F; Tr. at 45. It is undisputed that, according to the report prepared by Independent Archeological Consulting, LLC, there are no cultural resources at the project site. See Ex. App. 1, at 21, Appx. F; Stipulated Facts, ¶22; Tr. at 45.

Finally, on October 30, 2013, the Applicant filed a Request for Project Review with the NHDHR. Stipulated Facts, ¶23. On November 12, 2013, NHDHR determined that the project has no potential to cause effects to historic properties. See Ex. App. 1, Appx. G; Stipulated Facts, ¶23.

The Subcommittee notes that NHDHR determined that the project has no potential to cause effects to historic properties and did not require the Applicant to comply with any additional conditions required for the construction of the Facility. Tr. at 70. The Committee finds that the Facility will not have an unreasonable adverse effect on historic sites. Tr. at 71. Although it does not appear likely in this case, the Subcommittee is cognizant that excavation conducted during the construction of the Facility may reveal below-ground historical resources. In the event of such discovery, the Applicant shall notify NHDHR, which in turn shall determine whether there is a need for evaluation, studies or mitigation. In addition, the Applicant shall notify the NHDHR of any change in the construction plans of the Facility and of any new

community concerns for any historic property affected by the Site. The Subcommittee hereby delegates to NHDHR the authority to monitor the project for compliance with this condition and compliance with all laws and regulations pertaining to historical resources. NHDHR is also delegated the authority to specify the use of any technique, methodology, practice, or procedure as may be necessary in order to effectuate this condition, however, any action to enforce the condition must be brought before the Site Evaluation Committee. See, R.S.A. 162-H: III, III-b.

**c. Air and Water Quality**

Under R.S.A. 162-H: 16, IV(c), the Subcommittee may issue a Certificate only if it concludes that the Facility will not have an unreasonable adverse effect on air and water quality. See R.S.A. 162-H: 16, IV(c). It is stipulated that the Facility will solely be used to transmit electricity and will not combust any fuels to generate it. Stipulated Facts, ¶24. Therefore, the Applicant asserts that the Project will not create air emissions and, therefore, will not have an unreasonable adverse effect on air quality. Ex. App. 1, at 21. As to the temporary dust and vehicle emissions during construction, the Applicant asserts that they will be minor and will be controlled by an Environmental Monitor who will ensure that water trucks will be available to suppress dust when necessary. Ex. App. 1, at 21.

The Applicant asserts that the Facility will not require any water withdrawals or process water discharge. Ex. App. 1, at 22. Counsel for the Public and the Applicant agree that, while wetlands will be impacted, there are no surface water bodies located within the boundaries of the project site. Stipulated Facts, ¶25. As to impacts on surface waters, the Applicant asserts that they may be impacted only during the construction stage of the project. Ex. App. 1, at 22. Specifically, the Applicant asserts that the C203 tap line will require approximately 2.5 acres of tree clearing along approximately 1,100 feet of existing right-of-way. Ex. App. 1, at 22. Prior to

construction, proper sedimentation and erosion controls will be implemented in accordance with the Applicant's Environmental BMP Guidance Manual for Construction Activity (EG-303NE). Ex. App. 1, at 23; Stipulated Facts, ¶26. Also, an Environmental Field and/or Construction Stormwater Pollution Prevention Plan providing specific details on the types of erosion control measures together with inspection and maintenance provisions will be prepared 14 days prior to the construction of the Facility. Ex. App. 1, at 23; Stipulated Facts, ¶27. During the construction period, wooden swamp mats will be used in saturated soil areas and a qualified environmental monitor will monitor the construction activity and inspect the condition and effectiveness of erosion control measures. Specified erosion control measures will include permanent stabilization measure to restore disturbed soils to a stabilized condition. Ex. App. 1, at 23; Stipulated Facts, ¶28, 29.

The Applicant and Counsel for the Public stipulated that the project will permanently impact 64 square feet of wetlands. A total of 46,805 square feet of temporary wetland impacts will occur as a result of swamp matting and project staging, up to 90,135 square feet of forested wetlands will be indirectly impacted by the clearing of forested wetlands, creating in its place a scrub-shrub wetland area. Stipulated Facts, ¶31; Tr. at 46-47. As a result, mitigation measures are required and set forth by DES in the Final Decision on the Applicant's Wetland Permit Application issued on June 12, 2014.

Having considered the testimony of all witnesses, exhibits, and taking into account the comprehensive process employed by DES in its consideration and issuance of a Wetlands Permit, the Subcommittee finds that the Facility will not have an unreasonable adverse effect on air or water quality. Tr. at 71-73. The Wetlands Permits shall become a condition of Certificate in this docket. The Subcommittee further considered the Applicant's assertion that the condition

of the Wetlands Permit requiring the Applicant to refuel its equipment outside the wetlands is impractical. Tr. at 72-73. In light of the Applicant's and the Counsel for the Public's agreement to allow the Subcommittee to delegate the authority to DES to decide which type of equipment may be refueled within the wetlands, the Subcommittee finds it reasonable to allow the DES to determine terms and conditions of the Applicant's refuel practices as applied to this project. Tr. at 72-73. DES is hereby delegated the authority to monitor the project and its compliance with conditions of the Certificate and with all laws and regulations pertaining to the permit that it has issued. DES is delegated the authority to specify the use of any technique, methodology, practice or procedure for the refueling of equipment during construction and operation of the Facility. DES is delegated the authority to specify the use of any technique, methodology, practice or procedure as may be necessary to effectuate the provisions of this Certificate, pertaining to air and water quality. However, any action to enforce the provisions of the Certificate must be brought before the Site Evaluation Committee. See, R.S.A. 162-H: III, III-a.

#### **d. Natural Environment**

The Subcommittee must consider whether the Facility will have an unreasonable adverse impact on the natural environment. See, R.S.A. 162-H: 16, IV (c).

The Applicant admits that the construction of the Facility will require widening the existing cleared limits of the right of way and additional clearing of approximately 2.5 acres of forested land, 2.1 acres of which is wetlands. Ex. App. 1, at 24. The Applicant asserts, however, that construction of the C203 tap line will not have adverse impacts on the vegetative composition of the landscape because the site is comprised largely of an existing overhead transmission line corridor. Ex. App. 1, at 24. The Applicant notes that the site does not contain any Highest Ranked Habitat as identified in the New Hampshire Wildlife Action Plan (NHWAP)

and no such habitat will be affected by the project. Ex. App. 1, at 25, Figure 5. The Applicant also consulted with New Hampshire Natural Heritage Bureau (NHNHB) regarding the occurrence of rare plant, animal or natural communities within the vicinity of the project. Ex. App. 1, at 25; Stipulated Facts, ¶33; Tr. at 51. NHNHB determined that the project will have no effect on protected plant species. Ex. App. 1, at 26. Appx. E; Stipulated Facts, ¶34. The Applicant also consulted with New Hampshire Fish & Game (NHF&G). Ex. App. 1, at 26; Stipulated Facts, ¶35. NHF&G advised the Applicant that bald eagles have been recorded at the Moore Dam along the Connecticut River approximately one-half mile north of the site. Ex. App. 1, at 26; Stipulated Facts, ¶35. The Applicant asserts, however, that Vannasse Hangen Brustlin, Inc., concluded that the project will not result in “significant” adverse impacts to bald eagles. Ex. App. 1, at 26; Tr. at 50. NHF&G concurred. Ex. App. 1, at 26. Finally, the Applicant asserts that no federally-listed or proposed, threatened or endangered species or critical habitats under the jurisdiction of the United States Fish and Wildlife Service are known to occur within the site. Ex. App. 1, at 26; Tr. at 49.

Having considered the testimony, the exhibits and the arguments of the parties the Subcommittee finds that the project, as set forth in the Application, and subject to the conditions outlined in this decision will not have an unreasonable adverse effect on the natural environment. Tr. at 76.

#### **e. Public Health and Safety**

The Applicant asserts that the Facility will not have an unreasonable adverse effect on public health and safety. The Facility will be constructed in conformity with the NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES, Puc 300 requiring that the Facility be constructed and operated in the manner best accommodating the public, preventing interference with other



underground and above ground facilities, and in accordance with established safety standards. Ex. App. 1, at 27; Stipulated Facts, ¶37. Prior to construction and throughout the operation of the Facility, the Applicant will develop and implement a health and safety program to educate its employees and protect others from hazards associated with the construction and operation of the Facility. Ex. App. 1, at 27; Stipulated Facts, ¶38. The Applicant further asserts that the Public Utilities Commission will periodically inspect the works and system of each utility, as needed, and the manner in which each utility has conformed to Commission rules. Ex. App. 1, at 27. The electric service will be maintained in accordance with NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES, Puc 304. Ex. App. 1, at 27. The Applicant also will implement a vegetative management plan within the 230 kV tap line right of way to ensure public safety and an acceptable level of service reliability. Ex. App. 1, at 27. The Applicant commissioned an analysis of Electric and Magnetic Fields (EMF) by the Gradian Corporation. That analysis determined that post-construction EMF levels either will remain the same or will decrease from pre-construction levels. Ex. App. 1, at 28, Appx. M; Stipulated Facts, ¶39; Tr. 39-40.

After careful and thorough review of the project's potential impact on public health and safety, the Subcommittee finds that the Facility will not have an unreasonable adverse impact on public health or safety.

## **VI. CONCLUSION**

We are confident that we have fully examined the positions of the parties, the potential impacts of the proposed Facility and the effects that it will have on the region and the entire state. Having considered the filings, the testimony and the stipulation of the parties we find that subject to certain conditions contained herein, the Application for a Certificate of Site and Facility will be granted. We commend the Applicant and Counsel for the Public for their

cooperative efforts to provide the Subcommittee with an extensive stipulation addressing nearly all of the factors that the Subcommittee must consider in its deliberations.

We have considered the Application, the exhibits, the testimony, and oral arguments as well as the environmental impacts of the proposed Facility. We have also considered all other relevant factors bearing on the objectives of R.S.A. 162-H. We find, subject to the conditions discussed herein and made a part of the Order and Certificate, that:


The Applicant has adequate technical, managerial and financial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the Certificate;

The construction and operation of the facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning committees and governing bodies; and,

The construction and operation of the facility will not have an unreasonable adverse effect on aesthetics, historic sites, air quality, water quality, the natural environment or public health or safety.

Subject to the conditions contained herein and in the Order and Certificate issued concurrently herewith, we approve the siting, construction and operation of the Facility as set forth in the Application as amended to include the document entitled Stipulated Facts and Requested Findings of New England Power Company d/b/a National Grid and Counsel for the Public, filed on or about June 20, 2014.

So ordered this 29<sup>th</sup> day of August 2014.

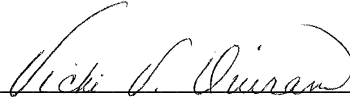
  
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Amy Ignatius, Chairman  
Public Utilities Commission

  
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Martin Honigberg, Commissioner,  
Public Utilities Commission



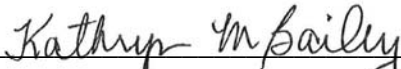
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Craig Wright, Director  
Air Resources Division  
Dept. of Environmental Services



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Vicki V. Quiram, Assistant Commissioner  
Dept. of Environmental Services



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Kathryn M. Bailey, P.E., Staff Engineer  
Public Utilities Commission

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Craig Green, Administrator  
Department of Transportation



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Brandy Chambers, Administrator  
Office of Energy & Planning

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Philip Bryce, Director  
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Dept. of Resources & Economic Dev.