

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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November 21, 2018

Pamela G. Monroe, Administrator
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: SEC Docket No. 2015-04
Application of Public Service Company of New Hampshire d/b/a Eversource Energy
("Eversource") for a Certificate of Site and Facility for the Construction of a New 115 kV
Transmission Line from Madbury Substation to Portsmouth Substation

Dear Ms. Monroe:

Enclosed please find an original and one copy of Counsel for the Public's Supplement to
Post-Hearing Brief for filing in above-referenced matter.

A copy of this letter along with Counsel for the Public's Supplement to Post-Hearing
Brief has been forwarded this day via electronic mail to the SEC Service List.

Thank you for your attention to this matter. Please feel free to call with any questions.

Sincerely,

Christopher G. Aslin
Senior Assistant Attorney General
Environmental Protection Bureau
(603) 271-3679

CGA/llm
Enclosures
cc: Distribution List

#1527436

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2015-04

Application of Public Service Company of New Hampshire d/b/a Eversource Energy
("Eversource") for a Certificate of Site and Facility for the Construction of a New 115 kV
Transmission Line from Madbury Substation to Portsmouth Substation

COUNSEL FOR THE PUBLIC'S SUPPLEMENT TO POST-HEARING BRIEF

Counsel for the Public, by his attorneys, the Office of the Attorney General, hereby submits this supplement to his post-hearing brief to address new evidence submitted to the record by the Applicant pursuant to the Presiding Officer's November 14, 2018 Order on Motion to Re-Open the Record (the "Order").

1. Adjudicative hearings were held in this matter between August 29, 2018 and October 26, 2018, with the evidentiary record closing on October 26, 2018. One week after the record closed, the Applicant filed a Partially Assented to Motion to Re-Open the Record for a Limited Purpose (the Motion) seeking to submit an Addendum to the Visual Impact Assessment, App. Ex. 51. (the "Addendum"), prepared by the Applicant's aesthetics expert, Mr. David Raphael.

2. The Presiding Officer granted the Motion in her November 14, 2018 Order, and further ordered that Mr. Raphael be made available for cross-examination on the new evidence. A hearing was held on November 15, 2018 at which the parties had the opportunity to cross-examine Mr. Raphael on his new Addendum.

3. The Presiding Officer further ordered that Counsel for the Public and the Intervenor have an opportunity to rebut the Addendum in supplemental briefing. In accordance

therewith, the following supplements Part III.C.1.b of Counsel for the Public's Post-Hearing Brief by replacing the last sentence of that section on page 36 with the following new paragraphs:¹

Mr. Raphael's November 2, 2018 Addendum to the LandWorks Visual Assessment (the "Addendum"),^a and Mr. Raphael's additional testimony,^b confirmed that the Applicant's consideration of eligible historic sites for inclusion in the Visual Assessment was an afterthought. It was only *after* Mr. Raphael conducted his April 2016 Visual Assessment,^c and *after* two addenda thereto,^d that the Applicant even received a list of eligible historic resources from DHR.^e Moreover, to the extent that Mr. Raphael did review eligible historic resources it was not a purposeful effort.^f

In addition, Mr. Raphael's review of eligible historic sites for scenic quality and potential adverse effects, was at best cursory. While Mr. Raphael asserted that viewshed analyses were performed to assess the potential visibility of eligible historic resources, the Addendum provides no details; no photographs, photo simulations, or even field notes were provided to show the analysis performed.^g Indeed, the Addendum refers to a memory exercise by which Mr. Raphael "recall[ed] site knowledge" from previous site visits during which he was not focused

¹ Footnotes in the Supplement are numbered as 95a-95m to avoid confusion with the numbered footnotes in Counsel for the Public's Post-Hearing Brief.

^{95a} App. Ex. 271, Addendum, Seacoast Reliability Project Visual Assessment (Nov. 2, 2018).

^{95b} Tr. Day 16, PM.

^{95c} App. Ex. 51, LandWorks Visual Assessment (April 2016).

^{95d} App. Ex. 95, Addendum to LandWorks Visual Assessment (October 7, 2016); App. Ex. 142, Attachment C, Addendum to the LandWorks Visual Assessment (July 2017).

^{95e} App. Ex. 265 (July 2017 e-mail request for list of eligible resources); Tr. Day 16 PM at 38-40.

^{95f} Tr. Day 16, PM at 40-41.

^{95g} App. Ex. 271, Addendum, Seacoast Reliability Project Visual Assessment (Nov. 2, 2018) at 2; Tr. Day 16, PM at 48.

specifically on eligible historic sites.^h Of the 107 historic sites identified within the 10-mile visual assessment radius, Mr. Raphael determined that only 6 had potential visibility of the Project.ⁱ

The haphazard nature of Mr. Raphael's consideration of eligible historic sites in his Visual Assessment is exemplified by the fact that Mr. Raphael failed to formally assess the three large historic districts that were determined to be eligible as part of the SRP. Mr. Raphael testified that his review of eligible historic sites was based solely on the list of eligible sites provided by DHR.^j That list, however, does not include the UNH Historic District, the Newmarket & Bennett Roads Farms Historic District, or the Durham Point Historic District.^k In fact, when questioned on cross-examination, Mr. Raphael did not appear to be familiar with the historic districts or understand that the Project passes directly through each of these three historic districts in the Town of Durham.^l These three historic districts were determined eligible for listing in the National Registry by DHR,^m yet are not mentioned once in Mr. Raphael's Visual Assessment or any of the 4 addenda thereto, including the Addendum that specifically references eligible historic sites. This glaring oversight calls into question the completeness of Mr. Raphael's assessment of aesthetic effects on eligible historic sites that possess a scenic quality within the area of potential visual impact.

^{95h} *Id.*; Tr. Day 16, PM at 48-51.

⁹⁵ⁱ *Id.*; Tr. Day 16, PM at 45-46.

^{95j} Tr. Day 16, PM at 51-52.

^{95k} App. Ex. 271, Addendum, Seacoast Reliability Project Visual Assessment (Nov. 2, 2018), Attachment 1.

^{95l} Tr. Day 16 at 52-53.

^{95m} App. Ex. 167, NHDHR Final Report (Aug. 1, 2017) at 2.


4. Counsel for the Public respectfully submits the above Supplement to his Post-Hearing Brief for consideration by the Subcommittee.

Respectfully submitted,

COUNSEL FOR THE PUBLIC,

By his attorneys,


Dated: November 21, 2018

By: 
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing SUPPLEMENT TO POST-HEARING BRIEF has this day been forwarded via e-mail to all persons named on the Distribution List of this docket.

Dated: November 21, 2018

By: 
Christopher G. Aslin, Esq.