

September 2, 2016

Pamela G. Monroe, Administrator  
NH Site Evaluation Committee  
21 South Fruit St., Suite 10  
Concord, NH 03301-2429

**Re: Application of Public Service Company of New Hampshire D/B/A  
Eversource Energy for a Certificate of Site and Facility  
Docket No. 2015-04**

Dear Ms. Monroe:

Please find enclosed for filing in the above referenced Docket the Motion for Review and Reconsideration of Order on Intervention filed on behalf of the "Durham Point/Little Bay Abutters" that we wish to file at this time with the New Hampshire Site Evaluation Committee.

A copy of this letter and the enclosed Motion has this day been forwarded to the SEC Distribution List.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Fitch', with a long horizontal flourish extending to the right.

Matthew Fitch

Enclosure

cc: SEC Distribution List (via e-mail)  
Jeffrey & Vivian Miller  
Lawrence & Anne Gans  
Deborah Moore

**THE STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

Docket No. 2015-04

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

**MOTION FOR SUBCOMMITTEE REVIEW AND RECONSIDERATION REGARDING LIMITATION OF  
THE DURHAM POINT/LITTLE BAY ABUTTERS INTERVENTION**

NOW COMES Matthew & Amanda Fitch (291 Durham Point Rd., Durham, NH), Jeffrey & Vivian Miller (297 Durham Point Rd., Durham, NH), Lawrence & Anne Gans (289 Durham Point Rd., Durham, NH) and Deborah Moore (305 Durham Point Rd., Durham, NH) (collectively the "Durham Point / Little Bay Abutters") pursuant to RSA 162-H:4, V, RSA 541-A:32, and Site 202.11(f), respectfully moves for review and reconsideration of the August 24, 2016 order of Site Evaluation Committee's Subcommittee in the above-referenced docket, as it pertains to the Durham Point/Little Bay Abutters intervention status, and requests full intervenor status, as follows:

**I. BACKGROUND**

1. By motion dated July 20, 2016, the Durham Point/Little Bay Abutters moved to intervene in this proceeding because a portion of the Seacoast Reliability Project will pass through purported easements and/or abut property owned by the Durham Point/Little Bay Abutters
2. On **August 1, 2016**, Eversource responded to the Durham Point/Little Bay Abutters motion to intervene in combination with several other motions to intervene. Eversource argued that the Durham Point/ Little Bay Abutters should be forced to intervene jointly with other property owners, collectively designate a single spokesperson, and combine their respective presentations of evidence and argument, cross-examination and other participation in this proceeding.
3. On **August 24, 2016**, the presiding officer of the Site Evaluation Committee (SEC) issued an Order (the "Order") that consolidates the Durham Point/Little Bay Abutters intervention with other Durham property owners and thereby limits the Durham Point/Little Bay

Abutters intervention in this matter. Specifically, the Order consolidates the Durham Point/Little Bay Abutters with other property owners in Durham, New Hampshire – that is, Thomas A. DeCapo and Yael D. DeCapo (the “DeCapo Family”) and Donna Heald McCosker. As set forth below, the Durham Point/Little Bay Abutters have interests substantially different from the DeCapo Family and Donna Heald McCosker, which have claimed interests that are irrelevant to the Durham Point/Little Bay Abutter’s primary interests.

4. The Order requires the Durham Point/Little Bay Abutters to join with the other Durham residents and "designate a spokesperson and notify the Administrator of the designee . . . [who] will be responsible for communicating with the Subcommittee, the Applicant, and the other parties in this docket with respect to conducting discovery and filing pleadings." The only reasoning contained in the Order for so limiting the Durham Point/Little Bay Abutters intervention is that the Durham Point/Little Bay Abutters, the DeCapo Family and Ms. McCosker "reside in close proximity to each other and expressed substantially similar interests in the proceeding. . . . The Group will be referred to as the Durham Residents."
5. While the Order grouped the Durham Residents together as a single intervenor based on geographic proximity, individual issues and conflicts between the Durham Residents-intervenors outweigh any procedural efficiencies obtained by limiting the Durham Point/Little Bay Abutters to exercise their intervention rights in common with the other intervenors in close geographical proximity. The Durham Point/Little Bay Abutters therefore requests that the SEC review and modify the decision of the presiding officer which groups the Durham Point/Little Bay Abutters with other Durham Residents and the Durham Point/Little Bay Abutters respectfully requests that the Order be reviewed and modified to allow the Durham Point/Little Bay Abutters to independently protect and defend their interests.



## II. ARGUMENT

6. While the Order grouped the Durham Residents together as a single intervenor Under Site 202.11(e), limitations on interventions "shall not be so extensive as to prevent such an intervenor from protecting the interest that formed the basis of the intervention."  
  
However, that is what the Order does. Under RSA 162-H:4, V, and Site 202.11(f) a party "aggrieved by a decision on a petition to intervene may within 10 days request that the decision be reviewed by the committee or subcommittee." Under RSA 541:13, an order or decision appealed may be set aside or vacated if there are errors of law or if there is a preponderance of evidence that the order is unjust or unreasonable. The Order consolidating the Durham Point/Little Bay Abutters with the other Durham Residents as joint intervenors is unreasonable and should be amended to permit the Durham Point/Little Bay Abutters full rights as an intervenor without being limited by the interests of their neighbors.
7. The Durham Point/Little Bay Abutters will be impacted differently from the other Durham Residents for multiple reasons. The Durham Point/Little Bay Abutters all own property on the eastern side of Durham Point Rd. with direct shore line access to Little Bay. This is important because direct shore line access is a unique and desirable feature for properties in Durham, NH. The Durham Point/Little Bay Abutters are specifically concerned with the permanent, material detrimental impact the proposed construction and overhead transmission lines will have on the immediate environment, aesthetic properties of the rural area, individual property values and health and well being of the families affected.
8. By contrast, the other Durham Residents-intervenors stated interests focus on the impact to Little Bay, the tidal flats, oyster and clam beds, dock and boating access (DeCapo Family

Motion to Intervene) and the placement of above-ground poles in relation to a 12 foot dug well and potential impacts to a home-based business (McCosker Motion to Intervene).

9. Allowing The Durham Point/Little Bay Abutters to intervene separately would not impair the prompt conduct of the proceedings. The Durham Point/Little Bay Abutters have self-aligned into one efficient party because they have identified shared interests, specifically the permanent detrimental impact the construction and proposed overhead transmission lines will have around and through their properties.

### **III. CONCLUSION**

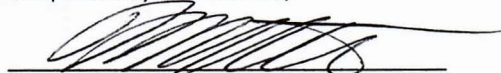
10. For the reasons above, The Durham Point/Little Bay Abutters respectfully requests that the SEC allow The Durham Point/Little Bay Abutters to intervene separately.
11. The Durham Point/Little Bay Abutters have made a good faith effort to obtain the position of other parties regarding this motion and has received the following responses:  
  
Christopher G. Aslin (New Hampshire Department of Justice) assents.

WHEREFORE, The Durham Point/Little Bay Abutters respectfully requests that the Site Evaluation Committee:

- A. Allow The Durham Point/Little Bay Abutters to fully participate in the proceedings as an intervenor, with full rights of discovery, to file pleadings, and to cross examine witnesses; and
- B. Grant such other relief as the Site Evaluation Committee deems just and necessary.

Dated: September 2, 2016

Respectfully Submitted,



Matthew Fitch  
291 Durham Point Rd.  
Durham, NH 03824  
(919) 773-2383  
[mfitch@cal-chem.com](mailto:mfitch@cal-chem.com)

**Certificate of Service**

I hereby certify that a copy of the foregoing Motion to Review and Reconsider on Order of Intervention has on this 2 day of September, 2016 been sent via email to the New Hampshire Site Evaluation Committee Distribution list in the SEC Docket No. 2015-04.

By: \_\_\_\_\_

Matthew Fitch