

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2015-05

**Re: Joint Application of New England Power Company
d/b/a National Grid and Public Service Company of New Hampshire
d/b/a Eversource Energy for a Certificate of Site and Facility**

June 3, 2016

**ORDER ON APPLICANT'S REQUESTS
FOR PARTIAL WAIVERS UNDER THE NEWLY ADOPTED SEC RULES**

I. BACKGROUND

On August 5, 2015, New England Power Company d/b/a National Grid (NEP) and Public Service Company of New Hampshire (PSNH) d/b/a Eversource Energy (collectively Applicant) filed a joint Application for a Certificate of Site and Facility (Application) with the Site Evaluation Committee (Committee). The Application seeks the issuance of a Certificate of Site and Facility (Certificate) approving the siting, construction and operation of a new 345 kV electric transmission line (Project). The proposed transmission line will be constructed in an existing developed transmission line corridor between NEP's Tewksbury 22A Substation in Tewksbury, Massachusetts and PSNH's Scobie Pond 345 kV Substation in Londonderry, New Hampshire. The pre-existing transmission line corridor traverses the towns of Pelham and Hudson in Hillsborough County, and Windham and Londonderry in Rockingham County.

On August 12, 2015, the Committee designated a Subcommittee to review and address the Application in this docket. On September 1, 2015, Attorney Christopher Aslin was designated to serve as Counsel for the Public in this docket.

On October 5, 2015, the Subcommittee reviewed the Application. The Subcommittee determined that the Application contained sufficient information to satisfy the application

requirements of each state agency having jurisdiction under state or federal law to regulate any aspect of the construction or operation of the proposed facility. *See* RSA 162-H:7, IV. The Subcommittee also made an independent determination that the Application contains sufficient information to carry out the purposes of RSA 162-H.

On December 16, 2015, the Committee readopted its administrative rules with amendments. *See* N.H. CODE ADMIN. R. ANN. Site 100, 200, 300. The re-adoption of the administrative rules was statutorily required. *See* RSA 162-H:10, VII. On December 28, 2015, the Committee's Administrator requested that the Applicant supplement the Application so that it would comply with the newly enacted regulations. The Applicant filed supplemental documentation on February 19, 2016. The Applicant also filed the following Motions requesting partial waiver of certain regulations:

- Uncontested Motion to Partially Waive Site 301.05(b)(8)b;
- Partially Contested Motion To Partially Waive Site 301.03(c)(3)-(5); and
- Partially Contested Motion To Partially Waive Site 301.08(c)(2).

Counsel for the Public took no position regarding the Applicant's requests. Ms. Huard objected to the Motion to Partially Waive Site 301.03(c)(3)-(5) and filed a formal Objection to the Motion to Partially Waive Site 301.08(c)(2).

This Order addresses the Applicant's requests to waive the Committee's regulations.

II. MOTIONS AND OBJECTIONS

A. Applicant's Request for Waiver of Rules Related to Photosimulations – Site 301.05(b)(8)b.

Under New Hampshire Code of Administrative Rules, Site 301.05(b)(8)b, the Applicant is required to provide photosimulations that are "printed at high resolution at 15.3 inches by 10.2

inches, or 390 millimeters by 260 millimeters.” See N.H. CODE ADMIN. R. ANN. Site 301.05(b)(8)b.

The Applicant asserts that photosimulations that have already been provided to the Subcommittee measure 15.2 inches by 8.6 inches. The Applicant argues that it is impractical and onerous to require it to reformat and reprint the photosimulations. In support, the Applicant asserts that the existing photosimulations already provide accurate representations of the size of the Project’s structures, and reprinted photosimulations will not change the size of the structures and will not reveal more of the right-of-way or the surrounding landscape within the horizontal field of view. The Applicant further asserts that reformatting the photosimulations to comply with the new rule would require removal or modification of information which is currently provided in the photosimulations, thereby making the Committee’s task in analyzing the visual impact of the assessment more difficult. Finally, the Applicant argues that a waiver of this rule will not disturb the orderly and efficient resolution of issues before the Subcommittee.

There are no objections to this request.

B. Applicant’s Request for Waiver of Rules Related to Mapping and Identification.

The Applicant seeks a partial waiver from the requirements of the following regulations:

- (i) 301.03(c)(3) – identification of property lines, residences, industrial buildings, and other structures and improvements;
- (ii) 301.03(c)(4) – identification of wetlands and surface waters;
- (iii) 301.03(c)(5) – identification of natural, historic, cultural and other resources.

a. Site 301.03(c)(3)-(5).

Under New Hampshire Code of Administrative Rules, Site 301.03(c)(3)-(5), the Applicant is required to provide the following information with respect to the site of the

proposed energy facility and alternative locations the Applicant considers available for the proposed facility:

- (3) The location, shown on a map, of property lines, residences, industrial buildings, and other structures and improvements within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property;
- (4) Identification of wetlands and surface waters of the state within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property, except if and to the extent such identification is not possible due to lack of access to the relevant property and lack of other sources of the information to be identified;
- (5) Identification of natural, historic, cultural, and other resources at or within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property, except if and to the extent such identification is not possible due to lack of access to the relevant property and lack of other sources of the information to be identified.

See N.H. CODE ADMIN. R. ANN. Site 301.03(c)(3)-(5).

1. Location of Property Lines, Residences, Industrial Buildings, and Other Structures and Improvements - Site 301.03(c)(3).

The Applicant asserts that the plan sheets that have already been provided to the Subcommittee identify locations of property lines, residences, industrial buildings, other structures and improvements within approximately 700 feet of the Project. The Applicant acknowledges that the plan sheets do not identify property lines, residences, industrial buildings, other structures and improvements located on abutting properties that extend beyond 700 feet of the Project. The Applicant argues, however, that it is “impractical and unreasonably burdensome” to require the Applicant to provide such information.

2. Wetlands and Surface Waters - Site 301.03(c)(4).

The Applicant asserts that it identified wetlands and surface waters within approximately 700 feet (ranging from 300 feet to 2,000 feet, depending upon the plan view where the right-of-way turns) on either side of the edge of the Project's right-of-way. The Applicant asserts that wetlands and surface waters within 100 feet of the Project were (i) identified through a combination of field delineation at the edge of the right-of-way and interpretation of the Project's contours and aerial photographs for the properties which the Applicant could access; and (ii) estimated from aerial photographs, project-specific topographic information, United States Geological Survey, Topographic Survey maps and/or United States Fish and Wildlife Service National Wetlands Inventory maps for the properties the Applicant could not access. In addition, from 100 feet of the Project to approximately 700 feet of the Project, the Applicant identified surface waters and wetlands that were derived from aerial photographs, project-specific topographic information, United States Geological Survey, Topographic Survey maps and/or United States Fish and Wildlife Service National Wetlands Inventory maps.

The Applicant acknowledges that, while information that was obtained from other resources is helpful, it does not reflect the same level of accuracy found in the full field-delineated information for the Project site. The Applicant asserts, however, that the information provided complies with the purpose of the rule. The Applicant further asserts that the Project will not discharge to surface waters or to ground waters, as runoffs from the Project will be appropriately controlled and directed away from surface waters and wetlands, and soil disturbance will be restored after construction of the Project is complete. The Applicant further asserts that compliance with the rule would require the Applicant to completely re-work the size and scale of their Existing Condition Mapping and that as the mapping scale increases, the

important and relevant information will become less clear and is therefore counterproductive. Finally, the Applicant asserts that waiver of the rule will not disturb the orderly and efficient resolution of matters before the Subcommittee.

3. Natural, Historic, Cultural, and Other Resources – Site 301.03(c)(5).

a. *Natural Resources – Site 301.03(c)(5).*

The Applicant asserts that the Wildlife Habitat Land Cover Type Mapping that was provided to the Subcommittee identifies the location of natural resources within 700 feet of the Project. The Applicant argues that it is impractical and unreasonably burdensome to require it to map all natural resources beyond 700 feet of the Project.

b. *Historic Resources - Site 301.03(c)(5).*

The Applicant requests a waiver of Site 301.03(c)(5) as it applies to (i) the above ground historic resources that are located on abutting properties beyond ¼ mile of the Project's right-of-way; and (ii) archeological resources beyond ½ mile on each side of the Project's centerline.

The Applicant asserts that it has already identified above ground historic properties within ¼ mile from the edge of the Project's right-of-way and that the Department of Historic Resources has already determined that the Project will have no effect on above ground historic resources within this impact zone. The Applicant asserts that it would be "onerous and inapplicable" to require the Applicant to identify above ground historic properties that are located on abutting properties beyond ¼ mile from the edge of the Project's right-of-way.

The Applicant further states that it identified archeological resources within ½ mile on each side of the Project's centerline for Segment 2 of the Project.¹ It has provided the Phase I-B survey results to the New Hampshire Department of Historic Resources and received a letter

¹ Segment 1 of the Project will be located entirely within the Commonwealth of Massachusetts.

from the Department stating that “there are no known properties of archeological significance within the area of the undertaking’s potential impact and no further identification or evaluation studies are recommended.” The Applicant also asserts that the Phase I-A archeological survey and the Department of Historic Resources’ review of Segments 3 and 4 of the Project were conducted for a prior project located within the right-of-way, and that the Department of Historic Resources has already determined that there will be no effect on archeological resources within ½ mile on each side of the Project’s centerline. The Applicant argues that it is not reasonably foreseeable that the construction and operation of the Project will have any effect on archeological resources beyond ½ mile on each side of the Project’s centerline.

c. Community Resources and Development - Site 301.03(c)(5).

The Applicant asserts that the Community Resources Mapping that was provided to the Subcommittee identifies the location of community resources within 1,000 feet of the Project’s right-of-way. It argues that it is impracticable and unreasonably burdensome to require the Applicant to map community resources beyond this area of potential impact.

C. Applicant’s Request for Waivers Related to Decommissioning - Site 301.08(c)(2).

Under New Hampshire Code of Administrative Rules, Site 301.08(c)(2), the Applicant is required to provide the following information:

- (2) A facility decommissioning plan prepared by an independent, qualified person with demonstrated knowledge and experience in similar energy facility projects and cost estimates; the decommissioning plan shall include each of the following:
 - a. A description of sufficient and secure funding to implement the plan, which shall not account for the anticipated salvage value of facility components or materials;
 - b. The provision of financial assurance in the form of an irrevocable standby letter of credit, performance bond, surety bond, or unconditional payment guaranty executed by a parent company of

the facility owner maintaining at all times an investment grade credit rating;

- c. All transformers shall be transported off-site; and
- d. All underground infrastructure at depths less than four feet below grade shall be removed from the site and all underground infrastructure at depths greater than four feet below finished grade shall be abandoned in place.

See N.H. CODE ADMIN. R. ANN. Site 301.08(c)(2).²

The Applicant requests that the Subcommittee waive the following requirements of Site 301.08(c)(2): (i) the requirement to hire independent experts to develop a decommissioning plan for the Project; (ii) the requirement to provide forms of financial assurances identified in Site 301.08(c)(2)b; and (iii) the requirement to remove all underground infrastructure at depths less than four feet below grade identified in Site 301.08(c)(2)d.

The Applicant argues that the requirement to hire an independent third party to prepare the decommissioning plan should be waived because the Applicant has in-house experts who are likely the most knowledgeable and qualified to prepare such a plan. Also, the Applicant asserts that this requirement should not apply to reliability transmission line projects because such projects are rarely decommissioned as they are needed for reliability purposes. Finally, the Applicant asserts that a better alternative would be to require the Applicant to develop and provide to the Subcommittee a decommissioning plan at the time when the decision to

² The Applicant does not seek waiver of section (c) of the rule because it will not be installing new transformers.

The Applicant asserts that it has satisfied section (a) of the rule by providing the pre-filed testimony of Mr. Ausere and Mr. McNeil. Both Mr. Ausere and Mr. McNeil stated the following, while addressing financial assurances for decommissioning:

[NEP/PSNH] does not anticipate the need to decommission the [line/Project]. Such lines are typically rebuilt, as needed, and continue in service indefinitely. However, if at some time in the future it is determined that the Project needs to be decommissioned, the Company will begin collecting future decommissioning costs through the FERC approved transmission tariff.

decommission the Project is reached. The Applicant asserts that this alternative better serves the purpose of the rule because it ensures that the decommissioning plan will fully address the Project and all associated lines that may be added to the Project later in time and will comply with the law at the time of decommissioning.

The Applicant further argues that the requirement to provide certain forms of financial assurances of decommissioning contained in Site 301.08(c)(2)b should be waived because the Applicant demonstrated its ability to fund decommissioning by demonstrating its “enduring financial strength and reliability to fund the cost of decommissioning the 3124 Line if and when that occurs.” The Applicant also asserts that the FERC-approved transmission tariff provides a satisfactory alternate mechanism for recovering the cost of decommissioning.

The Applicant further argues that it should not be required to remove all underground infrastructure at depths less than four feet below grade because the Project will be built within an existing right-of-way and removal of the infrastructure located within this right-of-way is unnecessary and could potentially create severe environmental impacts in certain locations. The Applicant asserts that unlike public roadways that can be put to several different public and private uses, the right-of-way will be dedicated exclusively to utility use for the foreseeable future.

The Applicant submits that granting of these partial waivers will not disrupt the orderly and efficient resolution of the proceedings before the Committee.

D. Position of Ms. Huard.

Ms. Huard asserts that the Applicant should be required to comply with (i) the requirement to hire independent experts to develop a decommissioning plan for the Project; (ii) the requirement to provide forms of financial assurances identified in Site 301.08(c)(2)b; and (iii) the requirement to remove all underground infrastructure at depths less than four feet below grade identified in Site 301.08(c)(2)d.

Ms. Huard argues that the decommissioning plan should be prepared by an independent third party in order to avoid bias and ensure impartiality. She further asserts that the Applicant should be required to submit a decommissioning plan so that the Subcommittee can fully ascertain the impact of the Project. Ms. Huard also asserts that the Applicant cannot rely on its financial status to provide financial assurances for the decommissioning of the Project because the Applicant's financial status may change over time. Finally, Ms. Huard asserts that allowing the Applicant not to remove below ground infrastructure would be contrary to the purpose of the rules and would not serve the public interest.

III. ANALYSIS AND FINDINGS

A. Standard.

1. Standard for Waiver.

New Hampshire Code of Administrative Rules, Site 302.05(a) states as follows:

- (a) The committee or subcommittee, as applicable, shall waive any of the provisions of this chapter, except where precluded by statute, on its own motion or upon request by an interested party, if the committee or subcommittee finds that:
 - (1) The waiver serves the public interest; and
 - (2) The waiver will not disrupt the orderly and efficient resolution of matters before the committee or subcommittee.

See N.H. CODE ADMIN. R. ANN. Site 302.05(a). New Hampshire Code of Administrative Rules, Site 302.05(b) further states that in determining the public interest, the Subcommittee shall waive a rule under the following circumstances: (i) compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or (ii) the purpose of the rule would be satisfied by an alternative method proposed. See N.H. CODE ADMIN. R. ANN. Site 302.05(b).

2. Standard of Statutory Construction.

Rules of statutory interpretation are well-settled in New Hampshire:

When construing statutes and administrative regulations, we first examine the language used, and, where possible, we ascribe the plain and ordinary meanings to words used. Words and phrases in a statute are construed according to the common and approved usage of the language unless from the statute it appears that a different meaning was intended. Additionally, we interpret disputed language of a statute or regulation in the context of the overall statutory or regulatory scheme and not in isolation. We seek to effectuate the overall legislative purpose and to avoid an absurd or unjust result. We can neither ignore the plain language of the legislation nor add words which the lawmakers did not see fit to include.

Bovaird v. N.H. Dep't of Admin. Servs., 166 N.H. 755, 758-59 (2014) (citations and quotations omitted).

B. Analysis.

1. Photosimulations.

The photosimulations provided as part of the Application are only slightly different in size than required by the new rule. In addition, the Committee has a digital file that may be adjusted to view and provide the same ability to the Committee to view the simulations. Further, reformatting the photosimulations to the size specified by the new rules will require the removal of useful information thereby making the Committee's task in analyzing the visual impact assessment more difficult. Under these circumstances, it would be onerous to require

republishing or recreation of the simulations. Additionally the existing photosimulations provide an acceptable alternative. Further, there is no objection to the request to waive the rule on photosimulations. Therefore, it is in the public interest to waive Site 301.05(b)(8)b with respect to the photosimulations. Waiver will not disrupt the orderly and efficient resolution of this matter.

The Applicant's request to waive provisions of Site 301.05(b)(8)b with respect to photosimulations is granted.

2. Site 301.03(c)(3)-(5).

New Hampshire Code of Administrative Rules, Site 301.03(c)(3)-(5) require the Applicant to identify property lines, residences, industrial buildings, other structures, wetlands, surface waters, and historic resources "at or within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property." See N.H. CODE ADMIN. R. ANN. Site 301.03(c)(3)-(5).

The clear language of Site 301.03(c)(3)-(5) requires the Applicant to identify property lines, residences, industrial buildings, other structures and improvements, wetlands, surface waters, and historic resources that (i) are at or within the site; (ii) on abutting property with respect to the site; and (iii) within 100 feet of the site if such distance extends beyond the boundary of any abutting property. See N.H. CODE ADMIN. R. ANN. Site 301.03(c)(3)-(5).

a. *Property Lines, Residences, Industrial Buildings, Other Structures - Site 301.03(c)(3).*

The Applicant has provided plan sheets that identify the locations of property lines, residences, industrial buildings, other structures and improvements within approximately 700 feet of the Project. The Applicant argues that it is impractical and unreasonably burdensome to require the Applicant to map all property lines, residences, industrial buildings and other

structures and improvements outside of the mapped area, and that such maps would not provide any additional relevant data that would aid the Committee in making its decision.

The Subcommittee notes that this is a reliability project and that siting, construction and operation of the Project is entirely within an existing right-of-way. Further, the transmission line is approximately eighteen miles long in New Hampshire and will traverse only four towns in New Hampshire - Pelham, Hudson, Windham and Londonderry. The existing lines have been present in these communities for a significant period of time, and the communities have had the ability to undertake planning with knowledge of the existing infrastructure. The Subcommittee further finds that the towns of Pelham, Hudson, Windham and Londonderry have established planning boards, conservation commissions, and town governance as well as other planning resources such as tax maps that may be relied upon in the event any questions regarding boundaries and types of uses arise. The Subcommittee further notes that there have been no objections raised by any of the Towns or their planning or environmental agencies, and that the lack of more detail with regard to the location of boundary lines, structures and improvements has not hindered DES or any other state agency from undertaking its required review of the Project.

Under the unique circumstances of this reliability project which will operate entirely within an existing right-of-way, the Subcommittee finds that partial waiver of the mapping rules will serve the public interest and will not disrupt the orderly and efficient resolution of this proceeding. In consideration of the foregoing, the Applicant's request to waive Site 301.03(c)(3) is granted, subject to the condition that the Applicant must provide tax maps and assessor cards for all abutting properties that extend beyond the limits of the existing conditions mapping. Partial waiver of Site 301.03(c)(3) under the unique circumstances of this proposed Project shall

not serve as precedent for any other project, and requests for waiver in each project will continue to be assessed on a case by case basis.

b. *Wetlands and Surface Waters – Site 301.03(c)(4).*

Site 301.03(c)(4) requires an applicant to identify “wetlands and surface waters of the state within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property, except if and to the extent such identification is not possible due to lack of access to the relevant property and lack of other sources of the information to be identified.” The Applicant has filed maps identifying and delineating wetlands and surface waters within the site. In addition, the Applicant’s mapping identifies and delineates wetlands and surface waters within 100 feet of the site, except where the Applicant lacked access. In areas where the Applicants lacked access, it used project-specific contours, aerial photographs, and information from USGS Topographical Survey maps, and the USF&W National Wetlands Inventory Maps to estimate the extent of wetlands and surface waters. The maps filed by the Applicant in February 2016 also identify wetlands within approximately 700 feet of the centerline of the Project. However, due to lack of access to private property, the identification does not include field delineation but uses aerial photography and database information to estimate and identify wetlands and surface waters. The Applicant admits that this provides a lower level of accuracy than full field delineation. The Applicant claims that lack of access warrants a waiver from the rule. In addition, the Applicant argues that any additional increase in the areas mapped would decrease the overall usefulness of the mapping.

To the extent that the Applicant did not have access to private property from which to comply with the mapping rules, the Subcommittee finds that the Applicant has partially complied with Site 301.03(c)(4). Further, it is unlikely that the Project will have any effect on any water

body that is over 700 feet from the edge of the right-of-way, and the Applicant has assured the Subcommittee that the Project will not discharge to surface waters or to groundwater, as runoff from the Project will be appropriately controlled and directed away from surface waters and wetlands, and any soil disturbance will be restored after construction of the Project is complete. Additionally, this Project is a reliability project and is limited in size and scope in that it will only cross eighteen miles in four towns in New Hampshire. The siting, construction and operation of the Project is entirely within an existing right-of-way and therefore the Project will not likely produce any significant additional impact on wetlands and surface waters. Based on the foregoing unique characteristics of the Project, the Subcommittee finds that partial waiver of the mapping rules will serve the public interest and will not disrupt the orderly and efficient resolution of this proceeding.

The Applicant's request to waive provisions of Site 301.03(c)(4) is granted.

c. Identification of Natural Cultural and Historic Resources.

Site 301.03(c)(5) requires an applicant to identify "natural, historic, cultural, and other resources at or within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property, except if and to the extent such identification is not possible due to lack of access to the relevant property and lack of other sources of the information to be identified." The Applicant has filed a Wildlife Habitat Land Cover Map that depicts the location of natural resources within 700 feet from the edge of the right-of-way. The Applicant has also filed a Community Resources Map identifying community resources within 1,000 feet of the right-of-way. The Applicant asserts that it would be unreasonably burdensome to provide more extensive mapping of these resources and that it would yield little, if any, benefit to the Subcommittee.

The Applicant additionally argues that historic resources have already been assessed by the NH Department of Historic Resources (DHR), which has concluded that the Project has “no potential to effect above ground resources in the New Hampshire portion of the Project and that no further studies are required.” Likewise with regard to archeological resources DHR states that “there are no known properties of archeological significance within the area of the undertaking’s potential impact and no further identification or evaluative studies are recommended.”

In light of the Project’s limited potential impact on areas outside of those previously mapped by the Applicant and the onerous task of remapping these resources, the Subcommittee finds that partial waiver of Site 301.03(c)(5) is in the public interest and will not disrupt the orderly resolution of this proceeding.

The Applicant’s request to waive provisions of Site 301.03(c)(5) is granted.

3. Decommissioning - Site 301.08(c)(2).

a. *Applicability.*

The Applicant argues that decommissioning requirements should not apply to the transmission lines because the lines are used for decades and almost never decommissioned. While factually correct, New Hampshire Code of Administrative Rules, Site 301.08(c)(2) applies to all “energy facilities.” *See* N.H. CODE ADMIN. R. ANN. Site 301.08(c). New Hampshire Code of Administrative Rules, Site 102.19(e) specifically defines “energy facility” as a “new electric transmission line of design rating in excess of 200 kilovolts.” *See* N.H. CODE ADMIN. R. ANN. Site 102.19(e). The Project is a new transmission line of design rating in excess of 200 kilovolts and, therefore, is an “energy facility,” as defined by the regulations. It would be contrary to the clear language of the regulation to find that Site 301.08(c)(2) that applies to all “energy facilities” does not apply to the Project. As any other “energy facility,” the Project is required to

comply with requirements set forth by New Hampshire Code of Administrative Rules, Site 301.08(c)(2) or to seek a waiver of the rule.

b. Waiver.

Site 301.08(c)(2) requires the applicant to supply a decommissioning plan that is prepared by an independent and qualified person. The plan must include: (a) description of “sufficient and secure funding to implement the plan”; (b) financial assurances in the form of an irrevocable standby letter of credit, performance bond or other financial guarantee which may include an “unconditional payment guarantee executed by a parent company of the facility owner maintaining at all times an investment grade credit rating”; (c) all transformers must be removed from the site; and (d) underground structures at depths less than 4 feet must be removed from the site. The Applicant seeks a waiver of the following requirements of Site 301.08(c)(2): (i) the requirement to hire independent experts to develop a decommissioning plan for the Project; (ii) the requirement to provide forms of financial assurances identified in Site 301.08(c)(2)b; and (iii) the requirement to remove all underground infrastructure at depths less than 4 feet below grade identified in Site 301.08(c)(2)d.

The Applicant asserts that the rule is onerous and inapplicable because the proposed transmission line is expected to be in service for such a considerable amount of time that the current decommissioning requirements may not even apply if the line is ever decommissioned. The Applicant further asserts that as this project is a reliability project and the Independent System Operator-New England (ISO-NE) has determined that the 3124 Line is needed in order for the electric transmission system to continue to operate reliably, and that the line, once constructed, will form an integral part of the electric transmission system. The Applicant asserts that such transmission lines of this nature must remain in operation and, thus, are typically

rebuilt, as needed, and remain in service indefinitely. Therefore, the Applicant asserts that requiring a decommissioning plan to be prepared by an independent person at the time of the application is impracticable and should be deemed inapplicable to the circumstances of the Project.

The Applicant further argues that waiver of the requirement to retain an independent expert is appropriate for two reasons: (1) the Applicant can satisfy the rule by an alternative method by using their own highly trained and experienced personnel, and (2) requiring that a decommissioning plan be prepared by an independent person at the time of the application is impracticable to the circumstances of an electric transmission system built for reliability purposes. In addition, the Applicant asserts that decommissioning payment guarantees are unnecessary with a reliability project because they are subject to the FERC tariff. Under the FERC tariff, decommissioning is an asset retirement obligation and the cost thereof is recovered through the FERC tariff. The Applicant also claims that it has substantial and enduring financial strength and reliability to fund the proper decommissioning of the proposed line if and when such decommissioning becomes necessary. Lastly, with respect to the requirement to fully remove infrastructure at depths less than 4 feet below grade, the Applicant argues that as the Project is constructed in an existing right-of-way, it may be more environmentally beneficial to leave the bottoms of transmission structures in place, especially if they are located in protected wetlands or other resource areas that may exist at the time of decommissioning.

Based upon the individualized circumstances of this Project, the Subcommittee finds that partial waiver of the decommissioning requirements is in the public interest and will not disrupt the orderly and efficient resolution of matters before the Subcommittee. Namely, the Subcommittee notes that this Project is a reliability project and maintenance and upkeep of the

Project will be required to continue to provide electric transmission to residents of New Hampshire. As opposed to a commercial project, this reliability project is unlikely to be decommissioned at any time in the foreseeable future. The Subcommittee is satisfied that for the purpose of the waiver request, the Applicant has provided a potential alternative to the hiring of an independent expert. However, the condition of an independent third party expert may be required as a condition of the certificate. Additionally, given that this Project involves a relatively short, 18 mile line, decommissioning costs are not likely to be excessive, and the Subcommittee finds that the financial assurances provided through the Application, the pre-filed testimony of Michael Ausere and Brian McNeill, and under the FERC-approved transmission tariff provide a satisfactory alternative mechanism for recovering the cost of decommissioning of the 3124 Line if decommissioning becomes necessary at some future date. The Subcommittee finds that a waiver of the decommissioning requirements is in the public interest and will not disrupt the orderly and efficient resolution of matters before the Subcommittee.

The Applicant's request for partial waiver of Site 301.08(c)(2) related to decommissioning is granted.

IV. ORDER

It is hereby ordered that the Applicant's request to waive provisions of Site 301.05(b)(8)b with respect to photosimulations is granted;

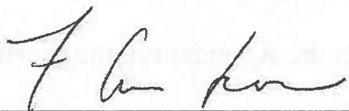
It is hereby further ordered that the Applicant's request to waive provisions of Site 301.03(c)(3) is granted, subject to the condition that the Applicant must provide tax maps and assessor cards for all abutting properties that extend beyond the limits of the existing conditions mapping;

It is hereby further ordered that the Applicant's request to waive provisions of Site 301.03(c)(4) is granted;

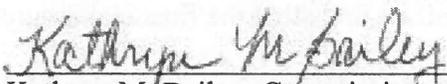
It is hereby further ordered that the Applicant's request to waive provisions of Site 301.03(c)(5) is granted; and

It is hereby further ordered that the Applicant's request to waive decommissioning requirements of Site 301.08(c)(2) is granted.

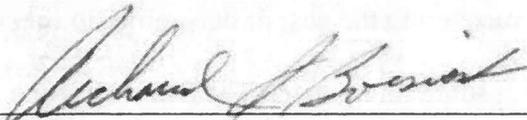
So ordered this third day of June 2016.



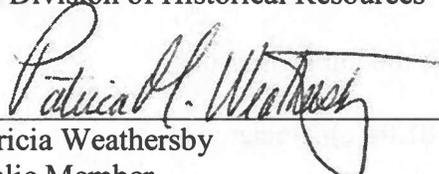
F. Anne Ross, General Counsel, Designee
Public Utilities Commission



Kathryn M. Bailey, Commissioner
Public Utilities Commission



Richard A. Boisvert, Ph.D, Designee
NH Division of Historical Resources



Patricia Weathersby
Public Member



Michele Roberge, Designee
SIP Planning Manager
Department of Environmental Services