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August 11, 2015

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Re: Joint Application of New England Power Company d/b/a National Grid & Public Service Company of New Hampshire d/b/a Eversource Energy Site Evaluation Committee No. 2015-05

Ladies and Gentlemen:

On August 5, 2015, New England Power Company d/b/a National Grid & Public Service Company of New Hampshire d/b/a Eversource Energy, filed a Joint Application for a Certificate of Site and Facility for the siting, construction and operation of a new 345 kV Transmission Line from the 22A substation in Tewksbury, Massachusetts to the Scobie Pond Substation in Londonderry, New Hampshire. The Project will traverse the Towns of Pelham, Windham, Hudson and Londonderry. This matter has been docketed as Site Evaluation Committee No. 2015-05. It is my understanding that the Applicant, filed a copy of the Application with your agency or one was provided by the Site Evaluation Committee (SEC). If you do not have a copy of that Application, please contact me immediately. For immediate reference, the Application is available on the SEC website.

Please note that, pursuant to R.S.A. 162-H:7-a, I, state agencies having permitting or other regulatory authority may participate in Committee proceedings by (i) receiving proposals or permit requests; (ii) determining completeness of elements required for agency's permitting or other programs and reporting on such issues to the Committee; (iii) reviewing proposals or permit requests and submitting recommended draft permit terms and conditions to the Committee; (iv) identifying issues of concern on the proposal or permit request or notifying the Committee that the application raises no issues of concern; and (v) designating one or more witnesses to appear before the committee at a hearing to provide input and answer questions of parties and Committee members if it identifies issues of concern. See R.S.A. 162-H:7-a, I. Under R.S.A. 162-H:7-a, VI, a state agency may intervene as a party in any committee proceeding in the same manner as other persons under RSA 541-A. See R.S.A. 162-H:7-a, VI.

Pursuant to R.S.A. 162-H:7, IV, I would ask that your agency, as an agency with a permitting or other regulatory authority over the Project, conduct a preliminary review of the

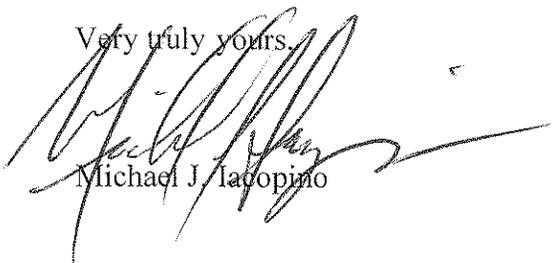
Application and respond in writing to me, as counsel for the Committee, prior to September 4, 2015, as to whether or not the Application contains sufficient information for your agency to review the Application and consider the issuance of permits, conditions or licenses, if any, under the jurisdiction of your agency pursuant to either state or federal law. If the Application does not contain sufficient information for this purpose, I would respectfully request that you advise me, in writing, as to what additional information is necessary.

For your convenience I have attached pages 21-25 from the Application. On these pages the Applicant lists the agencies with permitting and other regulatory authority and identifies permits and licenses that it asserts are required for the proposed Project. If your agency is listed thereon please let me know if the permit application filed with your agency is not administratively complete and what information is missing. If you believe that the Application requires a permit from your agency that is not included on the list please contact me as soon as possible.

If the Chairman of the Site Evaluation Committee determines that the Application contains sufficient information to carry out the purposes of R.S.A. 162-H, this matter will be scheduled for public information sessions in each county in which the proposed facility is to be located within 45 days after the acceptance of the Application. If the Chairman of the Site Evaluation Committee determines that the Application contains sufficient information to carry out the purposes of R.S.A. 162-H, this matter will also be scheduled for a public hearing in each county in which the proposed facility is to be located within 90 days after the acceptance of the Application. Please note that the public hearings scheduled pursuant to R.S.A. 162-H:10, I-c are joint hearings, with representatives of the agencies that have permitting or other regulatory authority over the subject matter, and are deemed to satisfy all initial requirements for public hearings under statutes requiring permits relative to environmental impact. See RSA 162-H:10, I-c.

I look forward to your prompt response. If you have any questions please feel free to contact me.

Very truly yours,



Michael J. Iacopino

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cc: Jane Murray, Secretary NHSEC

Barry Needleman, Esq.

(d) INFORMATION ABOUT OTHER REQUIRED PERMITS AND APPLICATIONS**1) Identification of all other federal and state government agencies having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of proposed facility**

RSA 162-H:7, IV provides that “[e]ach application shall contain 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, and shall include each agency’s completed application forms.”²³ The statute thus requires an Applicant to submit information that satisfies the application requirements of the “state agencies having permitting or other regulatory authority.”²⁴ The Applicants acknowledge that under Site 301.03(d) the SEC may require the filing of additional information relative to other agencies and other aspects of regulation and regulatory compliance under its rulemaking authority. However, as discussed below, the Applicants submit that the statute limits the agencies that may make agency-specific completeness determinations to those state agencies that make final decisions.

Pursuant to the statute, each state agency having permitting or other such regulatory authority must determine if an Application contains “sufficient information for its purposes” to make a final decision.²⁵ Accordingly, the Applicants believe that only those state agencies that make a final decision by issuing a permit, order or decision within the time limits established in RSA 162-H:7, IV-c, may participate in making a completeness determination under the statute. Those state agencies include NHDES, New Hampshire Public Utilities Commission (NHPUC), and New Hampshire Department of Transportation (NHDOT).

An agency’s purpose under the statute must be read in the context of its other requirements under the statute, namely, those that require an agency having permitting or other regulatory authority to report its progress to the SEC within 150 days and to make a final decision within 240 days.²⁶ This position is consistent with the fundamental goal of resolving all issues in an integrated fashion, as set forth in RSA 162-H:1. Moreover, the statute recognizes that agencies having permitting or other such regulatory authority over a project comprise only those agencies that may dictate terms and conditions in a permit or decision, or deny a necessary approval altogether.²⁷

The Applicants’ view is further reinforced by the recent amendments to RSA 162-H, specifically, the addition of RSA 162-H:7-a, which recognizes the two basic ways in which state agencies may participate in SEC proceedings, i.e., as an agency that makes a final

²³ RSA 162-H:7, IV.

²⁴ *Id.*

²⁵ *Id.*

²⁶ RSA 162-H:7, VI-b and VI-c.

²⁷ RSA 162-H:16, I.

decision, or as an agency that takes a position on how the SEC should make a particular finding.

Federal Agencies

- US Army Corps of Engineers (USACE) (Clean Water Act, 33 U.S.C. § 1344 *et. seq.*, relative to wetland protection as addressed through the New Hampshire Programmatic General Permit);
- US Environmental Protection Agency (USEPA) (Clean Water Act, 33 U.S.C. § 1251 *et. seq.*, relative to the National Pollutant Discharge Elimination System (NPDES) Construction General Permit);
- Federal Aviation Administration (FAA) (14 C.F.R. § 77.9 relative to the preservation of navigable airspace, an air obstruction determination under FAA Regulation Part 77.9(b) is required);²⁸ and
- US Fish and Wildlife Service (USFWS) Endangered Species Act (ESA) of 1973, 16 U.S.C. § 1531, *et. seq.*, relative to protection of federally-listed threatened and endangered species as addressed under the New Hampshire Programmatic General Permit).²⁹

State Agencies³⁰

a. State Agencies That Make An Agency Completeness Determination

- NH Department of Environmental Services (NHDES), Water Division, Wetlands Bureau (RSA Ch. 482-A, relative to dredge and fill in wetlands as addressed under the NHDES Wetlands Permit Application);
- NHDES, Water Division, Alteration of Terrain (AoT) Bureau (RSA 485-A:17, relative to surface water runoff from land disturbance as addressed under the NHDES Alteration of Terrain Permit Application);
- NHDES, Water Division, Watershed Management Bureau (Clean Water Act, 33 U.S.C. § 1341 *et. seq.*, related to state certification that the USACE permit complies with state water quality standards as addressed by Water Quality Certification # 2012-404P-002);

28 The Applicants will submit FAA Form 7460-1, Notice of Proposed Construction or Alteration, to the FAA at least 45 days before commencing construction.

29 The USFWS results letter is included as an Attachment within Appendix F.

30 NHDES, Water Division, Groundwater Discharge Permitting and Registration Program and NH Department of Resources and Economic Development (NHDRED), Bureau of Trails will not be exercising jurisdiction or participating in the Site Evaluation Committee Process. See Appendix AE for a summary of regulatory agency consultations.

- NHDES, Water Division, Wetlands Bureau, Shoreland Program (RSA Ch. 483-B, the Shoreland Water Quality Protection Act, establishes standards for development adjacent to the state's public water bodies as addressed under the NHDES Shoreland Permit Application);
- NHDES, Solid Waste Management Bureau (RSA Ch.149-M, Solid Waste Management Act, relating to proper management of solid waste);³¹
- NH Department of Transportation (NHDOT) (RSA Ch. 236, 231 and 265 relative to regulation of the highway system, requires permits for utility crossings and use of NHDOT ROWs); and
- NH Public Utilities Commission (NHPUC) (jurisdiction relative to crossings of public waters and lands under RSA 371:17 as addressed under the two NHPUC License Applications).

b. Other State Agencies

- NH Division of Historical Resources (NHDHR) (National Historic Preservation Act, 16 U.S.C. § 470 and RSA Ch. 227-C regarding cultural resource protection as addressed under the New Hampshire Programmatic General Permit);³²
- NH Natural Heritage Bureau (NHNHB) (authority under RSA Ch. 217-A, the NH Native Plant Protection Act, to review impacts to state-listed rare, threatened, and endangered plant species as addressed under the NHDES Wetlands Permit Application);³³
- NH Fish & Game Department (NHF&G) (authority under RSA Ch. 212-A, the NH Endangered Species Conservation Act, to review impacts to state-listed rare, threatened, and endangered wildlife species as addressed under the NHDES Wetlands Permit Application); and
- NH Department of Safety, Division of Fire Safety, State Fire Marshal (RSA Ch. 21-P:12 relative to the responsibilities of the State Fire Marshal, ensuring compliance with the NH State Fire Code and the NH State Building Code through the review of plans prior to construction).³⁴

31 The NHDES Solid Waste Management Bureau advised the Applicants that a permit is not required for this Project; however, the Bureau requested a schedule for construction and the submittal of information following construction.

32 The NH Division of Historical Resources Request for Project Review and correspondence with NH Division of Historical Resources is documented in Appendices K, L and AC.

33 NH Natural Heritage Bureau's data check results letter and correspondence with NH Natural Heritage Bureau, NH Fish and Game Department, and US Fish and Wildlife Service is included as Attachment D within Appendix F.

34 The State Fire Marshal within the NH Department of Safety, Division of Fire Safety, was consulted and will not be participating in the Site Evaluation Committee Process. See Appendix AE for documentation of consultation with the State Fire Marshal's office.

2) Documentation that demonstrates compliance with the application requirements of such agencies

Documentation demonstrating compliance with the application requirements of the State and federal regulatory agencies listed in (d)(1) above has been included within the agency application forms and supporting documentation contained in the Appendices listed in the following Section (d)(3).

Applications for certain construction related approvals from State and federal agencies will be filed by contractors after: (1) the SEC site certificate and other approvals listed above are issued; (2) equipment is ordered; and (3) field work is ready to begin. These may include, if necessary:

- NHDOT Special Permit to move a load in excess of legal limit;
- NHDOT Driveway / Curb Certification;
- New Hampshire Department of Resource and Economic Development (NHDRED) Notice of Intent to Cut;
- NPDES Construction General Permit;
- FAA Form 7460-1, Notice of Proposed Construction or Alteration;
- Blasting Permit (local Fire Department); and
- NHDES approval of marshalling yards, laydown areas, and accessways.

3) A copy of the completed application form for each such agency

Copies of the relevant permit application forms have been included in the filings appended as follows:

Appendix F: NHDES Wetlands Permit Application

Appendix G: NHDES Shoreland Permit Application

Appendix H: NHDES Section 401 Water Quality Certification

Appendix O: NHDES Alteration of Terrain Permit Application

Appendix P: NHDOT Permit Applications³⁵

- Driveway permit application(s)

³⁵ Appendix P also includes an Application for a Railroad Crossing Agreement and Temporary Use Agreement for the Manchester/Lawrence Recreational Rail Trail.

- Aerial utility permit application(s)

Appendix Q: NHPUC Petition for Licenses³⁶

- Construct and Maintain Electric Lines, Static Wires and Fiber Optic Cable Over and Across Beaver Brook and a parcel of land owned by NHDOT in the Town of Windham, New Hampshire
- Construct and Maintain Electric Lines, Static Wires and Fiber Optic Cable Over and Across State Lands in the Town of Londonderry, New Hampshire

4) Identification of any requests for waivers from the information requirements of any state agency or department whether represented on the committee or not.

The Applicants are requesting a waiver from Alteration of Terrain Rule Env-Wq 1504.09 that specifies the requirements to prepare a Stormwater Drainage Report, Drainage Area Plans and Hydrologic Soil Group Plans in support of an Alteration of Terrain Permit Application.³⁷

³⁶ Along with the Application for a Certificate of Site and Facility, the Applicants will have contemporaneously submitted two petitions for licenses with the New Hampshire Public Utilities Commission, namely, for approval to construct and maintain electric transmission lines, static wires, and fiber optic cables over and across public waters and certain state lands.

³⁷ For additional information on the waiver request, please see NHDES Alteration of Terrain Permit Application, Appendix O, p. 46.

(e) ENERGY FACILITY REQUIREMENTS

It is the position of the Applicants that the Project is not subject to Site 301.03(e).³⁸ However, the Applicants will address this section of the rules, as follows:

1) The type of facility being proposed

As described in Sections (g) and (h)(1), the type of energy facility proposed is a new 345 kV electric transmission line.

2) A description of the process to extract, produce, manufacture, transport or refine the source of energy;

Not applicable.

3) The facility's size and configuration

As described in Sections (g) and (h)(1), the Project will consist of a new 345 kV electric transmission line that is 24.4 miles long, 17.9 miles of which will be located in New Hampshire, and will primarily be constructed on H-frame suspension structures.

4) The ability to increase the capacity of the facility in the future

The capacity of the new 345 kV electric transmission line could not increase in the future without additional construction, namely, the replacement of the currently proposed conductor. The new line is designed to serve foreseeable needs and, therefore, the Applicants have no plan to undertake such construction.

5) Raw materials used**a. An Inventory, including amounts and specifications**

Not applicable.

b. A plan for procurement, describing sources and availability

Not applicable.

c. A description of the means of transporting

Not Applicable.

³⁸ Indeed, the draft SEC rules specifically provide that section 301.03(e) is not applicable to an "electric transmission line." See N.H. Site Evaluation Committee, Draft Rules Site 301.03(e) (Dec. 22, 2014).