

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

**SEC DOCKET NO. 2021-05**

**APPLICATION OF NEW HAMPSHIRE TRANSMISSION, LLC FOR A  
CERTIFICATE OF SITE AND FACILITY FOR THE CAPACITOR BANKS  
PROJECT IN SEABROOK, NEW HAMPSHIRE**

**Applicant's Motion for Protective Order and Confidential Treatment**

NOW COMES New Hampshire Transmission, LLC ("NHT"), by and through their attorneys, and respectfully requests that the New Hampshire Site Evaluation Committee ("the Committee") issue a protective order to preserve the confidentiality of financial information, Critical Energy Infrastructure Information ("CEII"), and information from the New Hampshire Natural Heritage Bureau ("NHB") regarding rare plants. In support of this request, NHT states the following:

1. NHT is filing today an Application for a Certificate of Site and Facility with the New Hampshire Site Evaluation Committee ("SEC" or the "Committee"), as well as a request for an exemption from the approval and certificate provisions of RSA 162-H pursuant to RSA 162-H:4, or in the alternative, a determination that this Project is not a "sizeable addition" pursuant to RSA 162-H:5. NHT is planning on constructing two 50 MVAR capacitor banks, three 345 kV circuit breakers, protection, control, communication and appurtenant facilities, and a short transmission line tap adjacent to the electric transmission substation at the Seabrook Station power plant (the "Facility"). On November 19, 2021, NHT submitted to the SEC a copy of the notice of the pre-application public information session which it held on December 1, 2021. This proposed Facility will be located on property that currently serves as a parking lot for

Seabrook Station, which is located north of the north access road to the power station (north of Rocks Road), east of Lafayette Road US Route 1. The Facility is needed to ensure the safety and reliability of the high voltage electric transmission grid and was selected as a project to address a reliability issue identified by the independent, non-profit regional electric transmission organization in New England, ISO-NE. As required by the Committee rules, the Application contains sensitive financial information and critical infrastructure information pertaining to the New England electric grid. Redacted copies of the sensitive financial information is included in Appendix 10, of the CEII in Appendix 6, and of the NHB information in Appendix 13b and in Attachment 9 to the Shoreland Protection Permit Application, which is Appendix 4. The information for which NHT is seeking confidential treatment has been redacted from the copies filed with the Committee and provided to others. We have submitted to the Committee one unredacted hard copy of the confidential materials in an envelope clearly marked as “CONFIDENTIAL” and one separate thumb drive with the confidential materials also clearly marked.

2. The New Hampshire Right-to-Know law, RSA 91-A, provides that governmental records are generally made available for public inspection, subject to certain exemptions which are spelled out in RSA 91-A:5. *See also* Admin. Rule Site 104.01(b). One of those exemptions is for “confidential, commercial, or financial information...and other files whose disclosure would constitute invasion of privacy.” RSA 91-A:5, IV. The Committee has long recognized the need to keep these categories of information confidential. *See* Order on Motion for Protective Order and Confidential Treatment and Supplemental Motion for Protective Order and Confidential Treatment,

May 8, 2020 in SEC Docket No. 2019-02 (“Chinook Confidentiality Order”); *see also*, Order on Motion for Protective Order and Confidential Treatment, December 22, 2016 in SEC Docket No. 2015-04 (“SRP Confidentiality Order”); *see also*, Order on Motion for Protective Order and Confidential Treatment, July 6, 2016 in SEC Docket No. 2015-02 (“Antrim Wind Confidentiality Order”). This Committee has also recognized the need to keep CEII material confidential. *See* Order on Motion for Protective Order and Confidential Treatment, December 22, 2016 in SEC Docket No. 2015-04.

3. In evaluating whether to grant a motion for confidential treatment the Committee has indicated that the standard of review requires that it undertake a three step analysis to determine whether information should be exempt from public disclosure. SRP Confidentiality Order at 2. The first prong of that analysis is to determine if the Applicant has identified a privacy interest. If there is a privacy interest, the second prong of the analysis involves an assessment of whether there is a public interest in disclosure, recognizing that disclosure should inform the public of the activities and conduct of the government. Finally, if there is a public interest in disclosure, then the third prong requires a balancing of the public interest in disclosure against any privacy interests in non-disclosure.

4. When the Committee has undertaken this analysis in the past it has arrived at the conclusion that *pro forma* financial statements should not be disclosed. Antrim Wind Protective Order at 7. *See also* Order on Partially Assented-to Motion for Protective Order and Confidential Treatment for Certain Confidential, Commercial, and Financial Documents, SEC Docket No. 2009-02 (June 9, 2010) (granting confidential treatment for business plans and financial models); Order Granting

Applicant's Motion for Protective Order and Approving Procedure for Treatment of Confidential, Commercial, or Financial Information, SEC Docket No. 2008-04 (Nov. 4, 2008) (granting confidential treatment for commercially sensitive and proprietary financial information to avoid an adverse effect upon the applicant's ability to successfully negotiate commercial transactions).

5. SEC rules, Site 301.03(g)(11), require that the Applicant include CEII materials with the Application. Federal regulations, 18 C.F.R. sec. 388.113, define CEII as including specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure. Such materials are routinely considered confidential and are not disclosed publicly because such information is critical to the safe and reliable operation of the electric system. The benefits of nondisclosure clearly outweigh any public interest in obtaining these documents. The SEC reached a similar conclusion in SEC Docket No. 2015-04, noting that the "private interest in protecting such information and securing safety and stability of infrastructure is extremely high." *See* Order on Motion for Protective Order and Confidential Treatment, December 22, 2016 in SEC Docket No. 2015-04, pp. 4-6.

6. SEC rules also require that information regarding rare plants be included with the Application Admin. Rule Site 301.07(c). As the Committee noted in the Chinook Confidentiality Order, citing RSA 217-A, "the State has an important interest in protecting natural resources that are rare, threatened or endangered. The public benefit of disclosing the information regarding the location of such resources...is minimal and disclosure would be detrimental to the public interest in protecting these natural resources." Chinook Confidentiality Order at 5.

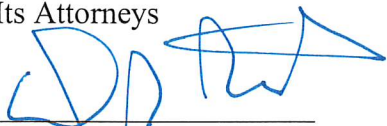
7. We submit that the same analysis that the Committee has used in the past applies here and that the categories of information described above should be granted confidential treatment, subject to similar provisions as the Committee imposed, and the execution of a similar protective agreement as was attached to the SRP Confidentiality Order.

8. NHT also requests that should it be required to submit additional confidential materials or documents relating to these categories of information later in this docket, or to the extent that any of this information is offered as evidence at any hearing before the Committee, that the Committee afford similar protection to such information.

**WHEREFORE**, NHT respectfully requests that the Committee:

- A. Grant NHT's request that the materials described above remain confidential and issue a protective order to preserve that confidentiality; and
- B. Grant such other relief as the Committee deems appropriate.

Respectfully submitted,  
**New Hampshire Transmission, LLC**  
By Its Attorneys



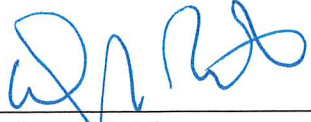
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Dated: April 1, 2022

**Certificate of Service**

I hereby certify that a copy of the foregoing motion has on this 1<sup>st</sup> day of April, 2022 been sent by email to the service list in SEC Docket No. 2021-05.

By:   
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Douglas L. Patch

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