

STATE OF NEW HAMPSHIRE – SITE EVALUATION COMMITTEE

SEC Docket No. 2015-04

**APPLICATION OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
D/B/A EVERSOURCE ENERGY
FOR A CERTIFICANT OF STATE AND FACILITY**

OBJECTION TO APPLICANT’S REQUEST TO LIMIT PARTICIPATION OF THE NATURE CONSERVANCY

The Nature Conservancy (“TNC”) respectfully submits this Response to the request of Public Service Company of New Hampshire d/b/a/ Eversource Energy (“Eversource”) to group The Nature Conservancy, the Conservation Law Foundation (“CLF”) and Fat Dog Shellfish Company (“Fat Dog”) into one party and to limit the participation of The Nature Conservancy in these proceedings. For the reasons discussed below, Eversource’s request should be rejected.

I. Introduction:

1. On April 12, 2016, the SEC received an Application for a Certificate of Site and Facility from Eversource for the construction of a new 115 kV Transmission Line from the Madbury Substation to Portsmouth Substation (the “Application”). On June 13, 2016, the Application was accepted and determined by the Committee to contain sufficient information to carry out the purposes of RSA 162-H.

2. On July 25, 2016, TNC filed a petition to intervene in this proceeding because it has a direct legal interest in four properties on which a portion of the Project will be located and has a significant investment in conservation projects within the Great Bay estuary (the “TNC Petition”).

3. On August 1, 2016, Eversource filed a response to TNC’s petition to intervene stating that Eversource does not object to TNC’s request to intervene on the condition that the Site Evaluation Committee (“SEC”) require that (a) TNC be grouped with CLF and Fat Dog as one party for purposes of filing motions, conducting discovery, and for examination at evidentiary hearings; and (b) TNC’s participation be limited solely to potential impacts to water quality and the natural environment in the Great Bay estuary, and to water quality and the natural environment as it relates to those properties that TNC has demonstrated that they own or have another legal interest in the property. For the reasons discussed below, Eversource’s requests should be denied.

II. Motion to Group CLF, TNC and Fat Dog as one party:

4. The SEC may grant a petition to intervene “upon determining that such intervention would be in the interest of justice and would not impair the orderly and prompt conduct of the proceedings.” RSA 5412-A:32, II, Site 202.11(b). TNC established in the TNC Petition the basis on which it qualifies for intervention status, and although Eversource claims that joining TNC with CLF and Fat Dog is necessary to “promote the efficient and orderly process of the proceeding” (Site 202.11(d)), Eversource has not advanced any reasonable facts or arguments to support its claim.

5. TNC is an international, science based, non-profit conservation organization and has interests in this proceeding that are separate and distinct from both CLF and Fat Dog. Specifically, TNC has a direct legal interest in four properties (totaling more than 270 acres) on which a portion of the project is located, and because of this legal interest TNC has rights, duties, privileges, immunities and/or other substantial interests in this matter that are not shared by CLF and Fat Dog. Moreover, Fat Dog is a for-profit, commercial enterprise operating in Little Bay for the purpose of economic and financial gain. TNC’s interest in the proceedings is focused on the protection of its real property interests and the ecological functions of the estuary, consistent with TNC’s non-profit mission. While TNC and Fat Dog may have a shared interest in the overall health of the estuary, Fat Dog has significant economic and legal interests that TNC simply does not share. Accordingly, Eversource’s request to group the parties could fundamentally interfere with TNC’s ability to represent fully its particular rights and interests. Given the small number of motions to intervene in this proceeding (i.e., <10) it is not reasonable to suggest, as Eversource has, that permitting TNC, CLF and Fat Dog to proceed individually would “impair the orderly and prompt conduct of the proceedings.” Eversource’s request that TNC’s intervention should only be granted on the condition that it be grouped with CLF and Fat Dog should therefore be denied.

6. Elizabeth Baker is a TNC employee, and also a co-owner of Fat Dog. This creates a potential conflict of interest, which TNC will address in accordance with its standard operating procedures (i.e., through the implementation of appropriate limitations on Ms. Baker’s role in the proceedings in her capacity as a TNC employee). Allowing TNC and Fat Dog to proceed on an individual basis during these proceedings, rather than be joined as a single party with CLF, as requested by Eversource, would serve to mitigate this conflict.

III. Motion to Limit TNC's participation in the Proceedings:

7. TNC has extensive expertise in the proper siting of, and mitigation for, energy infrastructure projects including electric transmission lines. While TNC has specific land interests impacted by the project, TNC's interests and expertise in identifying potential environmental impacts extend across the proposed 12.9 mile proposed project corridor. Eversource's request to limit TNC's participation to its direct real estate ownership interest and investment in the ecological health of the Great Bay estuary may unnecessarily limit the presentation of relevant facts and positions relevant to the SEC's deliberations on environmental impacts associated with the project, and should therefore be rejected.

WHEREFORE, TNC respectfully asks the SEC:

- A. To grant TNC's July 25, 2016 request to intervene as a full party to Docket No. 2015-04.
- B. To reject Eversource's request to group TNC with CLF and Fat Dog into one party.
- C. To reject Eversource's request to limit TNC participation in the proceedings solely to potential impacts to water quality and the natural environment (i) in the Great Bay estuary, and (ii) as it relates to those properties in which TNC has a demonstrated legal interest.

Respectfully submitted,

The Nature Conservancy



Dated: August 10, 2016

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Certificate of Service

I hereby certify that an original and one copy of the foregoing Motion to Intervene has on this 10th day of August, 2016 been sent to the New Hampshire Site Evaluation Committee by email to all members on the SEC Distribution List.



Jim O'Brien
Director of External Affairs
The Nature Conservancy

Dated: August 10, 2016