

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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October 20, 2016

Pamela G. Monroe, Administrator
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: SEC Docket No. 2015-04
Application of Public Service Company of New Hampshire d/b/a Eversource Energy
("Eversource") for a Certificate of Site and Facility for the Construction of a New 115 kV
Transmission Line from Madbury Substation to Portsmouth Substation

Dear Ms. Monroe:

Enclosed for filing in reference to the above-captioned matter is an original and one copy
of the following:

- Partial Objection of Counsel for the Public to *Applicant's Motion to Partially Waive Site 301.08(c)(2)* and
- Partial Objection of Counsel for the Public to *Applicant's Motion to Partially Waive Site 301.03(c)(3)-(5)*.

Thank you for your attention to this matter. Please feel free to call with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "C. G. Aslin".

Christopher G. Aslin
Assistant Attorney General
Environmental Protection Bureau
(603) 271-3679

/cmc
Enclosure
cc: Distribution List

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

No. 2015-04

Application of Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) for a Certificate of Site and Facility for the Construction of a New 115 kV Transmission Line from Madbury Substation to Portsmouth Substation

**PARTIAL OBJECTION OF COUNSEL FOR THE PUBLIC TO
APPLICANT’S MOTION TO PARTIALLY WAIVE SITE 301.03(c)(3)–(5)**

Counsel for the Public, by his attorneys, the office of the Attorney General, hereby objects to the Applicant’s motion to partially waive Site 301.03(c)(3)–(5) of the SEC Rules (the “Motion”). Counsel for the Public responds as follows:

1. On April 12, 2016 Public Service Company of New Hampshire d/b/a Eversource Energy (the “Applicant”) submitted an Application for a Certificate of Site and Facility in the above captioned docket. Along with the Application, the Applicant submitted a Motion to Partially Waive Site 301.03(c)(3)–(5).

2. Pursuant to the Motion, the Applicant requests waivers from identification and mapping requirements set forth in Site 301.03(c)(3)–(5), arguing that it is difficult to obtain the necessary information and to format maps in a way that is meaningful to the reader.

3. Specifically, the Applicant requests waiver from the requirement to show the location of certain required structures and resources on abutting properties, where those abutting properties extend beyond the area the Applicant chose to depict in the maps submitted with its application.

4. For the reasons stated below, Counsel for the Public objects to the Applicant’s broad-based request for waivers from mapping and identification requirements of Site 301.03(c)(3) and Site 301.03(c)(5).

A. Standard of Review

5. Pursuant to Site 302.05(a), waiver of the Committee's rules is permitted if the Committee finds that the waiver "serves the public interest" and "will not disrupt the orderly and efficient resolution" of the proceedings. Site 302.05(b) goes on to clarify that "in determining the public interest," the subcommittee shall waive a rule if: "(1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or (2) The purpose of the rule would be satisfied by an alternative method proposed."

6. As the movant, the Applicant bears the burden of demonstrating that compliance with the rule would be "onerous or inapplicable" or that the "purpose of the rule would be satisfied by an alternative method." Site 302.05(b).

B. The Applicant Has Not Demonstrated That The Mapping And Resource Identification Requirements Are Onerous Or Inapplicable.

7. The primary complaint of the Applicant is that complying with the mapping and resource identification requirements of Site 301.03(c)(3)-(5) is overly burdensome because it would be difficult to either obtain required information on large parcels or to depict large parcels in a meaningful way on the resource maps. However, the Applicant has provided no specific examples or even identified the number or size of large abutting properties that are not already mapped and would require a waiver. The Subcommittee is left wondering just how onerous it might be to comply with the rule because sufficient information has not been provided by the Applicant.

8. It is inappropriate for the Applicant to claim a burden without providing specific evidence of the alleged burden. Moreover, the Subcommittee cannot assess the importance of mapping structures and resources on large abutting properties without being told the location or extent of those abutting properties that would be subject to the waiver. The Applicant has the

burden of demonstrating that compliance with the rule would be onerous or inapplicable, but has not provided sufficient information to support its request. For this reason alone, the waiver request should be denied.

9. Counsel for the Public also finds the Applicant's complaint regarding scaling maps unpersuasive. The Applicant has not asserted that printing maps to show all abutting properties in a readable scale would be technically unfeasible or oppressively expensive. Rather, it appears to be a matter of convenience such that the Applicant would prefer not to go to the trouble of complying with the rule. Mere inconvenience is not a sufficient ground for waiver from the rules.

10. Where large properties abut the project, maps need not change scale to show a larger area on a single page. Instead, a readable scale can be maintained while adding additional pages or increasing the size of maps to show areas farther from the transmission line. While this may require some additional work on the Applicant's part, the Applicant has not demonstrated that it would be unduly onerous for this project.

1. Identification of Property Lines, Residences, Industrial Buildings, and Other Structures and Improvements

11. With regard to the requirement to map property lines and structures pursuant to Site 301.03(c)(3), the Applicant's sole argument is inconvenience. As set forth above, Counsel for the Public submits that the Applicant has not met its burden to show grounds for a waiver and the Applicant's waiver request should be denied.

12. To the extent that there are particular properties that pose specific challenges, the Applicant could submit a specific waiver request to address particular properties. However, a blanket waiver without demonstration of the actual hardship is inappropriate.

2. Identification of Wetlands and Surface Waters

13. As stated above, it is unclear from the information contained in the Motion how many abutting properties are not fully mapped or how large unmapped portions of abutting properties may be. The Subcommittee has insufficient information to determine whether providing fully compliant maps would be unduly burdensome.

14. Specific to wetlands and surface waters, however, the Applicant has provided wetland and surface water information out to approximately 1,000 feet to either side of the project ROW, and asserts that this is an adequate alternative method to satisfy the purpose of the rule. Counsel for the Public agrees, and does not object to a waiver from the requirements of Site 301.03(c)(4).

3. Identification of Natural, Historic, Cultural, and Other Resources

a. Natural Resources

15. With regard to natural resource identification and mapping, the Applicant points to Appendices 3 and 7, and asserts that the location of natural resources are depicted in an area approximately 1,000 feet to either side of the project ROW, and asserts that “it is impractical and unreasonably burdensome to require the Applicant to map all natural resources outside of the mapped area.” Motion at 7. However, the Applicant does not explain how it is impractical or unduly burdensome to comply with the rule.

16. Moreover, it is unclear from the Motion specifically what natural resource information has been omitted and requires a waiver. Appendix 3 does not depict natural resources other than wetlands and water resources, and Appendix 7 includes a narrative discussion of natural resource impacts, but only limited mapping of non-water natural resources. There is inadequate specificity in the Motion for the Subcommittee to know what the requested

waiver would cover, or to support a finding that compliance with the rule would be either onerous or inapplicable.

b. Historic Resources

17. With regard to Historic Resources, the Motion provides only generalized information and no clear description of why a waiver is needed or the extent of the waiver requested. Historic resources are depicted on Appendix 2 Environmental Maps, but only within an area up to 300 feet from the Project. In some places, the maps depict substantially less than 300 feet on one side of the Project ROW. For example, on Map 17, the ROW as depicted dips to within less than 50 feet from the edge of the map. In addition, the environmental maps in several places show only a portion of historic resources that extend beyond the mapped area, leaving the Subcommittee with incomplete information of the size or extent of the truncated resources.

18. While the Applicant points to the NH DHR Project Area Form (Appendix 10) and the Seacoast Reliability Project Preliminary Report: Historic Resources (Appendix 11) as additional sources of identification of historic resources within one-half mile on either side of the Project, these appendices do not clearly map the location and extent of the historic resources or relate them to property lines as contemplated by Site 301.03(c)(5).

19. Other than inconvenience, the Applicant has not demonstrated why it could not depict historic resources on the larger scale Existing Conditions maps in Appendix 3, let alone on all abutting properties. Nor has the Applicant identified specific large properties that would pose an undue burden to depict on existing condition maps.

20. Unlike wetlands and surface water resources that are not subject to visual impacts, historic resources may be highly susceptible to visual impacts, and where a historic resource is located on a property abutting the Project, it is critical for the Subcommittee to have sufficient

information to assess the potential impacts of the Project on those resources. Accordingly, the Applicant should not be permitted to frustrate the clear purpose of the rule by obtaining a waiver.

C. Conclusion

25. For all of the above reasons, Counsel for the Public respectfully submits that the Applicant has not met its burden for a waiver of the requirements of Site 301.03(c)(3) or Site 301.03(c)(5).

WHEREFORE, Counsel for the Public prays that the Subcommittee:

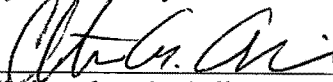
(A) Deny the Motion with respect to the request for waiver from Site 301.03(c)(3) and Site 301.03(c)(5); and;

(B) Grant such other and further relief as may be just.

Respectfully submitted,

COUNSEL FOR THE PUBLIC

By his attorneys



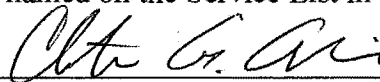
Christopher G. Aslin
Assistant Attorney General
Environmental Protection Bureau
33 Capitol Street
Concord, New Hampshire 03301-6397
Tel. (603) 271-3679

Dated: October 20, 2016

Certificate of Service

I hereby certify that a copy of the foregoing Partial Objection of Counsel for the Public has been forwarded this day to persons named on the Service List in this docket.

Dated: October 20, 2016



Christopher G. Aslin