

# Orr&Reno

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October 20, 2016

**Via Hand Delivery and Electronic Mail**

Ms. Pamela Monroe, Administrator  
New Hampshire Site Evaluation Committee  
c/o N.H. Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, NH 03301

***Re: SEC Docket No. 2015-04 – Application of Public Service Company of New  
Hampshire d/b/a Eversource Energy for a Certificate of Site and Facility –  
Seacoast Reliability Project***

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket please find Town of Newington's Supplemental Objection to Applicant's Motion to Partially Waive Site 301.03(c)(3)-(5). Please contact me if there are any questions about this filing. Thank you.

Very truly yours,

  
Susan S. Geiger

Enclosure  
cc: Service List (via electronic mail)  
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**THE 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 CERTIFICATE OF SITE AND FACILITY**

**TOWN OF NEWINGTON'S SUPPLEMENTAL OBJECTION  
TO APPLICANT'S MOTION TO PARTIALLY WAIVE SITE 301.03(c)(3)-(5)**

NOW COMES The Town of Newington, New Hampshire ("Newington") by and through its undersigned attorneys, and hereby supplements its April 22, 2016 objection to the Applicant's Motion to Partially Waive N.H. Code Admin. R. Site 301.03(c)(3)-(5) in the above-captioned docket by stating as follows:

**Introduction/Procedural History**

1. On April 12, 2016, Public Service Company of New Hampshire d/b/a Eversource Energy ("Eversource" or "the Applicant") filed with the New Hampshire Site Evaluation Committee ("SEC" or "Committee") an Application for a Certificate of Site and Facility ("Application") for the so-called Seacoast Reliability Project ("the Project"), a 115kV transmission line proposed to be located, in part, in Newington.
2. With its Application, Eversource filed a Motion seeking partial waivers of SEC rules Site 301.03(c)(3)-(5) ("the Motion").

3. On April 22, 2016, within the ten day deadline set forth in Site 202.14(f), Newington filed an Objection to the Motion. In its Objection, Newington expressly reserved the right to supplement the Objection after Newington had reviewed the entire Application, or at such other time as directed by the Committee. *Objection*, ¶ 7.

4. On October 10, 2016, the Presiding Officer in this docket issued an Order establishing October 20, 2016 as the deadline for filing objections or responses to the Applicant's Motion.

5. Newington files this Supplemental Objection pursuant to the above-referenced Order. The provisions of Newington's April 22, 2016 Objection are hereby incorporated by reference; additional grounds for denying the Motion are set forth below.

#### Argument

6. The rules from which Eversource seeks partial waivers require that an application for a certificate of site and facility contain: (1) a map showing the location 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; (2) 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; and (3) 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 other sources of the information to be identified.

7. To grant a request to waive its rules, the Committee must find that the waiver serves the public interest and will not disrupt the orderly and efficient resolution of matters before the Committee. N.H. Admin. R. Site 302.05(a). Determining “the public interest” requires an examination of whether compliance with the rule would be “onerous or inapplicable” under the circumstances, or the “purpose of the rule would be satisfied by an alternative method proposed.” N.H. Admin. R. Site 302.05(b).

8. Eversource asserts that requiring it to strictly comply with the Committee’s rules and identify all resources on each abutting property would be “onerous.” *Motion*, p. 2. In support of this assertion, Eversource explains that expanding the amount of area displayed on its maps would require varying the scale of the map continuously along the route or adjusting the scale that would accommodate the largest abutting property such that the data would be unreadable. *Id.* While those two options may not be optimal, another solution exists: Eversource could prepare larger maps using the existing scale and fold them into the binders submitted as part of the Application or roll and provide them in protective tubes. This solution is not onerous - in fact, it is contemplated by Site 301.02(a) which provides that oversized documents shall be folded to 8 ½ x 11 inch sheets or rolled and provided in protective tubes. Thus, Eversource has failed to demonstrate that compliance with the rules would be onerous.

9. Eversource also asserts that compliance with Site 301.03(c)(3)-(5) would not provide the Committee with any additional meaningful information to inform their decision about whether to issue a Certificate of Site and Facility.” *Id.* Newington strongly disagrees with this assertion. Eversource’s failure to fully comply with the rules from which it seeks waivers

will leave the Committee with incomplete and skewed information about the Project's proximity to and impacts on abutting properties and the structures and resources within them. This information is necessary to assist the Committee in making the findings required by RSA 162-H:16, IV (c) regarding impacts on aesthetics, historic sites, water quality and the natural environment. Moreover, because the Committee must also determine whether the Project will unduly interfere with the orderly development of the region, *see* RSA 162-H:16, IV (b), it is important that the Application contain an accurate and complete identification of all of the resources within as much of the area surrounding the Project as possible so that the Committee can examine the Project's context within the region, and not simply within the limited context of the area within and "adjacent" to the proposed right-of-way location. In fact, in its rulemaking deliberations on the wording of Site 301.03(c)(3), the Committee expressly rejected the phrase "adjacent to the site" and replaced it with "abutting property." *See* Docket SEC 2014-04, Tr. 9/21/15, p. 86 (attached).

10. Eversource's failure to supply all of the information required by Site 301.03(c)(3) and (5) results in the exclusion of important data from the maps contained in Volume 2, Appendix 2 of the Application. For example:

- A. Newington's National Register Historic District, an important historic resource which will be transected by the Project, is not depicted in its entirety.
- B. Maps 21 and 22 (LL #410) do not show the entire Frink Farm property, which is listed in the National Register of Historic Places. In addition, the property that is shown is not entirely designated as historic.
- C. Map 22 shows only a very limited portion of Little Bay Road, which is a designated scenic road.

- D. Map 21 (LL #408) fails to identify the Pickering Farm (which is eligible for listing on the National Register of Historic Places) as an historic resource, does not show the entire property, or the historic farm house and outbuildings.
- E. The abutting property owned by Town of Newington shown on Maps 21-22 (LL#408.08) is not shown in its entirety and does not show the Town's Historic District (cemetery, Meeting House, Parade/Open Space, etc.)
- F. Map 21 fails to identify an old cemetery located in an area north of the proposed transmission line on either Lot LL# 407 (Poulin) or LL# 408 (Pickering).
- G. The aforementioned Project Maps contain charts and illustrations that obliterate sections of the Maps, making it impossible to determine what lies beneath them.

11. Lastly, the rules waiver should not be granted because it will disrupt the orderly and efficient resolution of matters before the Committee. Eversource's failure to fully comply with its mapping and identification obligations may require other parties to "fill in the blanks" created by Eversource's failure to provide all of the information required by Site 301.03 (c)(3)-(5). The missing information is not superfluous as the Motion suggests; it is highly relevant to the statutory criteria the Committee must apply in determining whether to grant a certificate of site and facility for the Project. Shifting the burden of producing this information to other parties unfairly requires that they expend the time, effort and money to compile information that the rules require of the Applicant. As such, this burden shifting will impact the orderly and efficient resolution of this docket. Accordingly, the waiver request should be denied.

Conclusion

12. For all of the foregoing reasons, the Motion should be denied, and Eversource should be ordered to supplement its Application to include all of the information required by Site 301.03(c)(3)-(5).

WHEREFORE, Newington respectfully requests that the Committee:

- A. Deny Eversource's Motion;
- B. Order Eversource to supplement its Application as soon as possible to provide all of the information required by Site 301.03(c)(3)-(5); and
- C. Grant such further relief as the Committee deems appropriate.

Respectfully submitted,

Town of Newington  
By Its Attorneys  
Orr & Reno, P.A.

  
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Dated: October 20, 2016

Certificate of Service

I hereby certify that on this 20th day of October, 2016, a copy of the within Objection was sent to the Service List via electronic mail.

  
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Susan S. Geiger

1 "identify the applicant's preferred choice and other  
2 alternatives it considers available for the site and  
3 configuration of each major part of the proposed facility  
4 and the reasons for that preferred choice."

5 CHAIRMAN HONIGBERG: Does anyone here  
6 want to depart from the statutory language?

7 (No verbal response)

8 CHAIRMAN HONIGBERG: Next.

9 MR. WIESNER: The next comment is in  
10 (c) (3). This is where the applicant would include a map  
11 showing "residences, industrial buildings, and other  
12 structures and improvements within the site". And, then,  
13 the language as proposed is "on abutting property with  
14 respect to the site or within 100 feet of or adjacent to  
15 the site".

16 CHAIRMAN HONIGBERG: I think "or  
17 adjacent to" got eliminated in an earlier iteration by us.

18 MR. WIESNER: That's correct. That's  
19 correct. The new language, "the abutting property or  
20 within 100 feet" is in replacement of the current language  
21 or the prior proposed language "adjacent to the site".  
22 So, that was an attempt to define what "adjacent" means.

23 Both the Various Energy Companies and  
24 EDP propose -- I'm sorry. The Various Energy Companies