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Via Electronic Mail

October 26, 2016

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

**Re: SEC Docket No. 2015-04: Public Service Company of New Hampshire d/b/a
Eversource Energy for a New 115 kV Transmission Line from Madbury Substation
to Portsmouth Substation
Applicant's Motion to Strike Improper Filing of DeCapo**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find the Applicant's Motion to Strike Improper Filing of Thomas A. DeCapo and Yael D. DeCapo.

Please contact me directly should you have any questions.

Sincerely,

Adam M. Dumville

AMD:slb
Enclosure

cc: Distribution List

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**

**APPLICANT’S MOTION TO STRIKE IMPROPER FILING OF THOMAS A. DECAPO
AND YAEL D. DECAPO**

NOW COMES Public Service Company of New Hampshire d/b/a Eversource Energy (“PSNH”) (the “Applicant”), by and through its attorneys, McLane Middleton, Professional Association, and respectfully moves the Committee to strike the improper filing of Thomas A. DeCapo and Yael DeCapo’s (the “DeCapos”), namely, their Objection to the Applicant’s Motion to Partially Waive Site 301.03(c)(3)–(5).

1. On August 24, 2016, the Presiding Officer issued an Order on Petitions to Intervene (the “Order”) pursuant to NH RSA 162-H:4, V. As part of the Order, the Presiding Officer grouped the Durham Point / Little Bay Abutters and Donna Heald McCosker with Thomas and Yael DeCapo to form the “Durham Residents” intervener group. To avoid duplicative arguments and to ensure the prompt and orderly development of these proceedings, pursuant to RSA 541-A:32, III and Site 202.11(d)(3), the Presiding Officer ordered that these three different interveners be “combined for the purposes of presentation of evidence, argument, cross-examination, and other participation.” Order on Petitions to Intervene, Docket 2015-04, at 10 (the “Order”).¹

¹ On September 2, 2016, the DeCapos filed a Motion for Review or Reconsideration of the Order on Intervention, which is still pending. A hearing to review this motion is set for November 2, 2016. However, until the Motion for Reconsideration is ruled upon, the August 24, 2016 Order remains in effect.

2. The Order also required that each group of interveners “designate a spokesperson and notify the Administrator of the designee.” *Id.* at 11. “The designee will be responsible for communicating with the Subcommittee, the Applicant, and the other parties in this docket with respect to conducting discovery and filing pleadings.” *Id.* 11–12.

3. On October 20, 2016, the DeCapos submitted an unauthorized filing captioned the “Objection of Thomas A. DeCapo and Yael D. DeCapo to Applicant’s Motion to Partially Waive Site 301.03(c)(3)–(5)” (the “Filing”).

4. The Filing is procedurally improper as it violates Chairman Robert R. Scott’s August 24, 2016 Order, which requires the DeCapos—and the Durham Residents—to present evidence and arguments *together* and that the group designate a single spokesperson. The Order could not have been clearer when it required the Durham Residents, including the DeCapos, to designate one spokesperson for the purposes of “conducting discovery *and* filing pleadings.” (Emphasis added).

5. Attorney Irwin B. Schwartz is not the designated spokesperson for this group. To the Applicant’s knowledge the Durham Residents intervenor group has not designated a spokesperson for this proceeding. The Filing is an obvious attempt to subvert the Presiding Officer’s ruling that the DeCapos be grouped with other similarly situated interveners who reside in close proximity to each other and express substantially similar interests in order to promote the prompt and orderly development of this proceeding. Order at 10.

6. Therefore, to maintain compliance with the Committee’s August 24 Order, and to promote the efficient and orderly process of the proceeding, the Applicant respectfully requests

that the Committee strike the Filing from the record and direct Attorney Schwartz to comply with requirements and directives contained in the August 24 Order going forward.²

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² Matthew Fitch also filed an unauthorized letter with the Committee on October 20, 2016 expressing their support for the Town of Newington's Supplemental Objection to the Applicant's Motion to Partially Waive Site 301.03(c)(3)-(5). As Mr. Fitch is not the authorized representative of the Durham Residents, as required by the August 24, 2016 Order on Petitions to Intervene, the Applicants would also request that the Committee strike Mr. Fitch's letter of support. While the Durham Point/Little Bay Abutters also filed a Motion for Review and Reconsideration of Order on Intervention, which is still pending, until that Motion is ruled upon, Mr. Fitch should also be directed to comply with the August 24 Order.

WHEREFORE, the Applicant respectfully asks that the Committee:

- a. Strike the Filing from the Record; and
- b. Grant such other further relief as is deemed just and appropriate.

Respectfully Submitted,

Public Service Company of New Hampshire d/b/a
Eversource Energy

By its attorneys,

McLANE MIDDLETON
PROFESSIONAL ASSOCIATION

Dated: October 26, 2016

By: Adam Dumville

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Certificate of Service

I hereby certify that on the 26th day of October, 2016 this Motion was sent electronically to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the SEC Distribution List.

Adam Dumville
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