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**Via Electronic Mail**

June 15, 2017

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 Objection to Town of Durham and UNH's Revised Procedural Schedule  
And Proposed Amended Revised Procedural Scheduling Order**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find the Applicant's Objection to Town of Durham and UNH's Revised Procedural Schedule And Applicant's Proposed Amended Revised Procedural Scheduling Order Following the Amendment to the Application Submitted to the SEC on March 29, 2017.

Please contact me directly should you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Adam Dumville".

Adam M. Dumville

AMD:slb  
Enclosure

cc: Distribution List

McLane Middleton, Professional Association  
Manchester, Concord, Portsmouth, NH | Woburn, Boston, MA

McLane.com

**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 OBJECTION TO TOWN OF DURHAM AND UNH'S REVISED  
PROCEDURAL SCHEDULE**

**AND**

**APPLICANT'S PROPOSED AMENDED REVISED PROCEDURAL SCHEDULING  
ORDER FOLLOWING THE AMENDMENT TO THE APPLICATION SUBMITTED TO  
THE SEC ON MARCH 29, 2017**

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 objects to the Town of Durham/UNH's Revised Procedural Schedule and hereby submits an Amended Revised Procedural Scheduling Order Following the Amendment to the Application Submitted to the SEC on March 29, 2017.

**I. Background**

The Applicant is currently in the process of re-running its sediment dispersion model completed by RPS ASA to update the model for proposed refinements in construction methods in Little Bay and to respond to reviewer requests for additional information. During this process, the Applicant will correct an input inaccuracy in tide stage in the original model that was discovered when voluntarily re-running its sediment dispersion model. The updated model will likely produce different results; however, such differences are anticipated to be insignificant and overall environmental impacts are expected to be reduced. The new model will not have "many spin-off implications" as the Town has suggested in its letter dated June 14, 2017. Additional

sediment samples have also been collected from Little Bay as part of on-going construction method refinements. The results of this updated model and the sampling effort will be provided to all parties on or before July 1, 2017.

The Town of Durham unreasonably seeks to delay the filing of all pre-filed testimony until mid-August 2017 because of this one issue. The Applicant does not believe that such an all-encompassing delay and postponement of the deadline of interveners' testimony is warranted. As described more fully below, it is appropriate that the existing deadline for all pre-filed testimony—except pre-filed testimony relating to air and water quality and the natural environment—remain as currently set in the May 22, 2017 Order on Agency Requests to Suspend Certain Statutory Deadlines and Revised Procedural Schedule, namely, on or before June 26, 2017. The Applicant also understands that the SEC Administrator may propose a schedule where all pre-filed testimony is due on July 24, 2017.

## **II. Argument**

The Applicant has worked diligently to accommodate and address concerns of abutters and stakeholders across the Project route since the Project's inception. Indeed, the Applicant has recently filed an amendment to the Application agreeing to site additional segments of the Project underground to alleviate concerns raised by the Town of Newington and abutters. The Amendment also makes a number of other adjustments and structure relocations that have been specifically requested by interveners and abutters and agreed-to by the Applicant. The Applicant objects to and disagrees with the Town of Durham's characterization that "the delays in the procedural schedule for this docket . . . have been caused by the Applicant." The delays to date have been a result of the Applicant working diligently to accommodate a wide range of stakeholder concerns about potential impacts from the construction of the Project.

To address concerns from Project stakeholders, the Applicant has agreed to re-run the sediment dispersion model (during which, the Applicant admittedly discovered a minor error in the initial model) and to take additional sediment samples at the bottom of the Little Bay at the request of other interveners. The Applicant's current efforts are solely designed to ensure that the Project will have the least potential impacts to water quality and natural resources in Little Bay and to respond to intervener concerns.

The Applicant agrees to an extension of the deadline for filing pre-filed testimony as it relates to all environmental issues to allow the parties to review the updated RPS ASA modeling report and the additional sediment sampling results. However, the Town of Durham has not put forth convincing evidence to warrant a complete delay in all pre-filed testimony topics. All interveners have had the Amendment and Amended testimony since March 29, 2017, providing each intervener with nearly three full months of time to analyze the amendment and develop pre-filed testimony. Moreover, each party has had the original Application filing since April of 2016—over one year—to dissect the majority of information about the Project as a whole.

The Town of Durham's letter ignores the Presiding Officer's Order on Motion to Postpone Technical Session, dated May 5, 2017. In the Town of Durham's Motion to Postpone the Technical Session, the Town specifically sought to "allow at least two weeks between the submission of the final agency recommendations and the filing of intervener testimony" and if the motion was granted, "to set the date for submission of intervener testimony two weeks after the technical sessions." Motion at ¶ 3. However, the May 5, 2017 Order unambiguously ruled against all of the Town's arguments for further delays in the schedule—both a delay in technical sessions and a delay in the submission of pre-filed testimony. The Town of Durham now resurrects all of its prior positions and simply re-states that it is more efficient to wait to file pre-

filed testimony until after the August 1, 2017 deadline for State Agencies to issue final decisions. The Town's request for such a delay was already denied by the Presiding Officer and should be denied again here.

Also, on May 22, 2017, the Committee issued an Order on Agency Requests to Suspend Certain Statutory Deadlines and Revised Procedural Schedule, establishing, among other things, a final deadline for the Committee to issue a Certificate of Site and Facility, on or before December 29, 2017. The Committee, in "ensuring that the parties have sufficient time to prepare and present their evidence" and to ensure the orderly conduct of the proceedings" established a well-thought-out procedural schedule. Order at 4. Counter to the Town of Durham's position, the set deadlines contemplated dates for the technical sessions, the possibility of additional data requests asked at the technical sessions, and deadlines for pre-filed testimony.

The Town further overstates their arguments. The additional work being undertaken by the Applicant relates only to one discrete issue and merely deals with environmental impacts to one specific resource, namely, Little Bay. The revised RPS ASA model does not affect historic or cultural resources, aesthetics, land use, orderly development, property values, tourism, taxes, economy or the the Applicants financial, technical, and managerial capability to construct and operate the Project. The RPS ASA model only affects potential environmental impacts to Little Bay. Therefore, there is no legitimate reason for all topics of pre-filed testimony to be delayed.

The Town's proposal also prejudices the Applicant and deprives the Applicant of its procedural due process rights by greatly restricting and constraining some of the most important aspects of the Applicant's case. Namely, the Town's proposal only allows the Applicant three business days to review data request responses and prepare for technical sessions; only allows the Applicant five business days after the technical sessions with witnesses for Counsel for the

Public and interveners to file supplemental testimony (which also fails to allow any time for the applicant to get answers to record requests it may make at the technical sessions); and only allows the Applicant nine business days to work with the parties to agree on stipulations with the parties after the technical sessions.

Essentially, the Town's procedural schedule gives the interveners an additional two months to draft and file pre-filed testimony that is likely already near complete (given the pending deadline of June 26, 2017) while simultaneously removing any meaningful time for the Applicant to prepare for technical sessions, draft and revise supplemental testimony, and work with the parties to develop stipulations. The Applicant has been pro-actively working with all parties in this docket and all abutters to the Project well before filing the Application in April 2016—it would be unfair to deprive the Applicant of meaningful time to prepare for cross-examination and develop additional materials to support its presentation at the final hearings as a result of the Applicant's willingness to work with all other parties.

The Town has not presented any reasoning as to why a temporary bifurcation of the procedural schedule would prejudice the Town. As provided below, the only deadline that would be affected by the Applicant's proposal is the intervener's deadline for submitting pre-filed testimony on issues relating to water quality and the natural environment. The Applicant's proposed procedural schedule indicates an understanding that additional information will be presented on issues relating to Little Bay. However, the Applicant does not anticipate submitting any additional information that affects the following topics: affect historic or cultural resources, aesthetics, land use, orderly development, property values, tourism, taxes, economy or the Applicants financial, technical, and managerial capability to construct and operate the Project. Indeed, the deadlines for all of the testimony were already established by the Committee, after

agreement by nearly all of the parties. The June 26, 2017 deadline is not a new deadline recommended by the Applicant, it is a deadline previously established by the Presiding Officer.

The Applicant also respectfully disagrees with the proposed procedural schedule offered by the SEC Administrator and discussed at the technical session on June 11, 2017. As discussed above, a complete delay in the filing of all intervenor testimony prejudices the Applicant to the extent that the Applicant's timeframes for reviewing the pre-filed testimony on all topics will be shortened. If the Applicant's understanding of the SEC Administrator's proposed procedural schedule is adopted, the Applicant and its experts would only have nine business days to review the testimony and reports and develop data requests. The Applicant would then only be permitted to review responses to data requests for a period of five business days before the technical sessions start. Both of these time frames impose unreasonable constraints on the Applicant.

Based on the foregoing, the Applicant proposes the following procedural schedule, which provides all parties with an additional month of time to review and assess the RPS ASA model and to file pre-filed testimony on issues related to air and water quality and the natural environment:

1. Counsel for the Public and intervenors shall propound data requests upon the Applicant regarding the Amendment on or before **April 19, 2017**. The data requests shall relate to the Amendment to the Application and to the Normandeau Associates, Inc. report titled: *Characterization of Sediment Quality Along Little Bay Crossing*, submitted on December 1, 2016. The total number of data requests for any party in this docket shall not exceed 65;
2. The Applicant shall respond to data requests propounded by Counsel for the Public and intervenors on or before **May 12, 2017**;
3. Technical sessions with the Applicant's witnesses shall be conducted on **May 30, June 7, and June 12, 2017**. The technical session on **June 12** will be held at **49 Donovan Street, Concord**;

4. A technical session with the Applicant's witness, Mr. James Chalmers, shall be conducted on **June 15, 2017**, beginning at **1:00 p.m.** at **49 Donovan Street, Concord**;
5. Counsel for the Public and interveners shall provide pre-filed testimony of their witnesses, excluding pre-filed testimony on issues related to air and water quality and the natural environment, on or before **June 26, 2017**;
6. Applicant shall submit an updated RPS ASA Suspended Sediment Modeling Report for Little Bay on or before **July 1, 2017** to the New Hampshire Department of Environmental Services and the SEC Distribution list;
7. A technical session with the Applicant's witnesses, Sarah Allen and Ann Pembroke, on issues solely related to the water quality and the natural environment of Little Bay, shall be conducted on **July 11, 2017**, beginning at **9:00 a.m.** at **49 Donovan Street, Concord**;
8. The Applicant shall propound data requests, excluding data requests on issues related to air and water quality and the natural environment, on Counsel for the Public and interveners on or before **July 17, 2017**;
9. Counsel for the Public and interveners shall provide pre-filed testimony of their witnesses, on issues related to air and water quality and the natural environment, on or before **July 26, 2017**;
10. State agencies shall issue final permits and conditions, if any, on or before **August 1, 2017**;
11. The Applicant shall propound data requests, on issues related to air and water quality and the natural environment, on Counsel for the Public and interveners on or before **August 2, 2017**;
12. Counsel for the Public and intervenors shall respond to data requests excluding data requests on issues related to air and water quality and the natural environment, on or before **August 11, 2017**;
13. Counsel for the Public and intervenors shall respond to data requests on issues related to air and water quality and the natural environment, on or before **August 16, 2017**;
14. A technical session with witnesses for Counsel for the Public and interveners shall be conducted on **August 22, 23, and 24 2017**;
15. Supplemental pre-filed testimony shall be due from all parties on or before **September 22, 2017**;
16. The parties shall file statements of stipulated facts and any other stipulations on or before **October 6, 2017**;



17. The final pre-hearing conference shall be conducted on **October 10, 2017; and**

18. The final adjudicative hearing (estimated time needed for hearing is 5 days) and deliberations shall take place beginning at 9:00a.m. on each scheduled day, on **October 16, 17, 19, 20, 26, 27, 31, and November 7, 2017**. Any of the dates that are not needed, shall be cancelled by the Presiding Officer.

The Applicant has made a good faith effort to seek the concurrence of all parties. Counsel for the Public does not object to the requested relief. The other parties that could be reached did not assent.

[Remainder of page intentionally left blank]

WHEREFORE, the Applicant respectfully asks that the Committee:

- A. Accept the Applicant's proposed procedural schedule and adopt the schedule going forward;
- B. Deny the Town of Durham's proposed revised procedural schedule; and
- C. 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: June 15, 2017

By: Adam Dumville

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Certificate of Service

I hereby certify that on the 15<sup>th</sup> day of June, 2017, an electronic copy of this motion was filed with the Site Evaluation Committee and an electronic copy was sent to the Distribution List.

Adam Dumville  
Adam Dumville