

Orr&Reno

Susan S. Geiger
sgeiger@orr-reno.com
Direct Dial 603.223.9154
Direct Fax 603.223.9054
Admitted in NH and MA

November 22, 2017

Via U.S. and Electronic Mail

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

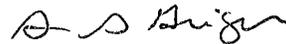
***Re: SEC Docket No. 2015-04 – Application of Public Service Company of New
Hampshire d/b/a Eversource Energy for a Certificate of Site and Facility
– Seacoast Reliability Project***

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket on behalf of the Town of Newington,
please find a Partially Assented-To Motion to Consult with ISO-New England.

Please contact me if there are any questions about this Motion. Thank you.

Very truly yours,



Susan S. Geiger

Enclosure
cc: Service List (via electronic mail)
1965269_1

**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**

PARTIALLY ASSENTED-TO MOTION TO CONSULT WITH ISO-NEW ENGLAND

NOW COMES The Town of Newington, New Hampshire (“Newington”) by and through its undersigned attorneys, and respectfully moves the New Hampshire Site Evaluation Committee (“SEC” or “Committee”) to exercise its authority under RSA 162-H:16, III to consult with ISO-New England (“ISO-NE”) in the consideration of the certificate sought by Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or “the Applicant”) in the above-captioned matter. In support of this Motion, Newington states as follows:

1. On April 12, 2016, Eversource filed with the New Hampshire Site Evaluation Committee (“SEC” or “Committee”) an Application for a Certificate of Site and Facility (“Application”) for the Seacoast Reliability Project, *i.e.*, a 115kV transmission line proposed to be located in a route running through the Towns of Madbury, Durham, Newington and Portsmouth, and through the University of New Hampshire campus and Little Bay (“the Project”).

2. Newington was not made aware of the Project until after it had been selected by ISO-NE as the preferred solution to address transmission system issues in the Seacoast Region. Because Newington was unaware of ISO-NE's planning process or its Planning Advisory Committee meetings regarding this Project, Newington did not participate in the ISO-NE's processes and was therefore not able to present information to ISO-NE regarding how the Project would impact the Seacoast Region, the Town of Newington, and their natural and historic resources.

3. Upon learning of the Project, Newington's representatives met several times with Eversource's representatives over the past few years to discuss the Project and its anticipated impacts on Newington. In addition, Newington has gathered information about the Project by attending public information sessions, conducting discovery on the Application, and attending several technical sessions in this docket.

4. On July 28, 2017, Newington submitted the prefiled direct testimony of Newington Planning Board Chairman Denis J. Hebert ("Hebert Testimony"). Among other things, the Hebert testimony discusses various aspects of the Project that are inconsistent with Newington's Master Plan and, as a result, concludes that the Project will unduly interfere with the orderly development of the region. *See* Hebert Testimony, pp. 4 -14. In addition, the Hebert testimony discusses Newington's concerns about the Project's impacts on aesthetics, historic sites, natural resources and water quality, and public health and safety. *See* Hebert Testimony, pp. 21-37.

5. The Hebert Testimony also concludes that the Project is not in the public interest. *See* Hebert Testimony, pp.14-21. Among other things, this conclusion is based upon information concerning the so-called Gosling Road Autotransformer Option ("Gosling Road

Solution”) which ISO-New England (“ISO-NE”) ranked as the highest of four options to address transmission issues in the Seacoast Region, but which ISO-NE ultimately rejected on the basis of cost.¹ *See* Hebert Testimony, p. 15 and Attachment DJH-7. As the Hebert Testimony indicates, the Gosling Road Solution would be less impactful than the Project as it would completely avoid the construction of new high voltage transmission lines through the University of New Hampshire, Durham, Newington and Portsmouth, as well as Little Bay. *See* Hebert Testimony, p. 19. The Gosling Road Solution would also accommodate more future load growth than the Project. *See* Hebert Testimony, p. 16. In addition, the cost estimates used by ISO-NE in 2012 to assess the Gosling Road Solution and the Project indicate that, although the Gosling Road Solution would cost 22% more than the Project, the Gosling Road Solution would provide twice the amount of power than the Project. *Id.*

6. The Gosling Road Solution would also be of great economic benefit to the state by enabling large energy users to locate their businesses along New Hampshire’s only deep water port in Newington. *See* Hebert Testimony, p. 20. Newington has recently learned that the port will be expanding in 2019 and that the State will be contributing \$7 million to this expansion project. Properties along the port are in the process of being sold or listed for sale which creates the potential for future development in this area. Newington believes this will create additional electrical load which ISO-NE likely did not consider when it conducted its 2012 Transmission Solution Study.

7. ISO-NE is presently engaged in another round of Transmission Solution Studies. *See* Hebert Testimony, p. 17. In light of this fact, as well as the serious concerns raised by the

¹ Note that this cost information is now approximately 6 years old.

New Hampshire Department of Environmental Services² and several intervenors³ about the Project's impacts to Little Bay, important historic resources, and to businesses, Newington believes that the Committee should consult with ISO-NE as soon as possible to determine whether the Gosling Road Solution should be pursued in lieu of the Project.

8. RSA 162-H:16, III authorizes the Committee to "consult with interested regional agencies and agencies of border states in the consideration of certificates." As the operator of the region's transmission system, and as the entity responsible for regional transmission system planning, ISO-New England can be properly viewed as a "regional agency" within the meaning of the above-referenced statute. Accordingly, the Committee may properly consult with ISO-NE regarding the Application.

9. The Committee is obligated to determine whether issuing a certificate to the Project "will serve the public interest." See RSA 162-H:16, IV (e). The public interest criteria that the Committee must consider include: "the welfare of the population;" "private property;" "the location and growth of industry;" "the overall economic growth of the state;" "the

² A letter dated August 1, 2017 from the New Hampshire Department of Environmental Services ("DES") recites a long list of issues concerning the Project's impacts on Little Bay, prime wetlands and other matters that the Applicant has not yet addressed to the satisfaction of DES.

³ For example, the Town of Durham's testimony raises serious concerns about the Project's environmental impacts on Little Bay, a resource which Durham's residents consider to be "priceless and fragile." Testimony of Todd Selig (July 28, 2017), p. 4. Prefiled testimony of Helen Frink notes that overhead transmission lines and a transition structure are proposed to be located on and will directly impact historic properties (Pickering and Frink Farms) and will introduce an incompatible visual element that diminishes the open field setting that is a character-defining feature of the properties. Pre-filed Direct Testimony of Helen H. Frink, pp. 1-2. Ms. Frink's prefiled testimony also expresses concerns that excavation may spread PFOA and PFOS to other uncontaminated areas of the historic Frink Farm property. *Id.*, p. 4. Prefiled testimony of Jason Baker on behalf of Fat Dog Shellfish Company, LLC expresses concerns that the Project's proposed jet plow and diver dredging operations in Little Bay will likely adversely impact Mr. Baker's nearby oyster culturing business. According to Mr. Baker, these "impacts could range from short-term harvest closures and declines in product quality ... to larger scale crop contamination and mortality." Prefiled Direct Testimony of Jason Baker on Behalf of Fat Dog Shellfish (July 30, 2017), p. 1. Prefiled testimony of Donna Heald expresses specific concerns about the Project's adverse impacts to her land, her horticultural business and the plants used in that business. Pre-Filed Direct Testimony of Donna Heald (July 31, 2017).

environment of the state;" "historic sites;" "aesthetics;" "air and water quality;" "the use of natural resources;" and "public health and safety." N.H. Admin. Rule Site 301.16 (a)- (j). It is unclear whether or to what extent ISO-NE considered these factors in deciding that Eversource should proceed with the Project in lieu of the Gosling Road Solution. Given that uncertainty, and in light of the serious issues associated with the Project that could be entirely avoided by the Gosling Road Solution, Newington submits that it is imperative that the Committee exercise its authority to consult with ISO-NE to determine if ISO-NE continues to agree that proceeding with the Project at this time continues to be the preferred solution to Seacoast Region transmission issues. Moreover, because the cost data upon which ISO-NE relied to select the Project over the higher-ranked Gosling Road Solution is several years old, Newington respectfully asks the Committee to request that ISO-NE examine updated cost information regarding the Project and the Gosling Road Solution to determine if the Project remains the less costly alternative.

10. The Legislature's purpose in enacting RSA 162-H was to treat construction and operation of energy facilities "as a significant aspect of land-use planning in which **all environmental, economic, and technical** issues are resolved in an **integrated** fashion." (Emphasis added.) RSA 162-H:1. Newington respectfully submits that the Committee's consultation with ISO-NE about whether the Project should proceed is directly aligned with the above-stated purpose of the Committee's enabling statute.

11. Lastly, Newington is very concerned that it was not able to participate in the PAC process that led to the selection of the Project because Newington did not receive actual notice about the PAC process. While Newington is aware that ISO-NE's procedures include posting information about PAC meetings on ISO-NE's website, those postings cannot be viewed

commensurately with actual notice to affected cities and towns provided prior to initiating the PAC process for a particular project.

12. Newington is concerned that the apparent disconnect between ISO-New England's planning and project selection process and the State's responsibilities for environmental protection and project siting will lead to future cases where host communities like Newington are not able to communicate their concerns to ISO-NE at a meaningful time during the transmission planning process. For that reason, and consistent with principles of fundamental fairness and due process of law, Newington respectfully asks that the Committee request that ISO-NE change its processes and rules to require that ISO-NE provide host communities with actual notice of proposed energy solutions that will affect those host communities, and that such actual notice be provided at a meaningful time, *i.e.*, at such time that will enable affected communities to participate in the project selection process.

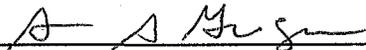
13. The undersigned contacted the parties to this proceeding via electronic mail for the purpose of obtaining their positions regarding the relief requested in this Motion. The following parties concur: Town of Durham; Conservation Law Foundation; The Nature Conservancy; Helen Frink; Smith Family; Viv and Jeff Miller; Donna Heald; and Matthew Fitch on behalf a portion of the Durham Intervenor Group (previously "Durham Point/LittleBay Abutters"), *i.e.*, the Miller, Gans, Moore and Fitch Families. Counsel for the Public concurs with the relief sought in paragraphs A and B of the Motion, but takes no position on the relief requested in paragraph C. The Applicant objects to the Motion, and the other parties did not indicate their positions prior to the time this Motion was filed.

WHEREFORE, Newington respectfully requests that the Committee exercise its authority under RSA 162-H:16, III and:

- A. Consult with ISO-NE to determine whether the Gosling Road Autotransformer Option is still a feasible solution to the Seacoast reliability problem and whether it should be pursued by Eversource in lieu of the current Seacoast Reliability Project;
- B. Provide a written report of such consultation to the parties in the instant docket prior to the commencement of adjudicative hearings;
- C. Request that ISO-NE change its rules and procedures to provide actual, written notice to host and affected communities of their rights to participate in the PAC process on any project that will affect those communities, and that such notice be given prior to initiating the project selection process; and
- D. Grant such further relief as the Committee deems appropriate.

Respectfully submitted,

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

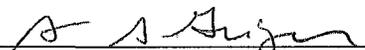


Susan S. Geiger - N.H. Bar # 925
45 South Main Street
Concord, NH 03302-3550
(603) 223-9154
sgeiger@orr-reno.com

Dated: November 22, 2017

Certificate of Service

I hereby certify that on this 22nd day of November, 2017, a copy of the within Motion was sent to the Service List via electronic mail.



Susan S. Geiger