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March 16, 2018

Via Hand Delivery and Email

Pamela Monroe, Administrator
New Hampshire Site Evaluation Committee
c/o New Hampshire Public Utilities Commission
21 South Fruit St., Suite 10
Concord, NH 03301-2429

***Re: SEC Docket No. 15-04, Application of Public Service Company of New Hampshire
d/b/a Eversource Energy for a Certificate of Site And Facility for the Construction of a
New 115 kV Transmission Line from Madbury Substation to Portsmouth Substation –
Partially Assented to Motion Requesting that the SEC Hire Horizontal Directional
Drilling Expert***

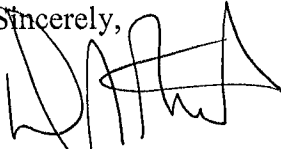
Dear Ms. Monroe:

Enclosed, on behalf of the Town of Durham and the University of New Hampshire in the above-captioned docket, is a Partially Assented to Motion Requesting that the Site Evaluation Committee Hire a Horizontal Directional Drilling Expert. Copies are being provided electronically to the Site Evaluation Committee and the Service List.

If you have any questions, please do not hesitate to contact me.

Thank you for your assistance.

Sincerely,



Douglas L. Patch

DLP/eac
Enclosure

cc (via email): Service List in SEC Docket 15-04

2058089_1

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE SITE EVALUATION COMMITTEE
SEC Docket No. 2015-04

**Partially Assented-to Motion Requesting that the SEC Hire
Horizontal Directional Drilling Expert**

The Town of Durham (“Durham”) and the University of New Hampshire (“UNH”), an intervenor in the above-captioned proceeding, by and through their attorneys, respectfully submit this Motion pursuant to N.H. Admin. Rule Site 202.14 and RSA 162-H:10,V requesting that the New Hampshire Site Evaluation Committee (“Committee”) hire an expert to evaluate the horizontal directional drilling (“HDD”) method for installing cable under Little Bay. In support of this Motion, Durham and UNH represent that:

1. On February 28, 2018 the New Hampshire Department of Environmental Services (“DES”) submitted its technical review of the Application of Public Service Company of New Hampshire (d/b/a Eversource Energy) (the “Applicant” or “Eversource”) for the Seacoast Reliability Project (“Review”). In its Review DES recommended that the Committee consider having the Applicant conduct a more thorough evaluation of the HDD alternative for installing cable under Little Bay. *Review* at 1. The DES Review noted that the HDD alternative “may be feasible and have less impact on surface water quality than the proposed jet plow method which will result in hundreds of cubic yards of sediment being temporarily suspended in the water column and deposited elsewhere in Little Bay.” *Review* at 1. DES noted that the Applicant “provided a relatively brief explanation as to why HDD was not selected and, in our

opinion, did not provide sufficient information to support their conclusion.” *Review* at 2. DES then went on to describe what it believed should be included in a more detailed evaluation. Among other things, DES said that the evaluation “should be based on information provided by contractors experienced with these methods of cable installation.” *Review* at 2. DES described in detail what the evaluation should include, and said that it should obtain details from the NH Department of Transportation about the recent HDD installation in the vicinity of Little Bay Bridge. *Review* at 2.

2. The DES Review also described in considerable detail the potential problems with the jet plow method for burying the cable in Little Bay. These problems included the potential for not attaining water quality standards, concern about how well the water quality monitoring plan will work, the impact on water quality within the mixing zone and at the boundary, whether there are additional sediment suspension reduction measures needed to ensure water quality standards are met, and whether the suspended solids plume prediction is reasonable. Because of these concerns DES recommended that there be a trial run of the jet plow method and that a report on the results of that trial run be submitted and reviewed before jet plowing would be allowed to proceed.

3. On July 28, 2017 Durham submitted the Pre-filed Testimony of Todd Selig (“Selig Testimony”) in this docket. In his testimony Mr. Selig described why Little Bay is an important resource for Durham and the Seacoast region and the ecological issues that Little Bay is facing. *Selig Testimony* at 3-6. Mr. Selig then recommended that if the Committee does not give serious consideration to the Transformer Alternative, it should exercise its authority under RSA 162-H:10,V and hire an independent consultant

to look into the HDD option. Mr. Selig also pointed out that Durham has already spent a considerable amount of money to participate in this proceeding and does not have the resources to hire an HDD expert. *Selig Testimony* at 7.

4. On March 12, 2018, Durham and UNH received from the Applicant a proposed schedule for the remainder of this docket. That proposed schedule did not include any specific provision for the filing of new HDD testimony, and discovery on that testimony, so at that time it was unclear whether Eversource had any intention of complying with the DES request. For further clarification on the Applicant's position on HDD see their position on this motion in Paragraph 11. Presumably any new testimony on HDD should be subject to discovery by the parties and include a technical session once responses to discovery questions have been received.

5. The Committee has the authority under RSA 162-H:10,V to hire an expert:

“The site evaluation committee and counsel for the public shall conduct such reasonable studies and investigations as they deem necessary or appropriate to carry out the purposes of this chapter and may employ a consultant or consultants, legal counsel and other staff in furtherance of the duties imposed by this chapter, the cost of which shall be borne by the applicant in such amount as may be approved by the committee.”

The Committee has relied on this statute to hire legal counsel and administrative help extensively over the years. It also hired its own expert when it was reviewing the application for a certificate of site and facility for the New England Hydro-Transmission Electric Company, Inc. Phase II dc transmission line in 1985-86. *Re New England Hydro-Transmission Corporation*, 71 N.H.P.U.C. 727 (1986).

6. Given, as DES noted, that the Applicant has already done its evaluation of the HDD alternative, limited as that may have been, and reached a negative conclusion,

Durham and UNH submit that the Committee should hire its own expert to insure that a thorough and unbiased evaluation is completed. The Committee clearly has the authority to hire such a consultant and Durham and UNH submit that proceeding in this fashion will provide assurance to the parties and the public that the evaluation, whatever the result, is an unbiased one.

7. Granting this Motion will promote two provisions laid out in the purpose clause of the law which established the Committee: (1) “that full and timely consideration of environmental consequences be provided”; and (2) that the public be provided with “full and complete disclosure” of the plans for the project. RSA 162-H:1. It will also help to insure public confidence in the process conducted by the Committee, that it was conducted in a neutral and unbiased manner.

8. Granting this Motion will also help to thoroughly evaluate whether the numerous potential issues created by the jet plowing technique could be avoided by utilizing the HDD alternative. Given the extensive concerns about impacts from jet plowing that DES noted in the Review, Durham and UNH submit that there is even more reason to thoroughly evaluate the HDD alternative as a means of avoiding having to address these concerns.

9. Granting this Motion would be consistent with the clear legislative direction that the Committee is to give deference to proposed agency terms and conditions. *See* RSA 162-H:16,I which requires that the Committee incorporate into any certificate it issues such terms and conditions as may be specified by any state agency having permitting authority. *See also* RSA 162-H:7-a,I(e) which requires that the

Committee promptly notify any agency if it intends to impose certificate conditions different than what is proposed by the agency.

10. Durham and UNH submit that it would be in the public interest and for the public good for the Committee to hire an HDD expert and that the expert be charged with completing the evaluation in the manner described in the DES Review.

11. Pursuant to Admin. Rule Site 202.14 Durham/UNH has made a good faith effort to obtain concurrence from the other parties. The following parties concur with the relief requested in this Motion: Town of Newington, Conservation Law Foundation, The Nature Conservancy, Durham Historic Association, the Smith Family, Mr. Frizzel, Jeff and Vivian Miller, Regis Miller, and Helen Frink. Public Counsel does not concur with the Motion. The Applicant indicates that it partially objects: it objects to the relief requested; it does not object to generally furnishing the Committee with more information about HDD and it plans to do so in rebuttal testimony in response to the concerns that parties have raised during the course of the proceeding. Other parties have not responded despite a good faith effort to reach them.

WHEREFORE, Durham and UNH respectfully request that the Committee:

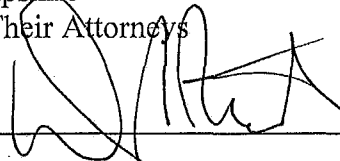
- A. Hire an expert to evaluate the horizontal directional drilling alternative to installing cable in Little Bay and incorporate into the procedural schedule for this docket sufficient time for the Committee to hire the expert, for the expert to prepare a report and/or testimony on the issue, and for the parties to be able to conduct discovery on the report and/or testimony;
- B. In the alternative, if the Committee decides not to hire its own consultant, direct the Applicant to hire its own expert to address the HDD issue and to submit this

testimony by the date set in the procedural schedule for Supplemental testimony,
and that this testimony be subject to discovery and a technical session; or

C. Grant such other relief as the Committee deems appropriate.

Respectfully submitted,

Town of Durham and University of New
Hampshire
By Their Attorneys

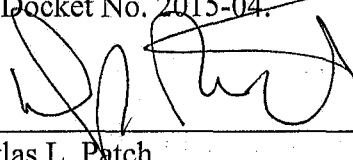


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Dated: March 16, 2018

Certificate of Service

I hereby certify that a copy of the foregoing Motion has on this 16th day of March
2018 been sent by email to the service list in SEC Docket No. 2015-04.



By: _____
Douglas L. Patch

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