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March 26, 2018

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 Partial Objection to Town of Durham's Motion Requesting that the
SEC Hire Horizontal Directional Drilling Expert**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find the Applicant's Partial Objection to Town of Durham's Motion Requesting that the SEC Hire Horizontal Directional Drilling Expert.

Please contact me directly should you have any questions.

Sincerely,



for:

Barry Needleman

BN: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 PARTIAL OBJECTION TO TOWN OF DURHAM'S
MOTION REQUESTING THAT THE SEC HIRE HORIZONTAL DIRECTIONAL
DRILLING EXPERT**

NOW COMES Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) (the “Applicant”), by and through its attorneys, McLane Middleton, Professional Association, and partially objects¹ to the Town of Durham (“Town”) and University of New Hampshire’s (“UNH”) Motion Requesting that the SEC Hire Horizontal Directional Drilling Expert.

I. Introduction

1. On April 12, 2016, PSNH filed an Application for a Certificate of Site and Facility before the New Hampshire Site Evaluation Committee (“SEC” or the Committee”) to construct the Seacoast Reliability Project - a new 12.9 mile 115 kV transmission line and associated facilities from the Madbury Substation in Madbury through the Towns of Durham and Newington to the Portsmouth Substation in Portsmouth (the “Project”). The Committee accepted the application on June 13, 2016. The Application contained various permit applications to the New Hampshire Department of Environmental Services (“DES” or “Department”), including a wetland impact permit and a shoreland impact permit for construction of the Project under and along the shorelines of Little Bay.

¹ The Applicant has styled its response as a partial objection because, as explained more fully herein, the Applicant believes that the substance of the HDD information the Town seeks will be provided during the normal course of the proceeding.

2. As part of the Project, Eversource proposes to install submarine conductors approximately 0.9 miles long under Little Bay within an existing designated cable corridor. Three submarine cables will be laid and buried beneath the soft sediments of the Little Bay floor to a maximum depth of 42 inches in the shallows and five feet in the channel using three methods. The primary installation method will use a jet plow in the subtidal and most of the intertidal zone. Other cable installation methods will include diver burial in the nearshore intertidal zone and excavation for cable trenches in the transition zone from the marine to the terrestrial structures. The proposed jet plow and diver burial methods are thoroughly described in the application narrative, pre-filed testimony, permit applications, and related supplements.² Certain parties, including the Town of Durham, UNH, and Conservation Law Foundation (“CLF”)³ have raised concerns about the cable installation methods in Little Bay.

3. The Town of Durham and UNH have been significantly involved in DES’s review and permitting process: they provided lengthy comment letters and proposed numerous permit conditions to DES on February 28, 2017 and October 30, 2017; they met with DES to discuss their concerns; and, they submitted pre-filed testimony of their retained experts in this matter, GeoInsight and Woods Hole Group, as well as testimony from lay witness Todd Selig, which the Town urged DES to consider.⁴ The Town has not, however, submitted any expert testimony regarding the use of HDD.⁵

² See Application at 33–34; Pre-Filed Testimony of William Wall at 4–7; Pre-Filed Testimony of James Jiottis at 20–21 (adopted by Mr. Kenneth Bowes).

³ CLF has also filed a similar Motion to that of the Town of Durham. The Applicant will provide a separate objection.

⁴ Counsel for the Public also provided pre-filed testimony and a Technical Report from ESS Group, Inc. assessing the technical merits of the Little Bay Crossing to the Committee. ESS Group, Inc., a firm that specializes in the planning, engineering, and permitting submarine electric transmission cable systems, concluded that “for the most part, the Applicant has adequately characterized the potential environmental impacts of the work associated with installation of the submarine cables in Little Bay” and that “the potential impacts identified are generally consistent with the type and extent of impacts ESS has experienced on other submarine crossing projects.” Pre-filed Testimony of Payson R. Whitney, III and Matthew D. Ladewig at 6 (July 31, 2017).

4. On February 28, 2018, the Department issued its Final Decision recommending approval of Eversource's Application for the Project as it related to the DES's permitting and regulatory authority. DES specifically approved (subject to certain conditions) the construction of the Project under Little Bay using jet plow and diver burial technologies. DES Final Decision, at 7. The approval was not conditioned on the development of any additional HDD information.

5. As part of its Final Decision, DES issued a recommended approval of a Wetland Permit, Alteration of Terrain Permit, 401 Water Quality Certificate, and Shoreland permit. The Wetland permit includes 84 conditions, 21 of which are specifically applicable to the Little Bay Cable Crossing and 6 that pertain to salt marsh and shoreline restoration, as well as various other conditions related to wetlands mitigation to address impacts during construction, part of which will occur during the submarine cable installation. It is readily apparent that DES thoroughly considered the Town's input and implemented many of its suggestions. However, DES also explicitly rejected some of the Town's suggestions—suggestions that the Town now seeks to resurrect here and, through its motion, essentially asks this Subcommittee to overrule the determinations made by DES.

6. Specifically, in its cover letter submitting the Final Approval to the Subcommittee, DES recommended that the SEC "*consider* having the Applicant conduct a more thorough evaluation of the Horizontal Direction Drilling (HDD) method for installing cable under Little Bay and a trial jet plow run (without cable) in Little Bay." NH DES Final Decision, Docket 2015-04, at 1 (Feb. 28, 2018) (emphasis added). These recommendations were initially developed by the Town of Durham and UNH in their letter to DES, dated October 30, 2017.

⁵ The only evidence presented by the Town that supports the use of HDD to date is the pre-filed testimony of Todd Selig, Town Administrator. As demonstrated by Mr. Selig's resume, Mr. Selig is not an expert in HDD, engineering, or marine construction methods.

And, as initially presented to DES, the Town explicitly requested that DES require HDD analysis before a permit is issued.⁶ A comparison of the Town’s request with the DES’s Final Determination plainly demonstrates that the DES rejected the Town’s proposed approach.

7. On March 16, 2018, the Town of Durham and UNH filed a Motion Requesting that the SEC Hire Horizontal Directional Drilling Expert (“Town’s Motion”). As a practical matter, this Motion is essentially an improper effort to appeal the DES ruling and have the SEC overturn it. The Town’s Motion asks that the SEC “[h]ire 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” or in the alternative asks that the SEC “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.” Motion at 5-6.

8. The Applicant objects to the specific relief requested in the Town’s Motion. As discussed more fully below, as part of the normal course of this proceeding, the Applicant is

⁶ The October 30, 2017 letter from the Town and UNH to DES opined that “viable alternatives exist to the river crossing (i.e. Gosling Road Transformer and directional drilling)” and recommended that NH DES require a permit prerequisite for the Applicant to prepare a detailed evaluation of HDD. The Town and UNH offered specific language proposed at page 6 of their letter, which would require the Applicant to perform such a detailed evaluation “Prior to issuance” of the wetland permit. [Emphasis added]. The recommended language was as follows.

The Applicant shall prepare a detailed evaluation of the applicability of directional drilling for this project. The evaluation shall include a detailed cost description, including cost estimates from at least two directional drilling companies, and comparison to the expected costs of the jet plow installation method. In addition, the Applicant shall prepare a detailed evaluation of conducting directional drilling just in the shallow areas that are currently outside of the proposed jet plow areas (i.e., the areas where hand work is currently proposed) and prepare cost estimates for this limited directional drilling work. These evaluations shall be submitted to NHDES.

The Town of Durham’s letter at page 7 also recommended that prior to issuing a permit the Applicant (1) “submit for NHDES approval, plans detailing a jet plow trial run that shall be conducted prior to cable installation,” (2) conduct a jet plow trial run; and (3) develop a report from the trial run.

already in the process of conducting a further evaluation of the technical and environmental issues associated with the HDD method for installing the cable under Little Bay. The Applicant will provide a supplemental analysis of HDD by the deadline set by the Presiding Officer for submitting rebuttal testimony.

II. Argument

A. Durham's Motion Is Premised on a Mischaracterization of the DES Final Decision Regarding HDD

9. The DES Final Decision *approved* Eversource's application to construct the Project using jet plow and hand jet technologies in Little Bay. NHDES Final Decision at 7; 19–22. The Town of Durham's Motion ignores that threshold fact.

10. DES had a full record before it regarding these issues. That record included all of the Applicant's materials together with all the Town of Durham's materials supporting its position that more information was required now regarding HDD.⁷ With all that information before it, DES rejected the Town's argument and issued the Final Permit Determination.

11. As part of its approval, DES also submitted a cover letter suggesting that the SEC might wish to "*consider*"—as a condition of a Certificate approval—having the Applicant conduct "a more thorough evaluation of the Horizontal Directional Drilling (HDD) method for installing cable under Little Bay." DES suggested that "[t]he evaluation should . . . be submitted to the NHDES Watershed Management Bureau and the SEC at least *90 days prior to any proposed work in Little Bay.*" NH DES Final Decision at 2–3 (emphasis added).

⁷ During the Department's assessment of the Project, DES had before it the SEC Application, the various permit applications, the pre-filed testimony, and supplemental reports. The DES also received reports and pre-filed testimony from the Town of Durham—including the Town of Durham's recommendation that DES require, *prior to issuing a permit*, a further evaluation of HDD. *See supra* note 6. DES had all this information before it when it issued a final decision approving the use of jet plow technology and rejecting the Durham request to condition the approval on submitting more HDD information prior to issuing the permit.

12. The DES approval is *not* conditioned upon the Applicant conducting an additional evaluation of HDD methods.

13. The Town of Durham's entire motion relies on the premise that the DES Final Determination compels the need for more information on HDD now, before the final hearing. The record demonstrates that premise is simply incorrect.

B. Durham's Motion Is Procedurally Improper and Superfluous Since Additional HDD Information Will Be Provided During the Normal Course of the Proceeding

14. Prior to filing its Application, Eversource conducted a review of potential means and methods for crossing Little Bay. *See* Pre-Filed Testimony of James Jiottis (adopted by Mr. Kenneth Bowes) at 20–21 (discussing three alternative methods assessed for Crossing Little Bay, including, an overhead option and two underwater options, namely, HDD and jet plow). During the course of this proceeding, certain parties (the Town of Durham, CLF, and Fat Dog Shellfish Company, LLC) have suggested or implied that HDD is a better alternative. These parties raised that issue in their pre-filed testimony, served data requests to the Applicant about it and asked questions at the technical session concerning HDD. *See* Pre-Filed Testimony of Todd Selig o/b/o Town of Durham at 2, 7–11; Pre-Filed Testimony of Jason Baker o/b/o Fat Dog Shellfish Company, LLC at 5. *See also* Applicant's Response to Data Requests CLF 1-16; CLF 1-24; CLF 1-25; Durham 1-8; Durham 2-1; Applicant's Response to Technical Session Data Requests TS 2-5; 2-6; 2-11.

15. It is very common in SEC proceedings for opponents to focus on issues that concern them when they pursue their cases, as these parties did here regarding HDD. Customarily, the Applicant addresses such issues further, to the extent necessary, in rebuttal testimony. There is nothing different about this case and certainly, the DES recommendation does nothing to alter that conclusion.

16. The most appropriate way to approach this issue is through the normal procedural process. The Applicant anticipates filing rebuttal testimony from two previously disclosed witnesses: William Wall of LS Cable and Kenneth Bowes of Eversource, both of whom have experience in HDD installation methods. Their testimony will be supported by other contractors involved in this Project. The rebuttal testimony will address issues raised by opponents in their testimony and during the course of discovery.⁸ The rebuttal testimony will also furnish the SEC with information that it may require to compare jet plow and HDD means, methods and impacts as it pertains to construction in Little Bay.

17. Proceeding in this manner is exactly what the Applicant's proposed procedural schedule contemplates and it is fully consistent with prior SEC practice. By contrast, upending the process as the Town of Durham suggests here, after DES explicitly rejected the Town's request to require HDD studies prior to issuance of the permit, is wholly unwarranted.

18. Moreover, Durham's suggested approach is also procedurally improper: it is essentially a backdoor appeal of the DES permit determination. What Durham is really seeking is for the SEC to overrule the DES permit determination and require a different approach from what DES required in the final permit. If the Town wants to pursue that argument again before the SEC—after having failed before DES—the proper procedural path is to do so at the hearing.

19. The Town of Durham can attempt to present evidence to the SEC to try convincing it that the Subcommittee should overrule DES. But it is not appropriate for the Town

⁸ The NH DES Final Decision recommends that a HDD evaluation include an assessment of the following: (1) identify ways to reduce the size of the on-shore set-up areas, including, but not limited to, on-site butt-fusing of plastic pipe sections; (2) explain why a bore hole smaller than the 40-inch bore hole diameter reported in the Application cannot be used for three 6-inch diameter cables; (3) provide information regarding subsurface conditions, the potential for frack-out, ways to minimize the potential for frack-out in surface waters and measures to minimize the effects of frack-out on surface waters should it occur; (4) provide information regarding disposal of material from the bore hole including the total volume and how it would be disposed; and (5) explain why HDD cannot be conducted during normal work hours (instead of continuously [i.e., 24 hours per day] as reported in September 19, 2017 submittal]. See NH DES Final Recommendation, at page 2.

to take that approach now, via this motion, and sidestep the burden it has to show that the DES conditions should be overruled. *See* Site 202.19(a) (“The party asserting a proposition shall bear the burden of proving the proposition by a preponderance of the evidence.”). The Town of Durham, as the proponent of the proposition that the DES determination should be overruled, has the burden of proof. The Town cannot satisfy that burden by simply declaring DES was wrong and asking the SEC to accept that assertion as a given.

20. Finally, this Motion is untimely. This Application has been pending since April 12, 2016 (and was publicly noticed to the Towns in April 2015). The Town has had several years to retain an expert to undertake a further HDD analysis. Instead, the Town elected to try to convince DES to compel the HDD analysis. DES declined to do so. At the very least, the Town could have filed this motion long ago. The Town was certainly on notice regarding all these HDD issues, as evidenced by Mr. Selig’s pre-filed testimony and the discovery conducted on the Applicant in this case.⁹ Having failed to file the Motion in a timely manner, and having failed to convince DES to adopt its position, the Town’s effort here is now untimely and jeopardizes the orderly conduct of the proceedings.

⁹ The parties had two separate rounds of discovery and technical sessions where questions were asked about partial and full HDD. Some of the parties, including the Town of Durham and CLF asked specific data requests (and received additional information) about the potential for using HDD. *See* Applicant’s Response to CLF 1-16; CLF 1-24; CLF 1-25; Durham 1-8; Durham 2-1. To the extent the Applicant’s responses were unsatisfactory, the time to request additional information through a motion to compel has lapsed. *See* Site 201.12(k)(2) (providing that a motion to compel must be filed within 10 days of receiving the applicable response or objection, or the deadline for providing the response, whichever is sooner). In addition, the Attorneys for the Town of Durham/UNH and Vivian Miller asked specific questions about the use of HDD during technical sessions and requested responses to technical session data requests. *See* Applicant’s Response to TS 2-5; 2-6; 2-11. To respond to data requests from the technical sessions, the Applicant specifically provided information and presentations from two contractors that were hired by Eversource early in the design phase to assess whether HDD was technically feasible.

WHEREFORE, the Applicant respectfully requests that:

- I. The Town of Durham / UNH's Motion Requesting that the SEC Hire Horizontal Directional Drilling Expert be denied;
- II. The Chair adopt the Applicant's proposed procedural schedule dated March, 16, 2018; and
- III. 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: March 26, 2018

By: Adam Dumville

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Certificate of Service

I hereby certify that on the 26th of March, 2018, an electronic copy of this partial objection was filed with the Site Evaluation Committee and an electronic copy was sent to the Distribution List.

Adam Dumville for:
Barry Needleman

CLF 1-16 Please describe, and produce all documents, information and communications related to, any alternatives to the proposed Little Bay crossing analyzed by Eversource, including but not limited to alternative routes in or around Little Bay, non-transmission alternatives, and alternative construction techniques, including but not limited to horizontal directional drilling.

Response: The Applicant objects to this question as it seeks information not relevant to the proceeding and therefore is not reasonably calculated to lead to the discovery of admissible evidence. RSA 162-H:7, V(b) requires the Applicant to “identify both the applicant's preferred choice and other alternatives it considers available for the site and configuration of each major part of the proposed facility and the reasons for the applicant's preferred choice.” The Applicant has done that. See Application Section 301.03(h)(2) . Other hypothetical alternatives, or alternative projects, are not subject to consideration under RSA 162-H:7 (application requirements for a certificate) or 162-H:16 (findings required for issuance of a certificate) and therefore are not relevant. See also *Decision Granting Certificate of Site and Facility with Conditions*, Application of Laidlaw Berlin BioPower, LLC, NH SEC Docket 2009-02 (Nov.8, 2010) at 36–40 (finding that RSA 162-H does not require the subcommittee to review all “available alternatives” and does not require consideration of every possible alternative). Notwithstanding the objection, the Applicant responds as follows:

The review of a non-transmission alternative was performed as part of the ISO-NE process to select a solution. The Project was approved through the ISO-NE Transmission Planning Process. Please refer to the Pre-Filed Testimony of Robert D. Andrew. The Pre-Filed Testimony of Mr. Andrew references several studies, including the 2010 New Hampshire/Vermont Needs Assessment and ISO-NE Load Forecasts (CELT) report. Each study discusses the need and methodology for the study. Most of the data in these reports are Critical Energy Infrastructure Information (“CEII”) and not available publicly. Please refer to Appendix 22A, New Hampshire 10 Year Reliability Project for a publicly available summary of the NH/VT Needs report which contains a discussion of load forecasts and demand response treatment. Additional detail of the ISO-NE Planning process can be found at <https://www.iso-ne.com/system-planning/system-plans-studies>.

As part of the ISO-NE study process alternative transmission projects were considered. In the case of the Seacoast Reliability Project, an alternative suite of solutions, which included a new autotransformer and substation in Newington, was thoroughly reviewed. Ultimately, the suite of projects including the new line from Madbury to Portsmouth was selected. Please refer to Mr. Andrew’s Pre-Filed Testimony at page 5, which discusses alternative projects for the Seacoast NH Solutions. Much of the detail behind the project selection is CEII and not publically available. A redacted version of the January 18, 2012 ISO-NE PAC meeting discussing alternative projects is attached. Moreover, alternative proposals or non-transmission alternatives were included as part of the ISO-NE studies.

The ISO-NE Planning Advisory Committee (PAC) is charged with introducing project alternatives, including, transmission and non-transmission solutions, see Planning Advisory Committee (PAC) Process <https://www.iso-ne.com/committees/planning/planning-advisory> No non-transmission alternatives were proposed by any PAC member to address the Seacoast

Area identified problems.

Three route alternatives were also studied for the Project. These included a northern, middle and southern route along with variations of the selected middle route. Please see the Pre-Filed Testimony of James Jiottis beginning on page 4 which discussed the alternative routes and the process for their selection.

Alternative measures to cross Little Bay were considered. These included an overhead crossing, uses of a jet plow and use of horizontal directional drilling (HDD). Please see the prefiled testimony of James Jiottis, starting on page 20 for discussion of the design to cross Little Bay and the response to Durham question 8.

Witnesses Available for Cross Examination include: Robert Andrew and James Jiottis

CLF 1-24 Regarding sections 7 and 7.1 (pages 15 – 16) of the Caldwell Marine International, LLC Marine Construction Operations Capabilities & Experience document appended as Attachment B to the pre-filed testimony of Marc Dodeman, please identify which of the listed submarine utility projects employed jet plowing and which ones employed horizontal directional drilling.

Response: All of the projects listed in Attachment B are predominantly jet plowing projects. Caldwell Marine has overseen HDDs at shore end landings where they are required by permit or where the system electrical design requirement requires burial to a specific depth in the landing area.

Witnesses Available for Cross Examination include: Marc Dodeman

CLF 1-25 Please describe, and produce all documents, information and communications related to, the estimated time duration of in-water construction activities associated with jet plowing (including hand-jetting), horizontal directional drilling, and any other construction alternatives analyzed for the Little Bay crossing.

Response: Please see the Applicant's Response to Durham Data Request Durham 1-32.

Witnesses Available for Cross Examination include: Marc Dodeman

Durham 1-8 When it was developing this Project did PNSH take into account the possibility of directional boring under Little Bay? If it did not, please explain why not. If it did, please explain why it rejected this option.

Response: The Project investigated the use of horizontal directional drilling (“HDD”) as a means to cross Little Bay and retained firms familiar with large scale HDD to analyze the crossing of Little Bay. The use of HDD to cross Little Bay would have required drilling through quartzite rock with a bore diameter of over 40 inches exceeding 6,000 feet in length.

The quartzite rock under the bay is classified as portions of the Kittery and Eliot formations that contain quartzite rock with known compressive strengths up to 30,000 pounds per square inch (“psi”). The drilling process would have required drill units be placed on the east and west shores, drilling 24 hours a day for a period of three to six months to complete the drill. An HDD drill for electric cable requires the bore be sleeved with a plastic pipe. This pipe must be constructed outside the bore and pulled through as a solid piece. Assembly of the PVC sleeve would have required a setup area over 6,000 feet long. As an example, if this setup were done on the Durham side using the existing ROW, the PVC sleeve would have extended from the shore of Little Bay across Durham Point Road and across Longmarsh Road. Moreover, HDD would have required large set-up areas on both sides of the bay for pulling and staging cable reels, typical setup areas are approximately 100 feet by 250 feet. This would have been a significant disturbance to project abutters.

Use of HDD also requires large quantities of a bentonite (clay) slurry which is used to coat and lubricate the drilled shaft. While the material is inert, containment procedures are required to prevent its spilling into the surrounding environment. The containment would have required large pools be established on both sides of the bay during the drill. A review of the geologic structure indicated the potential for fault lines in the bed rock under the bay. Drilling through the fault lines increases the possibility of the bore “fracking out,” which could release the bentonite slurry across the bottom of the bay coating the sea floor.

Based on technical, environmental and abutter impacts identified during the bore analysis, PSNH did not select HDD as the method to cross Little Bay. Please also refer to the Pre-filed testimony of James Jiottis at pages 20 to 21 for a complete description of the methods considered for crossing Little Bay.

Witnesses Available for Cross Examination include: Jim Jiottis

Responses

Durham 2-1 When it was developing this Project or at any time since then did PNSH consider the possibility of using directional boring not as a means to cross all of Little Bay, but rather on the shoreline to beyond the mud flats of Little Bay as was done in southern portions of Lake Champlain for the Champlain Hudson Power Express project? If it did not, please explain why not. If it did, please explain why it rejected this option.

Response: The Applicant objects to this question as the data request is vague and ambiguous. Notwithstanding the objection, the Applicant responds as follows:

While the distance for going through the tidal flats may be shorter, most of the same concerns that were raised in the pre-filed testimony of James P. Jiottis, dated April 12, 2016, at pages 20 to 21, regarding an HDD crossing for Little Bay still exist. The pre-filed testimony of Mr. Jiottis was adopted by Kenneth Bowes on March 29, 2017.

Witnesses Available for Cross Examination include: Kenneth Bowes

TS 2-5 Please provide a complete copy of all presentations and documents from your subcontractors, Mears and W.A. Chester, pertaining to the feasibility of Horizontal Directional Drilling (HDD) under Little Bay.

Response: The Applicant objects to the question as it seeks information not relevant to the proceeding and therefore is not reasonably calculated to lead to the discovery of admissible evidence. The Applicant further objects as the question is vague and ambiguous. The Applicant also objects to this question to the extent it seeks information that is protected by the attorney client privilege and/or attorney work-product privilege. *See* RSA 541-A:33, II (“Agencies shall give effect to the rules of privilege recognized by law.”). *See also* N.H. R. Evid. 502 (Lawyer-Client Privilege); N.H. R. Prof. Conduct 1.6 (Confidentiality of Information). To the extent this data or document request seeks to obtain prior drafts, notes, or edits of any expert or consultant report, drawings, diagrams, photosimulations, or any other information contained in the Application, pre-filed testimony, and attached appendices, the Applicants object as the request is unduly burdensome, duplicative, irrelevant and not likely to lead to admissible evidence, and is protected as work-product pursuant to state and federal law. *See* RSA 541-A:33 (stating that the “presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence” and providing that “[a]gencies shall give effect to the rules of privilege recognized by law”); RSA 516:29-b (requiring a witness retained or specifically employed to provide expert testimony to only disclose “the facts or data considered by the witness in forming the opinions”), which was recently amended to remove the requirement that an expert disclose such “other information” and to make the New Hampshire expert disclosure law consistent with recent amendments to Fed. R. Civ. Pro. 26, which explicitly protects prior draft reports from experts). *See also* Fed. R. Civ. Pro. Rule 26(b)(4)(B) (protecting drafts of any report or disclosure required under the general witness disclosure rules regardless of the form in which the draft is recorded).

Notwithstanding the objections, please see the attached documents.

1. Mears HDD Model
2. Mears HDD Presentation for Northeast Utilities
3. Mears HDD Hand-out
4. WA Chester HDD Presentation

TS 2-6 Please provide all Eversource/PSNH Internal documents regarding the feasibility of HDD under Little Bay.

Response: The Applicant objects to the question as it seeks information not relevant to the proceeding and therefore is not reasonably calculated to lead to the discovery of admissible evidence. The Applicant further objects as the question is vague and ambiguous. The Applicant also objects to this question to the extent it seeks information that is protected by the attorney client privilege and/or attorney work-product privilege. *See* RSA 541-A:33, II (“Agencies shall give effect to the rules of privilege recognized by law.”). *See also* N.H. R. Evid. 502 (Lawyer-Client Privilege); N.H. R. Prof. Conduct 1.6 (Confidentiality of Information). To the extent this data or document request seeks to obtain prior drafts, notes, or edits of any expert or consultant report, drawings, diagrams, photosimulations, or any other information contained in the Application, pre-filed testimony, and attached appendices, the Applicants object as the request is unduly burdensome, duplicative, irrelevant and not likely to lead to admissible evidence, and is protected as work-product pursuant to state and federal law. *See* RSA 541-A:33 (stating that the “presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence” and providing that “[a]gencies shall give effect to the rules of privilege recognized by law”); RSA 516:29-b (requiring a witness retained or specifically employed to provide expert testimony to only disclose “the facts or data considered by the witness in forming the opinions”), which was recently amended to remove the requirement that an expert disclose such “other information” and to make the New Hampshire expert disclosure law consistent with recent amendments to Fed. R. Civ. Pro. 26, which explicitly protects prior draft reports from experts). *See also* Fed. R. Civ. Pro. Rule 26(b)(4)(B) (protecting drafts of any report or disclosure required under the general witness disclosure rules regardless of the form in which the draft is recorded).

Notwithstanding the objections, please see the Applicant's response to number 2-5 above.

TS 2-11 Please provide any documents provided by Normandeau to Eversource/PSNH regarding the feasibility of HDD on this project.

Response: The Applicant objects to the question as it seeks information not relevant to the proceeding and therefore is not reasonably calculated to lead to the discovery of admissible evidence. The Applicant further objects as the question is vague and ambiguous. The Applicant also objects to this question to the extent it seeks information that is protected by the attorney client privilege and/or attorney work-product privilege. *See* RSA 541-A:33, II (“Agencies shall give effect to the rules of privilege recognized by law.”). *See also* N.H. R. Evid. 502 (Lawyer-Client Privilege); N.H. R. Prof. Conduct 1.6 (Confidentiality of Information). The existing cables outside the Green areas shall remain in-situ. To the extent this data or document request seeks to obtain prior drafts, notes, or edits of any expert or consultant report, drawings, diagrams, photosimulations, or any other information contained in the Application, pre-filed testimony, and attached appendices, the Applicants object as the request is unduly burdensome, duplicative, irrelevant and not likely to lead to admissible evidence, and is protected as work-product pursuant to state and federal law. *See* RSA 541-A:33 (stating that the “presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence” and providing that “[a]gencies shall give effect to the rules of privilege recognized by law”); RSA 516:29-b (requiring a witness retained or specifically employed to provide expert testimony to only disclose “the facts or data considered by the witness in forming the opinions”), which was recently amended to remove the requirement that an expert disclose such “other information” and to make the New Hampshire expert disclosure law consistent with recent amendments to Fed. R. Civ. Pro. 26, which explicitly protects prior draft reports from experts). *See also* Fed. R. Civ. Pro. Rule 26(b)(4)(B) (protecting drafts of any report or disclosure required under the general witness disclosure rules regardless of the form in which the draft is recorded).

Notwithstanding the objections, please see the Applicant's response to number 5 above, which provides documents relating to HDD.