



BARRY NEEDLEMAN  
Direct Dial: 603.230.4407  
Email: [barry.needleman@mclane.com](mailto:barry.needleman@mclane.com)  
Admitted in NH, MA and ME  
11 South Main Street, Suite 500  
Concord, NH 03301  
T 603.226.0400  
F 603.230.4448

*Via Electronic Mail and US Mail*

May 25, 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 Objection To Jeff And Vivian Miller, Dr. Regis Miller, And Amanda  
And Matthew Fitch's Motions To Allow Late-Filed Intervener Testimony**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find the Applicant's Objection to Jeff and Vivian Miller, Dr. Regis Miller, and Amanda and Matthew Fitch's Motions to Allow Late-Filed Intervener Testimony.

Please contact me directly should you have any questions.

Sincerely,



Barry Needleman

BN:smc  
Enclosure

cc: Distribution List

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

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**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 JEFF AND VIVIAN MILLER, DR. REGIS MILLER,  
AND AMANDA AND MATTHEW FITCH’S MOTIONS TO ALLOW LATE-FILED  
INTERVENER TESTIMONY**

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 objects to Jeff and Vivian Miller, Dr. Regis Miller, and Amanda and Matthew Fitch’s (collectively the “Durham Residents”) Motions to Allow Late-Filed Intervener Testimony (the “Motions”). The Motions request that the Site Evaluation Committee (“SEC”) allow the submission of pre-filed testimony that is almost ten months late, comes after interveners were required to respond to data requests and after technical sessions of opposing witnesses have concluded. Allowing the Durham Residents to file pre-filed testimony at this point will substantially interfere with the orderly and prompt conduct of the proceedings and therefore prejudice the Applicant.

**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.

2. On June 23, 2016, the Presiding Officer issued a procedural order, establishing among others, a deadline of July 22, 2016 for interveners to file Petitions to Intervene.

3. On July 20, 2016, Jeffery and Vivian Miller and Amanda and Matthew Fitch filed a Petition to Intervene (along with Lawrence and Anne Gans and Deborah Moore) as one party.

4. On August 24, 2016, the Committee granted the intervention request of the Durham Residents. The Committee's Order on Motions to Intervene grouped the Durham Residents with Thomas and Yael DeCapo and Donna Heald McCosker. The Order provided that "[i]n order to avoid duplicative arguments and to ensure the prompt and orderly development of these proceedings, their participation in this docket shall be combined for the purposes of presentation of evidence, argument, cross-examination, and other participation."

5. On April 26, 2017, over nine months after the deadline for filing petitions to intervene, Dr. Miller filed a Late Motion to Intervene.<sup>1</sup>

6. On May 25, 2017, the Committee granted the intervention of Dr. Miller and grouped Dr. Miller with the other Durham Residents.

7. After the procedural schedule was placed on hold for over six months, on June 20, 2017, the SEC issued a procedural order requiring that pre-filed testimony from interveners be filed on or before July 31, 2017. Shortly thereafter, on August 14, 2017, the Applicant propounded data requests on Counsel for the Public and interveners, which were initially due on August 28, 2017.

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<sup>1</sup> The Applicant objected to Dr. Miller's late filed petition to intervene, in part, because Dr. Miller offered no good reason for failing to comply with the Committee's rules and procedural schedule. In fact, Dr. Miller did not provide the SEC with any evidence or reasoning, or a sufficient basis for his failure to comply with the SEC's rules and procedural schedule. At the time, it was the Applicant's position that "such a late-filed petition, with no compelling justification, creates serious risk to the orderly and prompt conduct of the proceedings."

8. However, on August 21, 2017, the procedural schedule was once again delayed indefinitely until the “concerns raised by NHDES have been appropriately addressed.”

9. On April 6, 2018, the SEC issued a revised procedural schedule that required the interveners to respond to data requests by April 11, 2018 and to appear at technical sessions beginning on May 15 and continuing for three days until May 25.

10. On May 15, 2018, the technical sessions with Counsel for the Public and interveners commenced.

11. On May 15, 2018, after close of business, Mr. and Mrs. Miller and Dr. Miller filed their Motion to Allow Late-Filed Intervener Testimony. On May 18, Mr. and Mrs. Fitch filed their Motion to Allow Late-Filed Intervener Testimony.

## **II. Discussion**

12. The Motions seek to allow the filing of pre-filed testimony nearly ten months after the deadline set by the Presiding Officer in the June 20, 2017 Procedural Order. The Durham Residents characterize their failure to comply with deadlines as “attempting to avoid duplication” and by stating that they “believed that their concerns would be brought before the Committee from other interveners or the Town of Durham.”

13. The Durham Residents group is made up of ten individuals who reside at seven locations. The only individual who is part of the Durham Residents group that filed pre-filed testimony in this docket prior to these motions is Donna Heald McCosker. It is difficult to understand how the Durham Residents believed their concerns would be raised by solely by Ms. McCosker and/or the Town of Durham.

14. Moreover, none of the prior orders issued by the Committee restricted the Durham Residents’ ability to file pre-filed testimony of their own. Indeed, as the Applicant previously noted, it is customary for all interveners to file their own pre-filed testimony, even if

certain individuals are combined into one group. *See Applicant's Objection to Various Requests from Interveners*, Docket 2015-04, (noting that "in accordance with prior SEC practice, each individual intervener may file pre-filed testimony on his or own behalf and therefore testify at the final hearings"); *see also* Order on Motions to Intervene, Docket 2015-06 at 17, 19, 21, 23-24, 26 (making clear that each individual abutter in a combined intervener group is permitted to file pre-filed testimony). The Committee also already addressed this issue during its November 2, 2016 hearing. In fact, the Committee and its counsel made abundantly clear that if parties were combined into a group, they would still have the right to file individual pre-filed testimony. *See* Transcript, Hearing on November 2, 2016, at p. 22-24 (concluding that where there are a number of parties grouped into a single intervener group, such an action does not prohibit the individuals from filing pre-filed testimony).

15. Furthermore, the issues raised in the proposed pre-filed testimony could have been raised in compliance with the procedural schedule. The alleged concerns relate to Little Bay, property values, aesthetics, EMF and sound, environmental impacts, etc. There is no "new" information here (and as such, the lack of new information would preclude this from being treated now or later as supplemental testimony).

16. Allowing this testimony at this time would disrupt the prompt and orderly conduct of the proceedings. All interveners who filed pre-filed testimony have already responded to data requests. Moreover, technical sessions for individual interveners are complete. Allowing this very late testimony would necessitate an amendment to the procedural schedule in order to permit time for data requests and an additional technical session. The remaining schedule is already tight with final hearings only three months away; adding additional dates and deadlines to the schedule would further interfere this proceeding.

WHEREFORE, the Applicant respectfully requests that:

- I. The Durham Residents Motions to Allow Late-Filed Intervener Testimony be denied; and
- II. If the Committee grants the requested relief from the Durham Abutters, that the Committee impose conditions on the interveners that would prevent a further delay of the procedural schedule; 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: May 25, 2018

By: \_\_\_\_\_



Barry Needleman, Esq. Bar No. 9446  
Adam Dumville, Esq. Bar No. 20715  
11 South Main Street, Suite 500  
Concord, NH 03301  
(603) 226-0400  
barry.needleman@mclane.com  
adam.dumville@mclane.com

Certificate of Service

I hereby certify that on the 25<sup>th</sup> of May, 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.

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Barry Needleman