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June 11, 2018

Ms. Pamela G. Monroe, Administrator
NH Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

Re: Seacoast Reliability Project -- Docket No. 2015-04
Submittal of Additional Archeological Reports and Supplemental Motion for
Protective Order and Confidential Treatment

Dear Ms. Monroe:

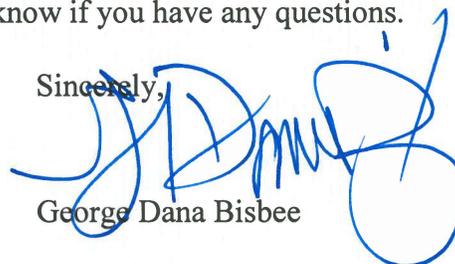
On behalf of the Applicant Public Service Company of New Hampshire d/b/a Eversource Energy, we are submitting herewith four reports related to the Applicant's survey of archeological resources. These archeological reports include: (1) a Phase IB Supplemental Survey (May 2017); (2) a Phase I-A Off Corridor Survey (January 2018); (3) a Desk Review of the Cheney Pit Laydown Yard (February 2018); and (4) a Desk Review of the Laydown Yard, Durham (June 2018).

The four archeological reports contain confidential information regarding the location of archeological sites under RSA 227-C:11. Therefore, we are filing contemporaneously with this submittal a Supplemental Motion for Protective Order and Confidential Treatment requesting confidential treatment of these four reports.

We are submitting one paper and a thumb drive containing these documents for the Subcommittee. The parties on the Distribution List are being served with electronic copies of the Motion and, given the confidential nature of the archeological reports, only the cover pages for these reports.

Thank you for your consideration of this information and of the Motion for Protective Order and Confidential Treatment. Please let us know if you have any questions.

Sincerely,



George Dana Bisbee

cc: Distribution List (w/o full reports)
Richard Boisvert, DHR (w/o enclosures)

**THE STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE
SEC DOCKET NO. 2015-04**

**APPLICATION FOR A CERTIFICATE OF SITE AND FACILITY BY PUBLIC
SERVICE COMPANY OF NEW HAMPSHIRE D/B/A EVERSROUCE ENERGY FOR A
NEW 115 KV TRANSMISSION LINE FROM MADBURY SUBSTATION TO
PORTSMOUTH SUBSTATION**

**APPLICANT'S SUPPLEMENTAL MOTION FOR PROTECTIVE ORDER
AND CONFIDENTIAL TREATMENT REGARDING
ADDITIONAL ARCHEOLOGICAL REPORTS**

NOW COMES Public Service Company of New Hampshire d/b/a Eversource Energy (the "Applicant") by and through its attorneys, Devine, Millimet & Branch, Professional Association, and respectfully requests that the Site Evaluation Committee ("SEC" or "Committee") issue a protective order to preserve the confidentiality of information relating to archeological resources data. In support of its Motion, the Applicant states as follows:

1. On April 12, 2016, the Applicant filed an Application for a Certificate of Site and Facility ("Application") with the SEC. Contemporaneously with the Application, the Applicant filed a Motion for Protective Order and Confidential Treatment requesting confidential treatment of, among other information, certain documents containing sensitive archeological resources data. Applicant's Motion for Protective Order and Confidential Treatment, Docket 2015-04, at p. 2 ("Applicant's Motion"). The Applicant also requested that additional confidential materials containing archeological information be afforded confidential treatment. Applicant's Motion at p. 10.

2. On December 22, 2016, the Committee issued its Order on Motion for Protective Order and Confidential Treatment (the "December 2016 Order"). The Committee granted the Applicant's request for confidential treatment of certain archeology documents, but denied the Applicant's request for confidential treatment of additional documents. Order at pp. 4, 7-8. The Committee ordered that the Applicant seek an order for protective treatment when it determines that documents in the future will require protection from disclosure. Order at p. 8.

3. Accordingly, on August 15, 2017, the Applicant filed another Motion for Protective Order and Confidential Treatment, requesting the Phase I-B Archeological Survey be treated as confidential given the sensitive archeological resource data and site information contained in the document. The Committee granted this Motion on December 4, 2017 (the "December 2017 Order").

4. The Applicant is now submitting for the Committee's review additional archeological resources data in the form of four reports, including: (a) a Phase IB Supplemental Survey (May 2017); (b) a Phase I-A Off Corridor Survey (January 2018); (c) a Desk Review of the Cheney Pit Laydown Yard (February 2018); and (d) a Desk Review of the Laydown Yard, Durham (June 2018). All four reports are referred herein together as "the Additional Archeological Reports"). The Applicant seeks a protective order and confidential treatment of these Additional Archeological Reports and requests that the Committee issue an order consistent with the terms and conditions contained in its previous December 2016 and December 2017 Orders.

5. Governmental records, as defined by RSA 91-A:1-a, are generally made available for public inspection pursuant to the Access to Governmental Records and Meetings Statute (a.k.a. the Right-to-Know Law). *See* RSA 91-A:4; *see also* N.H. Admin Rule Site 104.01. There are certain exemptions, however, from the requirement that public agencies or public bodies produce government records. One such exemption applies to "confidential, commercial, or financial information . . . and other files whose disclosure would constitute invasion of privacy." RSA 91-A:5. The Applicant respectfully requests that pursuant to RSA 91-A:5 the Committee issue a protective order and treat as confidential these Additional Archeological Reports. *See also* Site 104.01(b) (presiding officer or chairman may protect documents that are exempt from disclosure pursuant to RSA 91-A:5).

6. RSA 162-H:16, IV(c) requires that an application for a Certificate of Site and Facility must, *inter alia*, demonstrate that the project will not have an unreasonable adverse effect on historic sites. Similarly, N.H. Admin. Rule Site 301.03(c)(5) requires an applicant to identify "natural, historic, cultural, and other resources at or within the site." *See also* Site 301.06 (requiring additional information

on historic sites including the identification of areas of potential archeological sensitivity located within the area of potential effects).

7. Pursuant to the foregoing requirements, and in connection with its Application for a Certificate of Site and Facility, the Applicant is providing additional archeological survey data. Pursuant to New Hampshire's Historic Preservation Act, however, all information that may identify the location of archeological sites must remain confidential and the disclosure of such information is exempt from RSA 91-A.

8. New Hampshire's Historic Preservation Act specifically provides that:

Information which may identify the location of any archeological site on state land, or under state waters, shall be treated with confidentiality so as to protect the resource from unauthorized field investigations and vandalism. Toward this end, state agencies, departments, commissions, institutions and political subdivisions, permittees and private landowners with preservation and conservation agreements shall consult with the commissioner before any disclosure of information to insure that the disclosure would not create a risk to the historic resource or that it is done in a manner to minimize the risk. Such information is exempt from all laws providing rights to public access. Disclosure for the public record for tax assessment, transfer, sale or other consideration of the property shall receive careful consideration to minimize the risk to the resource.

RSA 227-C:11.

9. In conjunction with RSA 91-A:5, IV, which specifically provides that records pertaining to confidential information are exempt from the public disclosure requirements of the Right-to-Know Law, RSA 227-C:11 mandates that information that identifies the location of archeological sites remain confidential. Therefore, such information should not be disclosed to the general public during the SEC proceedings.¹

10. Confidential treatment of archeological sites discovered within or adjacent to the project area is warranted to protect the sensitive nature of those sites and is in the public interest. In this case, granting access to the location of an archeological site will not further any public purpose, but instead, will result in a risk of harm to the archeological resource. Such a request is reasonable given the nature of

¹ Federal law has a substantially similar provision under the federal Freedom of Information Act ("FOIA") that protects archeological sites. Under FOIA, "information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under [FOIA]." 16 U.S.C. § 470hh(a).

the sites and the potential for damage to them. The Applicant, therefore, requests that the information regarding archeological resources contained in the Additional Archeological Reports be maintained confidentially.

11. The four Additional Archeological Reports submitted herewith have been marked confidential. The Applicant may make this information available to the parties subject to a Protective Order. In light of the foregoing, the Applicant respectfully requests that the Committee order that any and all of the Additional Archeological Reports be maintained confidentially by the parties, and that a protective order be issued requiring this information to remain confidential.

12. The Applicant respectfully requests that, as it did in its December 2017 Order, the Committee issue a protective order identical to the protective order described in Section IV of the Order issued by the Committee on December 22, 2016, including the requirement that any party to the proceeding seeking access to any of the Additional Archeological Reports execute a protective agreement in the form set forth and attached to the Order.

13. In addition to any provisions included in the order by the Committee, in order to minimize the risk of inappropriate disclosure of the Applicant's protected confidential information, the Applicant respectfully requests that the Committee's Protective Order: (1) specify that the Applicant is not required to provide confidential information via electronic mail to the Parties, other than to Counsel for the Public; and (2) specify that if Parties, other than Counsel for the Public, are to be afforded access to the protected information, such access shall occur by viewing the confidential information at the Committee's offices.

WHEREFORE, the Applicant respectfully requests that this Committee:

A. Grant the Applicant's request that the: (a) Phase IB Supplemental Survey (May 2017); (b) Phase I-A Off Corridor Survey (January 2018); (c) Desk Review of the Cheney Pit Laydown Yard (February 2018); and (d) Desk Review of the Laydown Yard, Durham (June 2018) remain confidential;

B. Issue a protective order as requested herein that preserves the confidentiality of the document identified above; and

C. Grant such further relief as it deems appropriate.

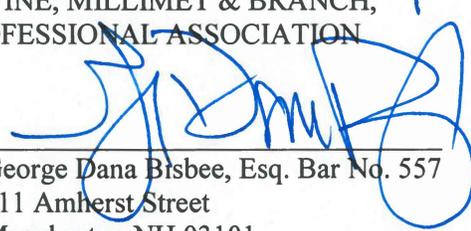
Respectfully Submitted,

Public Service Company of New Hampshire d/b/a
Eversource Energy

By its attorneys,

DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

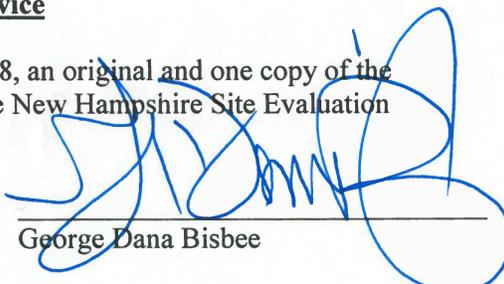
Dated: June 11, 2018

By: 

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Certificate of Service

I hereby certify that on the 11th day of June, 2018, an original and one copy of the foregoing Motion was delivered by overnight mail to the New Hampshire Site Evaluation Committee.


George Dana Bisbee