

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**Docket No. 2015-04**

**Application of Public Service Company of New Hampshire  
d/b/a Eversource Energy for Certificate of Site and Facility**

**November 29, 2016**

**ORDER ON MOTION TO INTERVENE BY NICK SMITH**

**I. BACKGROUND**

On April 12, 2016, the Public Service Company of New Hampshire d/b/a Eversource Energy filed an Application for a Certificate of Site and Facility (Application) with the Site Evaluation Committee (Committee). The Application seeks the issuance of a Certificate of Site and Facility approving the siting, construction, and operation of a new 115kV electric transmission line between existing substations in Madbury and Portsmouth (Project.) The new transmission line will be approximately 12.9 miles in length. The Project is comprised of a combination of above ground, underground, and underwater segments. The Project will be located in the Towns of Madbury and Durham in Strafford County, and the Town of Newington and the City of Portsmouth in Rockingham County.

The deadline for filing Motions to intervene in this docket was July 22, 2016. On October 4, 2016, the Subcommittee received a late Petition to Intervene filed by Nick Smith, J.D./Ph.D. On October 13, 2016, the Applicant filed a Response to Dr. Smith's Petition to Intervene. This order grants, in part, Dr. Smith's motion.

**II. STANDARD FOR INTERVENTION**

The New Hampshire Administrative Procedure Act provides that an administrative agency shall grant intervention when:

- (a) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's notice of the hearing, at least 3 days before the hearing;

(b) The petition states facts demonstrating that the petitioner's rights, duties, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervener under any provision of the law; and

(c) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

See RSA 541-A:32, I.

The statute also permits the Presiding Officer to allow intervention, "at any time upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings." RSA 541 A:32, II. The Committee's rules contain similar provisions. See N.H. CODE OF ADMIN. RULES, Site 202.11 (b)-(c).

Pursuant to RSA 162-H:4, V, the Presiding Officer is authorized to rule on Petitions for Intervention. The Administrative Procedure Act and our procedural rules also allow the presiding officer to place limits on an intervenor's participation. The presiding officer may limit the issues pertaining to a particular intervenor, limit the procedures in which a particular intervenor may participate, or combine intervenors, so long as the limitations placed on intervenors do not prevent the intervenor from protecting the interest that formed the basis of intervention. See RSA 541-A:32, III; N.H. CODE ADMIN. RULES, Site 202.11(d). Any party aggrieved by a decision by the presiding officer on a petition to intervene may within 10 calendar days request that the committee review such decision. See RSA 162-H:4, V.

## II. ANALYSIS

Dr. Smith asserts that he attempted to file his Petition to Intervene with the Subcommittee on July 22, 2016. Due to confusion between the "service list" and the "distribution list," the Petition was not properly served upon all parties on the service list until October 4, 2016. In his Petition, Dr. Smith states that he and his family reside at 270 Durham Point Road in Durham, N.H., and that the Project, as proposed, will be located in the easement that encumbers his property. He argues that the Project will

impact viewsapes, property values and the wildlife habitat he currently enjoys.

The Applicant filed a response to Dr. Smith's Petition. The Applicant does not object to his intervention. The Applicant asserts, however, that Dr. Smith resides nearby other Intervenors that were combined as the "Durham Residents" group of intervenors. The Applicant also argues that Dr. Smith shares similar concerns about the impact of the Project with those Intervenors. As a result, the Applicant requests that the Presiding Officer combine Dr. Smith's participation in this docket with the intervenors in the "Durham Residents" group of intervenors.

As an owner of land where the Project will be located, Dr. Smith has a substantial interest in the outcome of these proceedings. He should be allowed to intervene so that he can address the impact of the Project on his interests, rights, and privileges. Allowing Dr. Smith to intervene, at this relatively early stage of the proceedings, will not impair the orderly and prompt conduct of the proceedings. Dr. Smith's interests and concerns, however, are substantially similar to the concerns raised by the intervenors in the "Durham Residents" group of intervenors. To avoid duplicative arguments and to ensure the prompt and orderly development of these proceedings, Dr. Smith's participation in this docket shall be combined for the purposes of presentation of evidence, argument, cross-examination, and other participation with the intervenors in the "Durham Residents" group of intervenors. See RSA 541-A: 32, II; N.H. CODE ADMIN. RULES, Site 202.11(d)(3). The Petition to Intervene filed by Dr. Nick Smith is granted, subject to conditions set forth in the Order.

SO ORDERED this twenty-ninth day of November, 2016.

  
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Robert R. Scott, Presiding Officer  
NH Site Evaluation Committee