

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION  
COMMITTEE**

**May 22, 2017**

**Docket No. 2015-04**

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

**ORDER ON AGENCY REQUESTS TO SUSPEND  
CERTAIN STATUTORY DEADLINES  
AND REVISED PROCEDURAL SCHEDULE**

This order memorializes the decisions of the Subcommittee made at a public meeting on April 26, 2017 to suspend the deadline for state agency final decisions, suspend the statutory deadline and establish a date for the Subcommittee's final decision, it also establishes the procedural schedule for this docket.

**I. Background**

On October 17, 2016, a Procedural Order and Schedule was issued. The schedule set forth in the Procedural Order has been modified several times. On January 20, 2017, the Applicant filed an Uncontested Motion to Stay the Procedural Schedule. On February 3, the Division of Historical Resources (DHR) requested an extension of time to complete its review of the proposed project, and on February 6, the Department of Environmental Services (DES) also requested an extension of time to complete its review. On February 15, 2017, an Order to Stay the Procedural Schedule was issued. That Order noted that the agency requests to extend the deadlines set-forth in RSA 162-H:7, VI-c, were not merely procedural, and referred those requests to the Subcommittee for its consideration during a public meeting to be scheduled for a

later date. Order at p. 4.

On April 3, the Applicant filed a Proposed Revised Procedural Schedule, and on April 5, the Town of Newington filed its Proposed Procedural Schedule. On April 7, 2017, an Order On Revised Procedural Schedule was issued that applied until such time as the Subcommittee could meet to consider the agency requests to extend the timeframes set-forth in RSA 162-H:7, VI-c, and consider suspending the statutory timeframe in RSA 162-H:14. Order at p. 2. On April 26, 2017, the Subcommittee held a public meeting to address the pending matters before it. This order memorializes the decisions made on the record at the public meeting.

## **II. Agency Requests**

On February 3, 2017, DHR submitted a letter requesting an extension of time to make its final recommendations until March 31, 2017. In support of this request, DHR stated that it had received extensive public comment and needed to conduct an on-site visit to evaluate various archaeological resources and their proximity to the proposed project. On April 25, DHR submitted a status report and a list of the remaining review requirements and estimated that it would complete its evaluation of the above-ground resources prior to June 16, 2017.

On February 6, 2017, DES submitted a letter requesting an extension “to a date 30 days after the date when Eversource provides all final requests for project impacts...” On April 26, DES requested an extension of time until August 1, 2017 to submit its final conditions. In support of this request, DES stated that it had received extensive information from the Applicant, the intervenors, and the public, and that there are complex technical issues involved with assessing the impacts of the proposed project.

### **III. Analysis**

On June 13, 2016, the Subcommittee issued an order accepting the Application. Pursuant to RSA 162-H:7, VI-c, all state agencies having permitting or other regulatory authority are required to submit final decisions on the parts of the Application that relate to their permitting and other regulatory authority, no later than 240 days after the Application has been accepted (February 8, 2017).

At the public meeting on April 26, 2017, the Subcommittee deliberated and considered all of the information submitted by the agencies and decided to suspend the 240-day timeframe in RSA 162-H:7, IV-c, and as a procedural matter, delegated to the Presiding Officer the authority to determine the deadline. After the Subcommittee made its decision, the Presiding Officer established the deadline for all of agencies to submit their final decisions as August 1, 2017. Transcript at p. 23.

Through no fault of the Subcommittee, the procedural schedule in this docket has been modified several times and was eventually stayed. RSA 162-H:7, VI-d, provides that within 365 days of the acceptance of an application that the Subcommittee shall issue or deny a certificate for an energy facility. RSA 162-H:14 states, “[i]f the site evaluation committee, at any time while an application for a certificate is before it, deems it to be in the public interest, it may temporarily suspend its deliberations and time frame established under RSA 162-H:7.” Based upon the proposed procedural schedule submitted by the Applicant and the Town of Newington, the adjudicative hearing will not begin until October 2017, well beyond the June 13, 2017 deadline required by the statute.

At the public meeting, the Subcommittee considered and weighed a number of factors and determined that in order to ensure a full and timely consideration of the environmental consequences of the proposed project and that the construction of the project is treated as a significant aspect of land use planning in which all environmental, economic and technical issues are resolved in an integrated fashion, that it is in the public interest to suspend the statutory deadline and established a date of December 29, 2017, to issue the final written decision and order.

To ensure that the parties have sufficient time to prepare and present their evidence and to ensure the orderly conduct of the proceedings, the following procedural schedule shall apply in this docket:<sup>1</sup>

1. Counsel for the Public and intervenors shall propound data requests upon the Applicant regarding the Amendment on or before **April 19, 2017**. The data requests shall relate to the Amendment to the Application and to the Normandeau Associates, Inc. report titled: *Characterization of Sediment Quality Along Little Bay Crossing*, submitted on December 1, 2016. The total number of data requests for any party in this docket shall not exceed 65;
2. The Applicant shall respond to the data requests propounded by Counsel for the Public and intervenors on or before **May 12, 2017**;
3. Technical sessions with the Applicant's witnesses shall be conducted on **May 30, June 7, and June 12, 2017**. The technical session on **June 12** will be held at **49 Donovan Street, Concord**;
4. A technical session with the Applicant's witness, Mr. James Chalmers, shall be conducted on **June 15, 2017**, beginning at **1:00 p.m.** at **49 Donovan Street, Concord**;
5. Counsel for the Public and intervenors shall provide pre-filed testimony of their witnesses on or before **June 26, 2017**;

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<sup>1</sup> The timeframes in Paragraphs 1 through 3 were established in the Order on Revised Partial Procedural Schedule issued on April 7, 2017. Please note the change in location of the June 12 technical session.

6. The Applicant shall propound data requests on Counsel for the Public and intervenors on or before **July 17, 2017**;
7. State agencies shall issue final permits and conditions, if any, on or before **August 1, 2017**;
8. Counsel for the Public and intervenors shall respond to data requests on or before **August 11, 2017**;
9. A technical session with witnesses for Counsel for the Public and intervenors shall be conducted on **August 22 and 23, 2017**;
10. Supplemental pre-filed testimony shall be due from all parties on or before **September 22, 2017**;
11. The parties shall file statements of stipulated facts and any other stipulations on or before **October 6, 2017**;
12. The final pre-hearing conference shall be conducted on **October 10, 2017**; and
13. The final adjudicative hearing (estimated time needed for hearing is 5 days) and deliberations shall take place beginning at 9:00 a.m. on each scheduled day, on **October 16, 17, 19, 20, 26, 27, 31, and November 7, 2017**. Any of the dates that are not needed, shall be cancelled by the Presiding Officer.

Unless otherwise ordered, all technical sessions, prehearing conferences and the adjudicative hearing in this docket shall be conducted at the offices of the Public Utilities Commission, 21 South Fruit Street, Suite 10, Concord, New Hampshire.

**SO ORDERED this 22nd day of May, 2017.**

  
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Robert R. Scott, Presiding Officer  
Site Evaluation Committee