

**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**

April 6, 2018

REVISED PROCEDURAL ORDER

I. BACKGROUND

On April 12, 2016, Public Service Company of New Hampshire d/b/a Eversource Energy applied to the Site Evaluation Committee (Committee) to construct a new 115kV electric transmission line approximately 12.9 miles in length between existing substations in Madbury and Portsmouth (Project).

On April 26, 2017, the Subcommittee conducted a public hearing and voted to extend deadlines for state agencies to provide final reports to August 1, 2017, and suspend the deadline for the final written decision to December 29, 2017. An Order memorializing this decision was issued on My 22, 2017.

On June 20, 2017, a Revised Procedural Schedule was issued establishing a schedule for the final adjudicative hearings and deliberations to begin in mid-October and end in early November, 2017. On August 10, 2017, the Applicant filed a Motion to Postpone Final Adjudicative Hearings and requested that the final adjudicative hearing date be re-established once the Applicant had addressed the concerns expressed by the Department of Environmental Services of the potential impacts of the Project on the water quality in Little Bay. On August 21, 2017, an Order was issued granting the Motion and required the parties to submit an

agreed-upon revised procedural schedule upon receipt of the final report from DES.

The Subcommittee held a hearing on pending motions on March 14, 2018. At the time of the hearing, a revised procedural schedule had not yet been submitted to the Subcommittee. During the hearing, the Subcommittee voted to further extend the December 29, 2017, timeframe to reach a final decision.¹

On February 28, 2018, DES issued its final report. On March 16, 2018, the Applicant filed a Partially Assented-To Procedural Schedule.

The Town of Durham filed a Partially Assented-To Motion requesting the Subcommittee hire a horizontal directional drilling expert. The Applicant objected. The Town of Durham also filed its proposed Procedural Schedule which assumed that the Subcommittee would hire a horizontal directional drilling expert and included timeframes for discovery requests of such an expert.

Conservation Law Foundation filed a Partially Assented-To Motion requesting that the Subcommittee conduct further evaluation of horizontal directional drilling and a jet plow trial run. Conservation Law Foundation requested that sufficient time be allocated for the parties to conduct appropriate discovery addressing such investigations. The Applicant objected.

Counsel for the Public filed a Response to Pending Motions and a Response to the Proposed Procedural Schedules.

II. POSITIONS OF THE PARTIES

The parties agreed to the following procedural deadlines:

- Counsel for the Public and Intervenors shall respond to data requests on or before **April 11, 2018;**

¹ The Order memorializing the Subcommittee's decision will be issued separately.

- Technical Sessions with witnesses for Counsel for the Public (excluding Patricia O'Donnell) and Intervenors shall be conducted on **May 15, 16, and 17, 2018**;
- A Technical Session with Patricia O'Donnell shall be conducted between **May 22 and May 24, 2018**; and
- Patricia O'Donnell shall respond to Technical Session Data Requests within ten (10) days of the date of her Technical Session.

Beyond the few areas of agreement listed above, the parties disagree on the following:

- The Applicant offered that Counsel for the Public and the Intervenors should respond to Technical Session Data Requests on or before May 28, 2018. Counsel for the Public and the Intervenors requested that responses to Technical Session Data Requests should be filed on or before May 31, 2018, since May 28 is Memorial Day.
- The Applicant requested that Counsel for the Public and the Intervenors submit pre-filed supplemental testimony on or before July 20, 2018 and allow the Applicant to file rebuttal pre-filed testimony on or before July 27, 2018. The Intervenors and Counsel for the Public argued that all parties, including the Applicant, should file supplemental pre-filed testimony on the same date.
- The Town of Durham provided additional deadlines for investigation of horizontal directional drilling by an expert hired by the Subcommittee, and discovery related to such investigation, in its proposed Procedural Schedule. The Applicant objected.
- The Applicant argued that: (i) Counsel for the Public and Intervenors should be required to file Final Briefs within 14 days of the close of the record; and (ii) the Applicant should be required to file its Final Brief within 21 days of close of the record. The Town of Durham argued that: (i) all parties, including the Applicant, should be required to file Final Briefs within 14 days of the close of the record; and (ii) all parties, including the Applicant, should be required to file Reply Briefs within 21 days of the close of the record. Counsel for the Public objected to the Applicant's proposed briefing schedule and submits that allowing the parties to submit reply briefs adequately protects the Applicant's interest in having the final word.

III. PROCEDURAL ORDER

The Applicant bears the burden of proof in these proceedings. Therefore, the Applicant should be allowed to respond to the supplemental testimony and Final Briefs filed by the intervenors and Counsel for the Public. The request that the Applicant file its rebuttal testimony and Final Brief at the same time as other parties is denied.

To avoid undue delay in this proceeding, pending a decision on the motions regarding the retention of a horizontal directional drilling expert and subsequent investigation, the following Procedural Schedule shall apply:

- Counsel for the Public and Intervenors shall respond to data requests propounded by the Applicant on or before **April 11, 2018**;
- Technical Sessions with witnesses for Counsel for the Public and Intervenors shall be conducted on **May 15, 16, and 17, 2018**;
- A Technical Session with Patricia O'Donnell shall be conducted between **May 23 and May 25, 2018**. The parties shall cooperate with each other scheduling the time of the technical session and advise the Administrator of the date and time no less than 10 days in advance;
- Patricia O'Donnell shall respond to Technical Session Data Requests within **ten (10) days** of the date of her Technical Session;
- The Applicant shall file any Supplemental Testimony and Information Pertaining to Additional HDD Studies on or before **July 1, 2018**. Technical sessions concerning the Supplemental Testimony and Information Pertaining to HDD Studies shall be scheduled by agreement or if the parties cannot agree, by further order of the Presiding Officer. If scheduled by agreement, the Administrator shall be notified of the date, time and place at least **ten (10)** days before the technical session to allow for adequate public notice;
- Counsel for the Public and the Intervenors shall respond to Technical Session Data Requests on or before **May 31, 2018**;
- Counsel for the Public and Intervenors shall file Supplemental Pre-Filed Testimony on or before **July 20, 2018**;
- The Applicant shall file its Supplemental Rebuttal Testimony on or before **July 27, 2018**;
- The Parties shall file statements of stipulated facts and any other stipulations on or before **August 15, 2018**;
- The final pre-hearing conference shall be conducted on **August 22, 2018**;
- The final adjudicative hearings shall take place between **August 27 and September 25, 2018**, (excluding September 10) subject to the availability of the Subcommittee. A notice scheduling the adjudicative hearings will be issued;

- Counsel for the Public and Intervenors shall file Final Briefs within **14 days** of the close of the record;
- The Applicant shall file its Final Brief within **21 days** of the close of the record;
- Deliberations will be scheduled thereafter subject to the availability of the Subcommittee and a notice scheduling the deliberations will be issued; and
- A final written decision shall be issued within 60 days of the conclusion of deliberations.

SO ORDERED this sixth day of April, 2018.



Evan Mulholland, Presiding Officer
Site Evaluation Committee