

**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**

May 31, 2018

ORDER ON PENDING MOTIONS

This Order grants Partially Assented-To Motions to Allow Late-Filed Intervenor Testimony.

I. BACKGROUND

On April 12, 2016, Public Service Company of New Hampshire d/b/a Eversource Energy (Applicant) 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 August 24, 2016, the Subcommittee granted requests to Intervene from the following individuals: (i) Matthew and Amanda Fitch; (ii) Jeffrey and Vivian Miller; (iii) Lawrence and Anne Gans; (iv) Deborah Moore; (v) Thomas A. DeCapo and Yael D. DeCapo; (vi) Donna Heald. In order to ensure the prompt and orderly conduct of the proceedings, their participation was combined for the purposes of presentation of evidence, argument, cross-examination and other participation. The group is referred to as the Durham Residents.

On May 25, 2017, an Order was issued granting a late-filed motion to intervene by Dr. Regis C. Miller. Her participation was combined with the Durham Residents.

Various procedural schedules have been issued in this docket requiring the intervenors to submit pre-filed testimony no later than July 31, 2017. Discovery has been conducted and

technical sessions were scheduled on April 6, 2018, and held on May 15, 16, and 23.

On May 16 and 18, 2018, Jeff and Vivian Miller and Dr. Regis C. Miller, and Matthew and Amanda Fitch filed Partially Assented-To Motions to Allow Late-Filed Intervenor Testimony. The Applicant objected.

II. POSITIONS OF THE PARTIES

Jeff and Vivian Miller, and Dr. Regis C. Miller, and Matthew and Amanda Fitch, acknowledge that their pre-filed testimony was due on July 31, 2017. They assert that they did not file timely the pre-filed testimony because they believed that their concerns would be addressed by the Durham Intervenors or the Town of Durham. They argue that it is now apparent that other intervenors will not address their concerns and request the late filing of their testimony. They agree to participate in any and all discovery that is required.

The Applicant objects to the Intervenors' request and asserts that the Intervenors were aware that pre-filed testimony was due on or before July 31, 2017. They argue that the Intervenors also had ample time and opportunity to review testimony filed by the Town of Durham and Ms. Heald, to determine if their concerns would be addressed. They waited, nonetheless, until May 16 and 18, 2018, to request the late filing of their testimony. The Applicant asserts that allowing the Intervenors to file their testimony at this point of the proceeding will require an adjustment of the procedural schedule and will disrupt the prompt and orderly conduct of the proceedings.

III. ANALYSIS

The Intervenors do not dispute that they were on notice that pre-filed testimony was required to be filed on or before July 31, 2017. They argue, however, that up until May of 2018, they did not realize that the other Durham Residents and/or the Town of Durham would not

address their concerns and interests. In determining whether to allow intervention in a particular docket, the presiding officer must assess whether: “such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.” N.H. CODE ADMIN. RULES, Site 202.11. In this instance, intervenor status was granted with the understanding that the intervenors would participate as required and would not impair the orderly and prompt conduct of the of the proceedings.

Nevertheless, the Intervenors agree to participate in discovery related to the late-filed testimony and respond to all discovery requests in a manner that will not impair the orderly and prompt conduct of the proceedings. To ensure that the Intervenors have an opportunity to address their interests and concerns in this proceeding without causing unnecessary delay, the Motions are granted, subject to the following conditions:

- The Applicant shall propound data requests addressing the late-filed testimony on or before **June 18, 2018**;
- The Intervenors shall respond to the Applicant’s data requests on or before **June 25, 2018**;
- The Intervenors shall attend technical sessions concerning the late-filed pre-filed testimony on **July 10, 2018**, beginning at 9:00 a.m.; and
- The Intervenors shall respond to Technical Session Data Requests no later than **July 16, 2018**.

If any Intervenor fails to comply with any of these conditions, their testimony shall not be allowed.

SO ORDERED this thirty-first day of May, 2018.


Patricia M. Weathersby, Presiding Officer
Site Evaluation Committee