

**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 14, 2018

ORDER ON MOTION TO RE-OPEN THE RECORD

This order grants the Applicant's Partially Assented-To Motion to Re-Open Record for a Limited Purpose.

BACKGROUND

On April 12, 2016, the Public Service Company of New Hampshire d/b/a Eversource Energy applied 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).

Adjudicative hearings were held between August 29, 2018 and October 26, 2018. The evidentiary record closed on October 26, 2018.

On November 2, 2018, the Applicant filed a Partially Assented to Motion to Re-Open the Record for a Limited Purpose (Motion). The Town of Newington objected.

I. POSITIONS OF THE PARTIES

The Applicant requests that the Subcommittee re-open the record and allow the Applicant to submit an Addendum to the Visual Impact Assessment, App. Ex. 51, prepared by the Applicant's expert, Mr. David Raphael. The Applicant argues that the Addendum is material, relevant and non-duplicative because it contains an analysis of the Project's effect on historic resources that have been determined

eligible for inclusion in the State Register of Historic Places or the National Register of Historic Places and are located within ten miles of the Project.

Counsel for the Public does not object to the Motion provided all parties have an opportunity to respond to or rebut the information in the Addendum, including the ability to cross-examine Mr. Raphael on the new evidence.

The Town of Newington (Newington) objects to the Motion. Newington argues that re-opening the record would constitute the third supplement or amendment to the Applicant's Visual Impact Assessment and that the Applicant has requested or caused several other delays affecting the prompt and orderly disposition of the proceedings. Newington also claims that the Applicant admits in the Motion that there is sufficient evidence in the record relating to aesthetics and considering determined eligible sites.

II. ANALYSIS AND FINDINGS

Under N.H. CODE ADMIN. RULES Site 202.27(a), “[a] party may request by written motion that the record in any proceeding be re-opened to receive relevant, material and non-duplicative testimony, evidence or argument.” The record should be re-opened to accept the testimony, evidence or argument if “the presiding officer determine[s] that additional testimony, evidence or argument is necessary for a full consideration of the issues presented in the proceeding.” *See* Site 202.27(b).

The Subcommittee may only issue a Certificate if it finds that the Project will not have an unreasonable adverse effect on: (1) aesthetics; (2) historic sites; (3) air and water quality; (4) the natural environment; and (5) public health and safety. *See* RSA 162-H:16, IV(c). In determining whether the Project will have an unreasonable adverse effect on aesthetics, Site 301.14(a)(1)-(7) provides that the Subcommittee must consider the following factors:

- (1) the existing character of the area of potential visual impact;

- (2) the significance of affected scenic resources and their distance from the proposed facility;
- (3) the extent, nature, and duration of public uses of affected scenic resources;
- (4) the scope and scale of the change in the landscape visible from affected scenic resources;
- (5) the evaluation of the overall daytime and nighttime visual impacts of the facility as described in the visual impact assessment submitted by the applicant and other relevant evidence submitted pursuant to Site 202.24;
- (6) the extent to which the proposed facility would be a dominant and prominent feature within a natural or cultural landscape of high scenic quality or as viewed from scenic resources of high value or sensitivity; and
- (7) the effectiveness of the measures proposed by the applicant to avoid, minimize, or mitigate unreasonable adverse effects on aesthetics, and the extent to which such measures represent best practical measures.

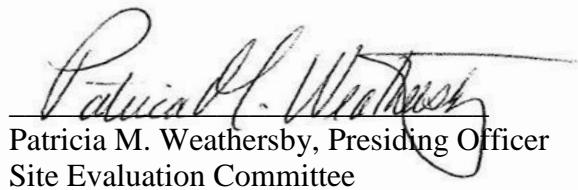
The definition of “scenic resources,” includes historic sites that possess a scenic quality to which the public has a legal right of access. *See Site 102.45(e).* The term “historic sites” is defined in Site 102.23 as ““historic property,’ as defined in RSA 227-C:1, VI, namely any building, structure, object, district, area or site that is significant in the history, architecture, archeology or culture of this state, its communities, or the nation. The term includes “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior,” under 36 C.F.R. §800.16(l)(1).”

The Subcommittee is required to consider the impact of the Project on historic sites with scenic qualities to which the public has a legal right to access that are eligible for inclusion in the State Register of Historic Places or the National Register of Historic Places. The Addendum analyzing and addressing this impact is relevant and material to the Subcommittee’s determination. The information is non-duplicative. The Addendum addresses the impact to the historic sites that were not analyzed nor

presented to the Subcommittee during the adjudicative hearing. Admission of the Addendum to the Visual Assessment is necessary for a full consideration of the effect of the Project on aesthetics. The Applicant's Motion to Re-Open the Record for the Limited Purpose of submitting the Addendum is granted. The Addendum is admitted into the record and shall be marked as Applicant's Exhibit 271.

On November 7, 2018, a Notice of Provisional Hearing was issued scheduling a hearing on November 15, 2018, commencing at 1:30 p.m. at 49 Donovan Street, Concord, for the purpose of allowing the parties to cross-examine Mr. Raphael. Cross-examination will be strictly limited to matters contained in the Addendum. Per an earlier Order, Counsel for the Public and the Intervenors are required to file their final briefs by November 15, 2018. Should they choose, Counsel for the Public and the Intervenors may file a supplement to their final briefs addressing only the Addendum and the additional testimony of Mr. Raphael no later than November 21, 2018. The Applicant has had a sufficient opportunity to re-open and supplement the record on this issue. A response to the supplemental briefs of Counsel for the Public and the Intervenors will not be allowed.

SO ORDERED this fourteenth day of November, 2018.



Patricia M. Weathersby, Presiding Officer
Site Evaluation Committee